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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of )  
The Dayton Power and Light Water )  
Company For Approval of a Revised Bill )  
Format For Electric Service. )

Case No. 08-651-EL-UNC

PUCO

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MOTION TO INTERVENE AND MOTION TO SUSPEND AUTOMATIC  
APPROVAL UNTIL SUCH TIME AS THE BILL FORMAT IS IMPROVED  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

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The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of all residential utility consumers of the Dayton Power and Light Company ("DP&L" or the "Company"), moves the Public Utilities Commission of Ohio ("PUCO" or "Commission") to grant the OCC's intervention in the above-captioned proceeding regarding a proposed bill format for electric service received by the Company's customers.<sup>1</sup> The OCC's Motion should be granted because the OCC meets the legal standards for intervention, as explained in detail in the attached Memorandum in Support.

The OCC also submits suggested changes to the Company's proposed bill format and other requests. By motion, pursuant to Ohio Adm. Code 4901-1-12, the OCC requests the suspension of the automatic approval for bill format changes to the extent required to incorporate OCC-proposed improvements in DP&L's bill format. The attached Memorandum in Support contains reasons that the Application should not be approved in its present form and that automatic approval of the Application should be suspended.

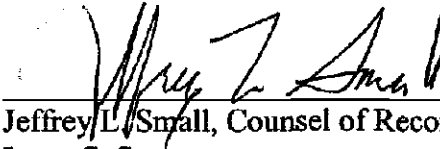
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<sup>1</sup> See R.C. Chapter 4911; R.C. 4903.221; Ohio Adm. Code 4901-1-11.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL

A handwritten signature in black ink, appearing to read "Jeffrey L. Small", is written over a horizontal line.

Jeffrey L. Small, Counsel of Record

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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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Company For Approval of a Revised Bill	)	
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**MEMORANDUM IN SUPPORT**

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**I. INTRODUCTION**

On May 20, 2008, DP&L filed an Application to revise the format for the monthly bill that the Company sends to approximately 450,000 residential electric customers in southwest Ohio. The Company's Application generally follows a determination by the Supreme Court of Ohio that generation charges must be segregated from distribution charges. *Ohio Consumers' Counsel v. Public Util. Comm.*, 114 Ohio St.3d 340, 2007-Ohio-4276 at ¶41 ("adjust the location of appropriate generation charges") ("*Consumers' Counsel 2007*"). The Application specifically follows a Commission directive that approved the relocation of charges within the Company's tariffs and directed DP&L to submit a revised bill format.<sup>2</sup> The proposed bill format should be revised from the form attached to the Application.

The Commission should grant the OCC's Motion to Intervene so that the OCC can fully participate in this proceeding and protect the interests of residential customers of DP&L. The Application is subject to automatic approval upon the passage of 45 days after an application if not "acted upon" by the PUCO. Ohio Adm. Code 4901:1-10-22(C). The instant pleading contains improvements that should be made to the proposed

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<sup>2</sup> *In re DP&L Generation Charges*, Case No. 07-1252-EL-ATA, Order (April 30, 2008).

bill format. To the extent required to implement these OCC-proposed changes, the automatic approval of DP&L's proposed bill format should be suspended.

## **II. INTERVENTION**

The OCC moves to intervene under its legislative authority to represent residential utility consumers in Ohio, under R.C. Chapter 4911. R.C. 4903.221 provides, in part, that any person "who may be adversely affected" by a PUCO proceeding may seek intervention in that proceeding. The interests of Ohio's residential consumers may be "adversely affected" by this case, especially if the consumers are unrepresented in a proceeding that follows an OCC appeal regarding proper communications from DP&L to electric customers regarding the services for which they are being charged. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the Commission to consider the following criteria in ruling on motions to intervene:

- (1) The nature and extent of the prospective intervenor's interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of the OCC's interest is representing the residential consumers of DP&L. This interest is different than that of any other party and especially different than that of the utility that advocates for its own financial interests.

