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July 23, 2007

Reneé J. Jenkins
Docketing Division
The Public Utilities Commission of Ohio
180 East Broad Street, 13th Floor
Columbus, Ohio 43215

Re: Case No. 06-653-EL-ORD

Dear Ms. Jenkins:

Enclosed please find 10 copies of DP&L's Reply Comments in the above captioned case.

Thank you for your assistance and attention to this matter.

Sincerely,

Alissa Stephens

Alissa Stephens
Regulatory Operations

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of Chapters 4901:1-9. 4901:1-10, 4901:1-21, 4901:1-22, 4901:1-23, 4901:1-24 and 4901:1-25 of the Ohio Administrative Code	))))	Case No. 06-653-EL-ORD

REPLY COMMENTS OF THE DAYTON POWER AND LIGHT COMPANY

The Dayton Power and Light Company (DP&L) or (Company) hereby provides reply comments in response to comments filed by other parties in this rulemaking proceeding regarding the proposed amendments to the Electric Service and Safety Standards (ESSS) as contained in O.A.C. 4901:1-10 and the other above captioned rules.

As a general comment, DP&L is troubled by the comments of the Office of the Ohio consumers' Counsel, The Appalachian People's Action Coalition, Empowerment Center of Greater Cleveland, Communities United For Action, Edgemont Neighborhood Coalition, Community Action Partnership, Consumers for Fair Utility Rates (Consumer Groups). As discussed more fully below, the proposed changes are not only unrealistic in terms of technology but more importantly unrealistic in terms of present rate levels. The Consumer Groups believe Electric Distribution Utilities (EDUs) should be subject to substantially more reporting, additional reliability programs and unwarranted enforcement provisions and have provided no basis for the change.

The Consumer Groups suggest that more public dissemination of information regarding compliance efforts, enforcement, development of performance targets and

EDU performance is needed to improve the lack of transparency. DP&L believes if service quality problems arise the Commission is well equipped and has successfully demonstrated the ability to deal with situations on an individual basis. This process has worked well in the past and should be maintained. The Commission should reject the Consumer Groups suggested changes.

I. 4901:1-9-01 Definitions and 4901:1-9-03 Demand or load meter option for residential customers

The Consumer Groups suggest adding a definition for Advanced Metering Infrastructure (AMI). DP&L objects to the proposed definition. AMI was discussed extensively in Case No. 05-1500-EL-COI and the Commission has recently established a workshop to continue discussions of the investigation of Ohio's implementation of AMI. This topic is better suited for discussion in Case No. 07-646-EL-UNC.

II. 4901:1-9-07 Rules, Regulations and Practices for the Construction of Electric Line Extensions *in Rural Territory.*

DP&L agrees that a simple and easy to implement approach would be preferred by DP&L and customers alike. However, based on the Consumer Groups proposal, at DP&L's current rate levels, a typical customer could receive a $5,000 extension for $300, requiring an EDU investment of $4,700. Based on DP&L's current distribution rates, the Company would receive distribution revenues from this customer around $203 per year (at 750 kWh per month) leaving a 23 year payback for this project, assuming no other work is required in that time, and assigning no adjustment for the time value of money or return on the investment. DP&L believes that a more balanced approach is appropriate and line extension policies and RLX are more properly addressed in utility rate cases where the change in a fundamental distribution policy can be appropriately reflected in rates. DP&L suggests the Commission reject the Consumer Groups proposal and eliminate this rule which would allow EDUs to address RLX in their tariffs.

III. 4901:1-10-01 Definitions

DP&L agrees with FE's changes to the definition of "Major Event". The definition for "Major Event" and the other reliability terms used in the ESSS rules should reference IEEE Standard 1366-2003. DP&L urges the Commission to reject the Consumer Groups proposed definition of "Major Event" and ignore the argument that the definition proposed by Staff is overly complicated and requires a statistician to determine when outages should be categorized as major events. FE's proposed definition utilizes the IEEE methodology of the EDU's daily SAIDI to determine a "Major Event". IEEE is a leading authority on electric power and engineering standards and the definition should be consistent with the IEEE standard.

The Commission should also reject the Consumer Groups proposed definition for residential service. The Consumer Groups suggest that residential service is not defined and is based on an arbitrary definition in the EDU's tariff. The definition of residential service is found in the EDU's tariff but is not arbitrary. The definition is based on the facilities that serve the customer and may be specific to each EDU.

