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August 11, 2008

Public Utilities Commission of Ohio
Docketing - Tenth Floor
180 East Broad Street
Columbus, Ohio 43215-3793

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

Dear Clerk:

Enclosed please find the original and 11 copies of the comments of The Dayton Power and Light Company in the above-referenced matter. Please file and return one time-stamped copy to me in the enclosed self-addressed envelope. Thank you for your attention to this matter.

Sincerely,

J Strines

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Enclosures

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

PUCO

INITIAL COMMENTS OF THE DAYTON POWER AND LIGHT COMPANY

By entry dated April 4, 2007, the Commission presented its staff's proposed modifications to the rules in those chapters of the Administrative Code captioned above and requested comments from interested persons. Dayton Power and Light (DP&L) filed comments and reply comments on June 8, 2007 and July 24, 2007, respectively.

On May 1, 2008, the governor signed into law Amended Substitute Senate Bill No. 221 (SB 221) amending various provisions of Amended Substitute Senate Bill No. 3. Among those amendments are various revisions to Section 4905.31 of the Revised Code and Chapter 4928 of the Revised Code, which necessitate corresponding modifications to many rules currently under review in the above-captioned proceeding. By Entry dated July 23, 2008, the Commission invited comments regarding adoption of proposed rules in the above captioned case. DP&L hereby provides comments on the Commission's proposed amendments to rules for electric service and safety standards.

As a general comment, DP&L would note that there are several instances within the proposed regulations where an automatic "violation" is established and there appears to be little or no due process opportunity for a utility to defend itself or explain events leading up to the purported violation. In short, it creates what amounts to a strict liability standard for certain violations. In general, DP&L's comments in these areas are to suggest that, if the Commission's goal is higher accountability, a rebuttable presumption of violation is more appropriate, as it gives a utility an opportunity to refute the presumption that a violation exists based on the specific facts and circumstances involved.

DP&L agrees with Staff for retaining the existing numbering sequence of the rules in Chapter 4901:1-10, O.A.C. This eliminates a significant administrative burden and confusion with the numbering sequence proposed in Staff's April 2007 version of the rules.

I. <u>Responses to the Commission's Specific Questions</u>

In Paragraph 8 of its Order dated July 23, 2008 the Commission asked three specific questions. DP&L hereby provides its response to those questions in corresponding order to which they were asked.

> *(a) Although staff has proposed to eliminate the requirement in Rule 4901:1-10-11, O.A.C., to report Momentary Average Interruption Frequency Index (MAIFI), should the service reliability indices and minimum performance standards set forth in Rule 4901:1-10-10(B)(1), O.A.C., include MAIFI and power quality indices as minimum standards?*

DP&L commends Staff for the removal of MAIFI reporting from Rule 11. DP&L would propose at this time that Staff eliminate reporting of momentary interruptions to customers. DP&L, like most utilities, installs reclosers on its overhead distribution to reduce sustained outages to customers caused by momentary or transitory faults, such as animals impacting distribution equipment and lightning strikes. The recloser may, while clearing a fault, operate a number of times causing the momentary loss(es) of power to the customer. While DP&L understands that no customer likes momentary outages, a momentary outage is far more desirable than a sustained outage that requires a line technician to make repairs before electricity is restored. Reclosers are an effective means of clearing transient faults as over 85% of faults on overhead power lines are transient or momentary in nature. Utilities should be commended for installing reclosers where applicable to improve overall availability of power to customers.

(b) *If minimum performance standards for MAIFI and power quality indices are established, should the minimum standards reflect the momentary interruptions experienced by all customers, what would be the expected cost of implementing these minimum standards, and who should bear the cost of implementation?*

At this point, without a detailed study, DP&L is unable to provide a hard dollar estimate of what the implementation costs of the new proposed minimum standards would be. The costs would certainly be substantial given that DP&L, at this time, does not have an accurate way of recording circuit level MAIFI – which would be the Company's only option. At present, only 60% of our substations have monitoring equipment that would allow accurate measurement of momentary outages that customers are experiencing. The remaining substations would either need to be upgraded or counter readings would have to be gained which would be costly and time consuming.

To the extent that the Commission orders compliance with new standards that require the EDU's to incur substantial additional costs, the EDU's should be permitted to pass those on to its rate payers.

(c) To the extent staff discovers other redundancies or inconsistencies among the chapters of the Administrative Code currently under review in this proceeding or in Case No. 08-723-AU-ORD, is there any reason not to adopt staff's proposal of consolidating rules regarding residential and non-residential disconnection, reconnection, establishment of service, and bill payment into one chapter?