Second, the OCC's legal position is that DP&L's bill format should "accurate[ly] communicate the billing components to all residential consumers in a "clear and

understandable” manner (Ohio Adm. Code 4901:1-10-22(B)), and that any proposal for a revised bill format should be updated to reflect the best means to communicate to customers at the time it is approved by the Commission. As stated below, the bill format proposed in the Application should be revised. The OCC’s position is therefore directly related to the merits of this case pending before the PUCO that regulates public utilities’ rates and service quality in Ohio.

Third, the OCC’s intervention will not unduly prolong or delay the proceeding. The OCC has longstanding expertise and experience in PUCO proceedings, and will contribute to the processing of the case. The requested suspension of automatic approval is justified to the extent needed to improve the proposed bill format, but may not be necessary if the improvements are promptly acted upon.

Fourth, the OCC’s intervention will significantly contribute to the full development and equitable resolution of the factual issues. For example, the OCC provides improvements to the bill format proposed by DP&L in the instant pleading that the PUCO should consider for equitably and lawfully deciding this case in the public interest.

The OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that the OCC satisfies in the Ohio Revised Code). To intervene, a party should have a “real and substantial interest” according to Ohio Adm. Code 4901-1-11(A)(2). As the residential utility consumer advocate, the OCC has a real and substantial interest in this case where DP&L proposes to revise its bill format to communicate to residential customers and where the Application follows upon the results of an appeal prosecuted by the OCC.

In addition, the OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that the OCC already has addressed and that the OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the Commission shall consider the “extent to which the person’s interest is represented by existing parties.” While the OCC does not concede the lawfulness of this criterion, the OCC satisfies this criterion because it has been uniquely designated as the state representative of the interests of Ohio’s residential utility consumers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio recently confirmed OCC’s right to intervene in PUCO proceedings when it ruled upon an appeal in which the OCC claimed that the PUCO erred by denying the OCC’s intervention. The Court found that the PUCO abused its discretion in denying OCC’s intervention and that the OCC should have been granted intervention.<sup>3</sup>

The OCC meets the criteria set forth in R.C. 4903.221 and Ohio Adm. Code 4901-1-11. Additionally, granting the OCC intervention is consistent with the intervention standards explained by the Supreme Court of Ohio. On behalf of DP&L’s residential consumers, the Commission should grant the OCC’s Motion to Intervene.

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<sup>3</sup> *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶18-20.

### III. COMMENTS

**A. DP&L's Explanation of Generation Charges on Its Monthly Bills Should be "Accurate" and "Clear and Understandable" for Customers as Required by Ohio Adm. Code 4901:1-10-22(B).**

The Company's explanation of its generation charges under "Explanation of Billing Terms" is incorrect and not descriptive of the charges. The explanation of the "Generation Charge" in the proposed bill format refers to a "5 percent reduction required by the Ohio Legislature," which is archaic. That description is no longer accurate for bills rendered after 2005.<sup>4</sup> The sentence that contains that portion of the explanation for the "Generation Charge" should be deleted.

The key distinction between the "Generation Charge" and the "Generation Rider" is that the former is a bypassable charge, while the latter is a non-bypassable charge. The "Generation Rider" is based upon fixed percentages set as the result of Case No. 05-276-EL-AIR,<sup>5</sup> and is not based upon an actual "[c]hange associated with recovery of certain costs . . . ." The explanation of the "Generation Rider" as a charge to recover "certain costs" is vague, and is likely to raise questions rather than serve the public as an explanation of DP&L billing. The following explanation would better inform the public,

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<sup>4</sup> R.C. 4928.40(C).

<sup>5</sup> *In re DP&L Rate Stabilization Surcharge Case*, Case No. 05-276-EL-AIR, Order at 4 (December 28, 2005) ("5.4% of DP&L's tariffed generation rates").

consistent with Ohio Adm. Code 4901:1-10-22(B):

GENERATION CHARGE	Charge associated with the production of electricity. Only customers who purchase generation service from DP&L pay this charge.
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GENERATION RIDER	Charge associated with the production of electricity. All customers pay this charge, regardless of whether generation service is purchased from DP&L or another provider.
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The explanation is accurate, more descriptive, and shorter. These explanations do not change the overall structure of the bill format proposed by DP&L (i.e. two charges remain on the bill), and adoption of the OCC's proposal should not present the Company with any difficulty or added burden.

