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PUCO – Docketing Division
180 East Broad Street, 13th Floor
Columbus, Ohio 43215

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

Dear Clerk:

Enclosed please accept for filing 11 copies of the Reply Comments of The Dayton Power and Light Company in the above-referenced matter.

Thank you for your attention to this matter. If you have any questions please feel free to contact me.

Sincerely,



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Enclosures

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**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,)	Case No. 06-653-EL-ORD
4901:1-22, 4901:1-23, 4901:1-24 and)	
4901:1-25 of the Ohio Administrative Code)	

**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 Ohio Consumer and Environmental Advocates (Consumer Groups) and their attempt to blur the line between consumer advocate and regulator. As discussed more fully below, many of the proposed changes the Consumer Groups are advocating 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 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. 4901:1-9-07 Rules, Regulations and Practices for the Construction of Electric Line Extensions in Rural Territory.

DP&L agrees with AEP's suggestion that the definition of "Premium Service" found in 4901:1-9-07(A)(7) should be altered to clarify additional services which are considered to be premium services. AEP states that premium services include the tree trimming and expenses related to acquisition of right-of-way off the customer property.

DP&L supports the points made in FirstEnergy's comments concerning the requirements for cost estimates in section 4901:1-9-07(D) that by providing a detailed cost estimate DP&L would potentially be providing confidential pricing information which should be limited to situations where the customer is required to make a payment and should only be provided on a per request basis. Currently if a customer requests a detailed estimate, DP&L will provide a breakdown of costs in the following categories: labor, material, transportation (equipment), and overheads.

In AEP's comments it is suggested that the rules consider collecting additional information from a customer in order to substantiate the customer's request thus avoiding the engineering of jobs which are unlikely to go forward. DP&L agrees with this point; however would also recommend that the Commission consider a non-refundable deposit (eg. \$1,000) on the engineering work to be completed. If the project should move forward this payment would transfer to any potential project costs.

Furthermore, DP&L supports the language used by AEP which describes a tiered approach to the timing requirements for estimates which consider the relative difficulty of engineering projects; 10 days for a good faith estimate for projects where primary service is available and is sufficient to support the customers expected loads, 30 days for a good faith estimate for all other more complicated projects that do require primary extensions, and in all cases 45 days for firm pricing.

DP&L agrees with AEP's statement regarding developers being responsible for the backbone systems and not being the customer of record. Also the developers are not responsible for ensuring that meters are set but rather installing the initial facilities. Due to this difference in individual single-family residential home versus those in a development, DP&L recommends that developers receive an up-front credit of \$2,000 per lot within the submitted section of the development. The developer will then be responsible for the balance of the CIAC.

DP&L agrees with AEP's contention that financing projects for customers over 50 months will create a cumbersome process. Consequently DP&L recommends that for any customer project requiring a payment, the payment be made prior to construction of the facilities as stated in 4901:1-9-07(E)(1)(b) and 4901:1-9-07(E)(2)(b).

DP&L supports AEP's suggestion that utilities and customers need to have their priorities aligned by providing incentives for customers to locate near existing electric facilities. Unfortunately, the only way to achieve this end is to put some of the financial responsibility on the individual customer who is requesting the extension. DP&L recommends that non-residential customers be responsible for paying a uniform contribution of 40% of the extension cost plus applicable taxes. By placing a portion of

the responsibility on customers the Commission will be encouraging new and existing customers to make efficient decisions on where they locate their facility.

The need to control line extension costs is imperative. The blank check policy in the proposed rules will encourage speculative line extensions and shift the burden of costs to other ratepayers. The proposed policy would represent a tremendous change from the current line extension policy of all Ohio EDUs which require customer cost sharing through up front contributions or other cost sharing mechanisms. A uniform up front contribution of 40% of the line extension cost will unify the EDU's customer cost sharing policy and protect the vast majority of customers from the cost shifting that will result from the proposed rules. However, if EDUs are required to cover 100% of line extension costs they should not be penalized for the drastic change in policy. As FirstEnergy said in their comments and DP&L agrees "This proposed rule should permit timely recovery through a rider mechanism for all costs..." (for line extensions). Forcing EDUs into a general base rate case to recover line extension costs would be a drain on resources for both the EDUs, regulators and intervening parties. For these reasons DP&L supports the comments of FirstEnergy and AEP requesting a continuation of the current customer cost sharing line extension policies at a uniform rate of 40% and further supports FirstEnergy's proposal for a line extension cost recovery rider should EDUs be required to cover 100% of line extension costs.