IV. 4901:1-10-06 Customer Safeguards and Information

DP&L disagrees with First Energy Solutions' (FES) suggestion that the inclusion of customer account numbers on pre-enrollment eligibility lists enhances the potential for a robust competitive market by eliminating unnecessary administrative steps and ensuring that the enrolling customer's account information is correct throughout the process. The customer's account number is required to switch customers to another service provider through the electronic data interchange process. This is a consumer protection that needs to stay in place to diminish the chances that a customer will be slammed. The rules should **NOT** change to allow customer account numbers on the pre-enrollment list.

V. 4901:1-10-07 Minimum Customer Service Levels

The Consumer Groups makes numerous suggestions regarding the reporting of customer service levels all of which should be rejected. First, the Consumer Groups request a change requiring EDUs to complete new service installations the next business day. The Consumer Groups argues that three days is an excessive amount of time for the vast majority of customers to have to wait to initiate service. They go on to state that EDUs should be able to complete the majority of these installations within a much shorter period of time. However, they give no support or justification for these statements. This has been a requirement since the inception of ESSS rules in 1997 and DP&L is not aware of any complaints regarding customers having to wait three business days for installation of new service. This requested change is unreasonable and unduly burdensome. If the Commission requires EDUs to install new service the next business day costs will increase exponentially, ultimately resulting in increased rates to the customer. DP&L would entertain the idea of customers paying a premium for having new service installation the next business day.

Secondly, DP&L objects to the Consumer Groups argument that the average speed of answer ("ASA") of telephone call should not change from sixty to ninety seconds. The Consumer Groups argue that ninety seconds is an excessive amount of time for customers to have to wait to report outages and other potential emergencies. This argument should be rejected because all EDU's have automated outage reporting systems that allow customers to quickly and effectively report outages etc. Throughout the Consumer Groups comments they reference other States standards and how Ohio should adopt similar standards. However, the Consumer Groups failed to recognize in their comments that Michigan has a ninety second ASA and therefore Ohio's standard is not outside the norm.

Finally, the Consumer Groups suggest that EDUs should be required to report any month when customer service levels are not in compliance with commission standards and make this information available to the public. It is unreasonable to determine trends in reliability and performance based on one month's data. Missing one month should not trigger a reporting requirement. In addition, if this information is filed publicly it is subject to misinterpretation which may lead to improper conclusions being drawn.

VI. <u>4901:1-10-08 Provisions of Customer Rights and Obligations</u>

DP&L disagrees with the Consumer Groups suggestion that customers should not be charged for returning to the standard service offer at the end of the term with a CRES provider. Customer switching from one supplier to another creates administrative costs to be incurred by the EDU. The parties involved in each EDU's transition plan, which included the Ohio Consumers' Counsel, agreed that switching fees were an appropriate way to recover these costs. Also, the EDUs do not track the terms of customer contracts so there is no way of knowing if their contract term is up or if the customer decided to switch back in the middle of their contract. The EDUs cannot be assigned the responsibility to police or enforce contracts between CRES Providers and customers.

The Consumer Groups proposal to require EDUs to obtain an actual meter reading when the customer initiates or terminates electric with the EDU, if the meter has not been read within the preceding 7 days is a significant and unnecessary change from the current requirement of 60 days. The number of additional meter reads will increase dramatically with the proposed requirement of 7 days therefore increasing costs. The benefits of these proposed new requirements are certainly outweighed by the additional costs incurred. DP&L is unaware of any complaints based on the current version of the rules and the proposed change should be rejected as unduly burdensome and costly.

DP&L strongly opposes the Consumer Groups suggestions to provide a credit on the customer's bill not timely initiating service, for outages relating to lack of maintenance or inadequate vegetation management by the EDU. The proposal is wrong on numerous levels. The concept of imposing penalties is self-defeating as a means of maintaining or improving system reliability performance, especially during a period when rates are frozen. Imposing penalties and thereby reducing resources that could otherwise be used to make improvements is bad policy. In addition, a "penalty only" approach with no opportunity for balanced incentives would be inappropriate and confiscatory. Unlike telephone companies, the majority of an EDU's monthly billing is usage based, not a fixed customer charge. When customers have an outage the meter stops and so does the revenue to the EDU. Therefore, EDUs already have a strong incentive to prevent outages and to restore service as soon as possible if outage occurs.