DP&L believes it would be reasonable to consolidate all rules related to residential and non-residential disconnection, reconnection, and establishment of service and bill payment into one chapter.

II. <u>4901:1-10-02 Purpose and Scope</u>

In Section 4901:1-10-02(G), Staff proposes to limit the rebuttable presumption afforded to Ohio Electric Distribution Utilities (EDUs) related to complaints about adequacy of service. Staff also proposes to preclude Ohio EDUs from limiting or eliminating their liability for consumer losses included in their tariffs.

Under no circumstance can an EDU guarantee uninterrupted power or power that is free of voltage fluctuations. To suggest this is careless and will significantly increase the cost of service. DP&L, like any other utility, maintains millions of electromechanical devices, which can fail without warning. Combine this with acts of God (i.e. weather) and acts of humans (i.e. car accidents, vandalism, fires etc) and it is obvious that uninterrupted power is unattainable at reasonable rates. Staff has not provided any support or need for this change and this section should be deleted.

DP&L's current rates are structured with the assumption that the customer will maintain insurance on their property for damage or loss due to power interruption, voltage fluctuation or similar occurrence. If the rules change this structure, and thereby essentially make DP&L a property insurer, DP&L will have additional significant costs that will need to be factored into future rates.

III. <u>4901:1-10-05 Metering</u>

In Section 4901:1-10-05(H)(2) the Commission proposes to add a requirement for the EDU to maintain records of every location where an electric meter has been installed and removed, together with the dates of such installations and removals. DP&L does not currently track the information proposed by the Commission and would not find it useful to track. This requirement would lead to costly programming requirements with no benefit. DP&L does track the current location for each of its meters and the meter number. This information is utilized by the metering department as well as our Customer Service System. DP&L proposes Section 4901:1-10-05(H)(2) be deleted.

IV. 4901:1-10-08 Emergency plan: annual emergency contact report and annual review of emergency plan; critical customers; emergency exercise; and coordination.

4901:1-10-08 (I)(2) requires EDUs to provide critical customers, within ten business days after acceptance of their application, with a written statement of their options and responsibilities during outage, i.e. the need for backup generators, an alternative power source or evacuation to another location. The Commission has proposed to delete "critical" from this requirement. If it is the Commission's intent to have the EDUs send this information to all customers, DP&L opposes the change as this Rule focuses on the EDU's Emergency Plan and critical customers. It would be very confusing to customers who are not considered critical customers to receive this information. DP&L seeks clarification that this requirement only applies to critical customers.

V. 4901:1-10-10 Distribution System Reliability

DP&L strongly objects to 4901:1:10-10(E), where the Commission has suggested changes to make a failure to meet a performance standard for two consecutive years constitute a violation of this rule. Reliability indices, even under the 2.5 Beta method proposed by Staff, can be influenced by random events out of the EDUs control (significant weather, vandalism, terrorism, explosions etc.). In addition, these indices are developed statistically and variability is expected. To the extent a target is missed, it should not be considered a violation because then the utility is subject to monetary penalties under 4901:1-10-30 O.A.C. possibly for an event that was entirely outside its control. Alternatively, if the Commission does not delete this language, DP&L suggests that the penalty only be invoked once the target is missed for three consecutive years. This will lessen the potential for financial penalties for random events outside the EDU's control.

- **Recommended Rule Change for 4901:1-10-10(E)**

~~(E) Failure to meet a performance target for two consecutive years shall be a violation of this rule.~~

- **Alternative Rule Change for 4901:1-10-10(E)**

(E) Failure to meet a performance target for ~~two~~ **three** consecutive years shall be a violation of this rule.

VI. 4901:1-10-11 Distribution Circuit Performance

Section 4901:1:10-11(F) is another instance where Staff's proposed changes make it an immediate violation of the rules without any apparent due process for something that may be out of the EDU's control. DP&L appreciates that Staff has recognized that it may take longer than one year to improve a circuit's performance. However, Staff must take into consideration the primary causes of the circuit's appearance on this list as well as the utility's mitigation plan. In many cases, the appearance of the circuit on the list in multiple years is the result of different causes – some outside the control of the EDU. For example, on year one a circuit may be on the list for a car accident, year two because of an animal and year three for faulty cutouts. In this example, DP&L would be in violation of the Rules and subject to fines for a circuit that is on the list for completely different reasons and two of them were completely out of DP&L's reasonable control. DP&L also asks Staff to consider that each circuit is inherently different, and repeat appearances on the Rule 11 list do not constitute poor performance for all customers on that circuit. There are instances of repeat circuits and different groups of customers on the circuit in question that were impacted in different years, for differing reasons. DP&L recognizes the need for Staff to address worst performing circuits and the need to ensure customers are receiving reliable service. DP&L works diligently to eliminate repeat circuits and invests a significant amount of time and resources in addressing any current or potential reliability concerns. It should be recognized that EDUs and Staff both are working for the same goal, to improve reliability to the customer. This mutually cooperative process should continue and the EDU should be afforded a fair opportunity to present to Staff an explanation of the circuits performance and work performed to mitigate further reliability problems before a determination of violation occurs.