**B. DP&L's Price-to-Compare Message on Its Monthly Bills Should be "Accurate" and "Clear and Understandable" for Customers as Required by Ohio Adm. Code 4901:1-10-22(B).**

The box on the Company's proposed bill format concerning the "Price-to-Compare" is inaccurate and archaic. The message contains a sentence that invites customers to "visit the Ohio electric choice web site at [www.ohioelectricchoice.com](http://www.ohioelectricchoice.com)." The referenced web site does not provide "a comparison of available competitive electric supplier offers" as stated in the billing message. The OCC's review of the current bill format, confirmed by visiting DP&L's web site and the inspection of a recent DP&L bill, is that the "Price-to-Compare" box contains the following sentence: "You may contact DP&L for a written explanation of the price-to-compare message." This more recent version of the message regarding the price-to-compare should not be changed. The Commission should not adopt the Company's proposal to return to the archaic language regarding the price-to-compare message.



**C. DP&L's Messages on Its Monthly Bills Should be Updated to Address Current Needs and Best Practices, and Should be "Accurate" and "Clear and Understandable" for Customers as Required by Ohio Adm. Code 4901:1-10-22(B).**

Additional changes should be made to the Company's bill format while this subject is before the Commission in order to address current needs and adopt best practices regarding bill formats. The portion of the bill format that provides messages to customers (i.e. before the "Explanation of Billing Terms") should be modified. Two subjects that should be addressed are "Deposits" and the "Percentage of Income Payment Plan" (or "PIPP").

A message regarding "Deposits" should be added to DP&L's bill format. The OCC and the PUCO receive large number of inquiries on this subject, and the inquiries represent only a portion of DP&L's customers who likely need additional information on the subject. The following message should be added:

**DEPOSITS**

Deposits can be required if full payments are not made for two consecutive bills, a disconnection notice resulted from nonpayment on two or more occasions within 12 months, or service is disconnected for nonpayment or other reasons during the preceding 12-months.

The message follows Ohio Adm. Code 4901-10-14(G) regarding customer deposits. The message should be adopted to help inform the public on a topic that is the subject of numerous inquiries.

A message regarding PIPP should also be added to DP&L's bill format that is used to send bills to customers enrolled in the PIPP program. The following message

should be added:

**PERCENTAGE OF INCOME  
PAYMENT PLAN**

The Plan (or PIPP) bases payment for electric bills on household income for eligible households. Participation in the PIPP program does not relieve you of your legal responsibility for paying the actual account balance.

This message reflects information contained on the bill format for other Ohio utilities (e.g. Vectren Energy Delivery of Ohio<sup>6</sup> and Ohio Edison). DP&L's bill format should be adjusted to reflect best practices as these practices have been demonstrated to the PUCO in past cases.

**IV. CONCLUSION**

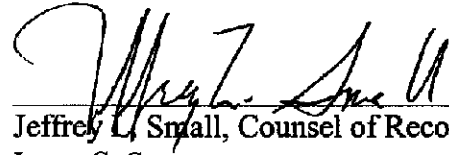
For the reasons stated above, the Commission should grant the OCC's Motion to Intervene on behalf of the approximately 450,000 residential customers who have an interest in accurate, clear, and understandable utility bills. The Commission should also grant the OCC's Motion to Suspend to the extent required to include the OCC's changes to the proposed bill format.

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<sup>6</sup> *In re Bill Format for Vectren Energy Delivery of Ohio*, Case No. 07-477-GA-UNC, Order at ¶4(f) (July 11, 2007).

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL

A handwritten signature in black ink, appearing to read "Jeffrey L. Small", is written over a horizontal line.

Jeffrey L. Small, Counsel of Record

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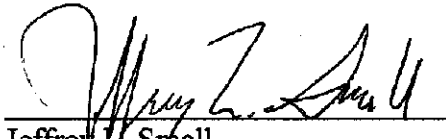
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the Office of the Ohio Consumers' Counsel's Motion to Intervene and Motion to Suspend was served upon the persons listed below via first class U.S. Mail, postage prepaid, this 16<sup>th</sup> day of June, 2008.

  
\_\_\_\_\_  
Jeffrey L. Small  
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