VII. <u>4901:1-10-12 EDU Customer Billing and Payments</u>

The Consumer Groups propose language to try to perfect the definition of a billing month by specifying the number of days that bills are allowed to contain. DP&L's billing logic is set up for different parameters and this change would cause significant programming and business policy changes with no resulting benefit. The suggested change is unduly burdensome, costly and unreasonable.

The Customer Groups also suggest that EDUs provide alternative bill formats. While DP&L understands that there is a small percentage of the population that may request alternative bill formats, DP&L is able to address their needs through other means. DP&L assists its customer through direct contact with customer service representatives. This is another unnecessary change that will benefit a very limited number of customers and will cost DP&L a significant amount of money to make the required programming changes. This is unreasonable and should be ignored.

The Consumer Groups requests language that would eliminate the authorized payment agent's ability to charge customers for making payments at their location. By eliminating the ability to charge customers the nominal fee for taking payments will eliminate access to the authorized payment agents. This will harm customers by forcing them to go to unauthorized agents and pay more than the existing fee established in these rules. The Consumer Groups' language should be rejected.

VIII. 4901:1-10-20 Fraudulent Practice, Tampering, and Theft of Service

The Consumer Groups suggest adding language to the rules that would require EDUs to submit their fraud and theft plan to the OCC and Ohio State Legal Services Association (OSLSA) for comments. The Consumer Groups argue there is a perception that the EDU is judge and jury when allegations are made about tampering. The Director of Service Monitoring and Enforcement department is already reviewing the plan and is protecting the customer, other consumers, and the EDU's interest. DP&L is unsure how the OCC and the OSLSA review of a EDUs fraud and theft plan would help in any way and would only add an unnecessary step to the process. This is unreasonable and should be ignored.

IX. 4901:1-10-26 through 4901:1-10-29

The Consumer Groups have proposed an entire redraft of the current and proposed service reliability rules set forth in O.A.C. 4901:1-10-26 through 4901:1-10-29. The Consumer Groups' approach reflects a significant change in the criteria for establishing performance standards, the method for establishing utility-specific performance standards, the need for more specificity with respect to the "worst" performing circuit improvements, the need to combine and coordinate the various annual reporting, and the need for additional standards for vegetation management. The underlying reason for the changes is for open and transparent decision making with respect to assuring adequate reliability of service. DP&L strongly urges the Commission to reject the redraft of the rules proposed by the Consumer Groups. The EDUs and the PUCO have built their infrastructure and systems around the ESSS and to change the playing field would be cost prohibitive, unnecessary and provide very little benefit. The proposed vegetation management changes require the EDUs perform an annual visual inspection of all energized conductors, to determine whether vegetation management is needed. In addition to the "hot spotting", the EDU would be required to implement a minimum four-year vegetation management cycle. The vegetation management program including the annual inspection requirement would increase DP&L's cost approximately $50 million over a four year period. In addition, it is highly unlikely there are would be enough line clearance crews to perform a four-year vegetation management cycle for every EDU in the State of Ohio.

Instead of promulgating new rules to impose additional reporting requirements upon EDUs, the Commission should allow EDUs to focus on their core business of distributing electricity and to meet the existing reporting requirements. The Company respectfully suggests that the Commission should recognize that the details of an inspection and maintenance plan and how to implement that plan are better left to the discretion of the utility, which has a professional staff with decades of experience to guide its decisions. The Commission Staff has played an important role in assisting in the development of reliability standards and monitoring EDUs performance. The Commission and its Staff have an obligation to monitor and enforce the electric utilities' maintenance plans, practices and procedures and to ensure the reliability of the distribution system is maintained. The Commission should not allow the Consumer Groups to dictate that process through the redraft of the reliability sections of the rules.

CONCLUSION

Based on the foregoing, DP&L respectfully requests that the Commission reject the Consumer Groups suggested changes. DP&L believes the Commission and Staff have a constructive and workable approach to the ESSS rules and the reporting requirements therein. DP&L has a serious concern regarding the amount of money it would take to implement the changes proposed by the Consumer Groups. The changes are arbitrary, unduly burdensome and costly. If the Commission should accept any of these changes the EDUs should be allowed to immediately recover its costs for implementing any of these changes proposed by the Consumer Groups from all customers and should be displayed as a line item on the customer's bill. DP&L is confident that Staff and the Commission will see the requested changes as unreasonable and counterproductive.

Respectfully submitted,

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