- **<u>Recommended Rule Change for 4901:1-10-11(F)</u>**

(F) The inclusion of a given circuit in the report under paragraph (C) of this rule for three consecutive reporting periods shall constitute a rebuttable presumption of a violation of this rule. The presumption may be rebutted by a showing that the inclusion was the result of factors outside the utility's control, such as <u>if a circuit is included on the list for separate causes for three consecutive years or impacted different group of customers. An EDU will not be found in violation of this rule if a circuit is included on the list for three consecutive years and there is verifiable evidence that reliability performance is improving.</u>

VII. <u>4901:1-10-12 Provision of Customer Rights and Obligations</u>

Section 4901:1-10-12(F)(1)(b) and (F)(2)(c) propose to prohibit EDUs from disclosing a customer's account number or social security number (SSN) without written consent, electronic authorization, or without a court or commission order except for collections and credit reporting, participation in programs funded by the universal service fund and governmental aggregation.

DP&L suggests the Commission add the Home Energy Assistance Program (HEAP) and Emergency Home Energy Assistance Program (E-HEAP) to the list of exceptions. When a customer fills out an Energy Assistance Program Application provided by the Ohio Department of Development it covers several programs designed to help low income customers including Percentage of Income Payment Plan (PIPP), HEAP, and E-HEAP. This form notifies customers of their privacy and the disclosure of their SSN is mandatory to receive the energy assistance benefits. In order to assist customers, DP&L communicates with the ODOD and Community Action Partnership (CAP) and it is often necessary to disclose a customer's SSN to verify that we are discussing the right customer.

- **Recommended Rule Changes for 4901:1-10-12(F)(1)(b) and (F)(2)(c)**

Participation in HEAP, E HEAP and programs funded by the universal service fund, such as the percentage of income payment plan programs...

Section 4901:1-10-12(F)(3) proposes to give the customer the right to request up to twenty-four months instead of twelve months of usage history, meter data, and payment from the electric utility without charge. DP&L does not oppose providing additional usage information but would request the

Commission limit the requirement to the most recent twenty-four months as the older the information is, the more likely it is to be archived or in some other format that is difficult and costly to retrieve.

- **Recommended Rule Changes for 4901:1-10-12(F)(3)**

A statement that customers have the right to request up to the most recent twenty-four months of usage history, meter data, and payment history from the electric utility without charge.

VIII. 4901:1-10-14 Establishment of Credit for Non-residential Applicants and Customers

Section (J)(1) details the proposed requirements for handling existing deposits for customers. DP&L suggests that the Commission make changes to mirror the requirements of when an EDU can require a deposit to re-establish creditworthiness for tariffed service in paragraph (H) of this Section.

Section (J)(1)(b) requires the EDU to review each nonresidential account after the first two years of service for which a deposit is being held, and refund the deposit if during the preceding twenty-four months the customer's service was not disconnected for non-payment, a fraudulent practice, tampering, or unauthorized reconnection; the customer had **not more than three** past due bills.

Section (J)(2)(b) states upon customer request, but not more than annually, review each account after the first two years of service for which a deposit is being held, and shall promptly refund the deposit or credit the customer's account, plus interest accrued, if, with regard to the preceding twelve months, the customer had **not more than two** past due bills.

- **Recommended Rule Changes for 4901:1-10-12(J)**

(J) Each electric utility shall:

(1) Review each account after the first two years of service for which a deposit is being held, and shall promptly refund the deposit or credit customer's account, plus interest accrued, if during the preceding twenty-four months, both of the following are true:

(a) The customer's service was not disconnected for non-payment, a fraudulent practice, tampering, or unauthorized reconnection.