DP&L agrees with FirstEnergy's comments on third party installation of line extensions facilities. As FirstEnergy clearly articulates this rule will create a situation where randomly selected contractors will work on DP&L's system, which DP&L will have to maintain for years to come long after the contractor has gone. For customers that

choose to do more of the utility construction and maintenance, DP&L has multiple rate options that allow the customer to maintain systems on their own property. Similarly DP&L is strongly in disagreement with the Ohio Farm Bureau suggestion that DP&L should be required to bid on the construction of DP&L's primary lines which inevitably will not only affect the service to the initial customer but also affect service to existing and future customers in the area.

II. 4901:1-10-01 Definitions

DP&L agrees with FirstEnergy'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. FirstEnergy'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.

III. 4901:1-10-02 Purpose and Scope

DP&L agrees with the comments proffered by AEP in opposition to the Commissions proposed amendments that would require a disclaimer to be placed on EDU's exculpatory clauses. As proposed the amendment would likely lead to customer confusion and in the end could have a detrimental effect on customers who believe they will receive reimbursement from a utility for interruptions in service due to items like storm damage and opt not to submit timely insurance claims.

DP&L also agrees with the comments of FirstEnergy that an elimination or reduction in scope of EDUs' exculpatory clauses would cause EDU's to shoulder a very large new liability burden that would have to be ultimately accounted for in future rates.

IV. 4901:1-10-09 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.

V. 4901:1-10-12 Provisions of Customer Rights and Obligations

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 for 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.

VI. 4901:1-10-22 EDU Customer Billing and Payments

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 would benefit a very limited number of customers and would 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.

VII. 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 an 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.

VIII. 4901:1-10-10, 4901:1-10-11, 4901:1-10-26 and 4901:1-10-27

The Consumer Groups have proposed an entire *redraft of the current and proposed service reliability rules set forth in O.A.C. 4901:1-10-10, 4901:1-10-11, 4901:1-10-26 and 4901:1-10-27*. 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 as suggested 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 in our case, 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.

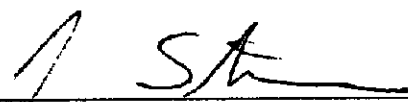
IX. 4901:1-10-24 Consumer Safeguards and Information

In their comments to 4901:1-10-24(D) and (E) the Consumer Groups propose additional amendments aimed at restricting EDU's access to customer Social Security Numbers (SSN), and even go so far as to suggest that it should be labeled an unfair and deceptive practice to routinely request customer SSN's. The Consumer Groups premises their concern about the requesting of SSN's on the prevention of identity theft. Hence suggesting the argument that an EDU's requesting of SSN's somehow perpetuates identity theft. These proposed increased restrictions and the accompanying rationale, ignores several key points. First, the provision of a SSN by a customer to an EDU can actually help prevent identity theft. Names, even extremely unique names, are easy to obtain. If EDU's are forced to provide service to individuals with little more than a name and an address, the chances of identity theft increase and anyone listed in the phone book with an address that could be given as a "former address" for verification purposes is a potential identity theft victim. If in order to obtain service a customer has to give a name and SSN, the potential field of identity theft victims shrinks to those who have already had their SSN stolen. Second, the Consumers Groups' request to label the asking for SSN's as a deceptive practice stands contrary to the Commission's proposed changes to 4901:1-17-03(A)(2) which is the subject of a different proceeding, but if passed as it stands, the amended rule will specifically allow an EDU to request SSN's to establish identity and credit.

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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