(b) The customer had not more than ~~three~~ <u>two</u> past due bills

(c) <u>The customer has not been issued a disconnection notice for nonpayment on two or more occasions during the preceding twelve months.</u>

(2) Upon customer request, but not more than annually, review each account after the first two years of service for which a deposit is being held, and shall promptly refund the deposit or credit the customer's account, plus interest accrued, if with regard to the preceding ~~twelve~~ <u>twenty-four</u> months, both of the following are true:

(a) The customer's service was not disconnected for non-payment, a fraudulent practice, tampering, or unauthorized reconnection.

(b) The customer had not more than two past due bills.

(c) <u>The customer has not been issued a disconnection notice for nonpayment on two or more occasions during the preceding twelve months.</u>

IX. <u>4901:1-10-18 Reconnection of Nonresidential Service</u>

Section (A)(1)(a) in part requires the EDU to reconnect non-residential service by the close of the following regular working day after the customer pays the full amount of arrears, for which service was disconnected, or the customer enters into a pay agreement for amount in default. DP&L suggests the Commission revise this language to allow EDUs to collect the full amount past due at the time of reconnection. At the time of reconnection the customer may have an additional past due charge in addition to the amount that the customer was disconnected for.

- **Recommended Rule Changes for 4901:1-10-18(A)(1)(a)**

(a) The full amount ~~in arrears, for which service was disconnected~~ past due at the time of reconnection, or the amount in default on an agreed-upon deferred payment plan.

X. 4901:1-10-22 Electric Utility Billing and Payments

The Commission suggests in paragraph (D) to eliminate the use of check-cashing businesses as authorized pay agents. DP&L objects to this restriction, because approximately 20% of our pay agents are considered check-cashing businesses. If the Commission eliminates the ability to utilize these companies, it will limit customer options to pay their utility bills. Often times these locations are located at sites that are convenient for customers to make payments. However, *in the event that the Commission does eliminate the use of these establishments,* DP&L is willing to work with PUCO Staff to find other alternatives for low income customer payment options.

XI. 4901:1-10-24 Customer Safeguards and Information

Section 4901:1-10-24(E)(1)(b) and (E)(2)(c) proposes to prohibit EDUs from disclosing a customer's account number or social security number (SSN) without written consent, or electric authorization or without a Court or Commission order except for collections and credit reporting, participation in programs funded by the universal service fund and governmental aggregation.

DP&L suggests the Commission add the Home Energy Assistance Program (HEAP) and Emergency Home Energy Assistance Program (E-HEAP) to the list of exceptions. When a customer fills out an Energy Assistance Program Application provided by the Ohio Department of Development it covers several programs designed to help low income customers including Percentage of Income Payment Plan (PIPP), HEAP, and E-HEAP. This form notifies customers of their privacy rights and the disclosure of their SSN is mandatory to receive the energy assistance benefits. In order to assist customers, DP&L communicates with the ODOD and the Community Action Partnership (CAP) and it is often necessary to disclose a customer's SSN to verify we are discussing the right customer.

- **Recommended Rule Changes for 4901:1-10-24(E)(1)(b) and (E)(2)(c)**

Participation in programs funded by HEAP and E-HEAP and the universal service fund, such as the percentage of income payment plan programs...

Section 4901:1-10-24(F)(1) proposes to give the customer the right to request up to twenty-four months instead of twelve months of usage history, meter data, and payment from the electric utility without charge. DP&L does not oppose providing additional usage information but would request the Commission limit the requirement to the most recent twenty-four months as the older information is, the more likely it is to be archived or in some other format that is difficult and costly to retrieve.

Recommended Rule Changes for 4901:1-10-24 (F)(1)

A statement that customers have the right to request up to most recent twenty-four months of usage history, meter data, and payment history from the electric utility without charge.

XII. 4901:1-10-26 Annual System Improvement Plan

DP&L respectfully disagrees with Staff's proposed changes in 4901:1-10-26(B)(3) which would require the explanation of a variance between budgeted and actual expenditures exceeding 10%. The transmission and distribution (T&D) system is a fluid system, changing day-by-day. The maintenance needs of supporting the T&D system also change. Funds to support specific maintenance programs and initiatives are diverted as necessary to support the reliability of the system as a whole. Reporting variances between budgeted and actual expenditures is burdensome and unnecessary. This requirement should be deleted.

Section 4901:1-10-26(B)(1)(e) requires EDUs to submit transmission load relief and the top ten congestion facilities by hours of congestion occurring on the electric utility's and/or transmission owners' facilities. DP&L opposes this language and suggests that it be deleted. DP&L considers this critical infrastructure information which should not be available to the public.

XIII. 4901:1-10-27 Inspection, maintenance, repair, and replacement of transmission and distribution facilities (circuits and equipment)

Section 4901:1-10-27(E)(4) requires utilities to maintain records sufficient to demonstrate compliance with its transmission and distribution facilities maintenance, repair and replacement programs. The Commission has added language that now requires EDUs to record all deficiencies revealed by inspection or tests and all actions taken to correct those deficiencies. Lines and equipment with recorded defects that could reasonably be expected to endanger life or property shall be promptly repaired, disconnected, or isolated. All remaining deficiencies likely to cause an outage shall be corrected within one year of the completion of the inspection or testing originally revealed such deficiencies. DP&L agrees with Staff's clarification regarding the deficiencies to be corrected within one year.

XIV. 4901:1-10-28 Net Metering

Section (A)(4) states net metering shall be accomplished using a single meter capable of registering the flow of electricity in each direction. A customer's existing single-register meter that is capable of registering flow of electricity in both directions satisfies this requirement. If the customer's existing electrical meter is not capable of measuring the flow of electricity in two directions, the electric utility, upon written request from the customer, shall install at the customer's expense a meter that is capable of measuring electricity flow in two directions. DP&L requests this language be clarified. While an existing electromechanical meter may be "capable" of measuring the electricity flow in both directions, the accuracy of the meter when the customer is supplying generation to the grid may not be within the accuracy tolerance established in 4901:1-10-05. In accordance with Rule 5, DP&L will not place a meter in service or knowingly allow a meter to remain in service if it does not comply with the 2001 ANSI C12.1 standards. If a customer becomes a net metering customer, and is therefore requesting that its meter now perform a function different from what was intended when the meter was first installed (because it now must measure energy in both directions), if the meter is found to operate outside the ANSI standards, it should be replaced at the customer expense. Cost causation principles should apply to net metering customers as they do with all other rate making policies.

- **Recommended change for 4901:1-10-28(A)(4)**

(A)(4) Net metering shall be accomplished using a single meter capable of accurately registering the flow of electricity in each direction in accordance with 4901:1-10-05(B). A customer's existing single-register meter that is capable of registering flow of electricity in both directions satisfies this requirement. If the customer's existing electrical meter is not capable of accurately measuring the flow of electricity in two directions, the electric utility, ~~upon written request from the customer~~, shall install at the customer's expense a meter that is capable of accurately measuring electricity flow in two directions.

In Section (A)(6)(c) if the customer generator feeds more electricity back to the system than the electric utility supplies to the customer generator, only the excess generation component shall be allowed to accumulate as a credit and shall be applied to the following month's bill. At the end of each calendar year, any accumulated credits from the previous twelve months shall be refunded to the customer. DP&L suggests that the refund should be at the customer's request and not determined by a period of time. The customer may want to keep applying the credit which is in line with normal business practices.

- **Recommended change for 4901:1-10-28(A)(6)(c)**

(A)(6)(c) If the customer generator feeds more electricity back to the system than the electric utility supplies to the customer generator, only the excess generation component shall be allowed to accumulate as a credit and shall be applied to the following month's bill. ~~At the end of each calendar year, any accumulated credits from the previous twelve months shall be refunded to the customer.~~ <u>At the customer's request, refund any credit balance on the account.</u>

XV. <u>4901:1-10-32 Cooperation with Certified Governmental Aggregators</u>

Section (A). This section requires EDUs to cooperate with governmental aggregators to facilitate the proper formation and functioning of governmental aggregations. EDUs must provide a list that contains specific information to all customers residing within the governmental aggregator's boundaries. DP&L suggests the Commission add language that this information is provided on a best efforts basis. DP&L uses the taxing location to develop the governmental aggregator list and DP&L is not made aware of municipality boundary changes. In addition, postal overlaps cause inaccuracies in some taxing locations. While DP&L strives to provide the most accurate information, it can only provide the information available in our billing system.

- **<u>Recommended Rule Change for 4901:1-10-32(A)</u>**

(A) Each EDU shall cooperate with governmental aggregators to facilitate the proper formation and functioning of governmental aggregations. Upon the request of a certified governmental aggregator or CRES provider under contract with the governmental aggregator, the EDU shall, **on a best efforts basis,** provide for all customers residing within the governmental aggregator's boundaries including those customers who have opted off the pre-enrollment list the following information:....

CONCLUSION

Based on the foregoing, DP&L respectfully requests that the Commission amend or modify the Proposed Rules. DP&L appreciates the opportunity to provide the above-mentioned comments and to work with all interested parties to develop standards that promote reliable and safe electric service for all customers.

Respectfully submitted,

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