

# LARGE FILING SEPARATOR SHEET

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08-1095-EL-ATA  
08-1096-EL-AAM  
08-1097-EL-UNC

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Application of Dayton Power and Light  
Company

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of  
The Dayton Power and Light Company for  
Approval of Its Electric Security Plan

Case No. 08-1094-EL-SSO

In the Matter of the Application of  
The Dayton Power and Light Company for  
Approval of Revised Tariffs

Case No. 08-1095-EL-ATA

In the Matter of the Application of  
The Dayton Power and Light Company for  
Approval of Certain Accounting Authority  
Pursuant to Ohio Rev. Code § 4905.13

Case No. 08-1096-EL-AAM

In the Matter of the Application of  
The Dayton Power and Light Company for  
Approval of Its Amended Corporate  
Separation Plan

Case No. 08-1097-EL-UNC

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**APPLICATION OF THE DAYTON POWER AND LIGHT COMPANY  
FOR APPROVAL OF ITS ELECTRIC SECURITY PLAN**

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## **OVERVIEW OF FILING**

1. The Dayton Power and Light Company ("DP&L") submits this Application, pursuant to Ohio Rev. Code §§ 4928.141 and 4928.143, for approval of its Electric Security Plan ("ESP"). Pursuant to Ohio Rev. Code § 4928.143(D), DP&L's ESP maintains DP&L's existing Rate Stabilization Plan ("RSP") through December 2010. The Commission has previously found that DP&L's RSP achieved the goals of "(1) rate certainty for customers; (2) financial stability for the utility; and (3) the further development of competitive markets," and that the plan "as a package . . . benefits ratepayers and the public interest."<sup>1</sup> DP&L's ESP will continue to provide those same benefits. In addition, SB 221 created new obligations for Ohio electric utilities: alternative energy portfolio targets, energy efficiency targets, peak demand reduction targets, extended the utility's obligation to provide a standard service offer or default service for customers, and codified the state's commitment to economic development. DP&L's ESP contains the Company's plans to meet those new targets and seeks recovery of the costs of complying with these new obligations.

2. Ohio Rev. Code § 4928.66 establishes certain energy efficiency targets that DP&L intends to achieve through new initiatives called Customer Conservation and Energy Management ("CCEM") Programs. The Company's CCEM Programs, which will initially be implemented over a seven-year time period, will include a technologically-advanced, modern distribution system allowing customers to manage their energy consumption and enabling DP&L to deliver that energy reliably and efficiently utilizing real-time, automated controls. DP&L's vision for CCEM is a fully-networked system that includes

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<sup>1</sup> December 28, 2005 Opinion & Order, pp. 7-9 (PUCO Case No. 05-276-EL-AIR).

Advanced Metering Infrastructure ("AMI"), energy efficiency and demand response programs, and distribution and substation automation. This integrated system will be capable of monitoring and communicating grid status and the impact of consumption decisions to automated systems. It will allow DP&L to deliver energy more efficiently while providing customers with valuable information for better decision making on how and when to use energy. In addition, this system will improve DP&L's outage response and management capabilities.

3. The AMI infrastructure is the foundation for energy efficiency and demand response programs that give customers the ability to control their energy usage. To capture the full potential of AMI, the supporting information technology and telecommunications infrastructure must be modernized as well. Lower cost to customers also depends on a modernized delivery infrastructure including investments in Smart Grid technologies.

4. DP&L's CCEM Programs will provide tangible, direct customer benefits and societal benefits to all stakeholders, including customers, shareholders, and our community, that will generate environmental benefits today and into the future. The programs will provide customers with additional energy options including information relating to the amount of energy they consume, how they use it, and when they choose to consume it. Reducing energy consumption will, in turn, decrease the need to build new power plants. The programs will also produce distribution system reliability benefits and reduce energy lost in the transmission and distribution of power to homes and businesses. Utility operating costs, including fuel costs, will be lower as a result of automation and better visibility into

operational aspects of the grid, leading to more efficient and effective use of resources and lower costs to customers.

5. DP&L's CCEM Programs also include energy efficiency and demand response programs designed to help DP&L reach the energy efficiency and demand response targets in S.B. 221. The energy efficiency and demand response programs include residential lighting, residential HVAC diagnostic and tune up, residential HVAC rebates, residential appliance recycling, residential appliance rebates, residential low-income affordability, residential direct load control, residential time-of-use pricing, residential peak time rebate pricing, non-residential prescriptive rebates, non-residential custom rebates, non-residential direct load control, non-residential time-of-use pricing, and education and awareness.

6. DP&L's CCEM Plan is described in detail in: (1) Executive Summary of DP&L's CCEM Programs; (2) DP&L's Energy Efficiency and Demand Response Plan; (3) DP&L's Advanced Metering Infrastructure Component; and (4) DP&L's Smart Grid Development Component. Each of these Components is being filed concurrently with this Application.

7. Not only are DP&L's CCEM Programs designed to reach the statutory targets in § 4928.66, but also DP&L has evaluated each program to determine that it creates more benefits (e.g., reduced need for generation) than it costs. Only the programs that passed that standard were included in DP&L's CCEM Plan.

8. Ohio Rev. Code § 4928.64 establishes certain advanced energy and renewable energy targets. DP&L intends to reach the advanced energy targets through the

energy efficiency and demand response programs contained in DP&L's CCEM Plan.<sup>2</sup> DP&L expects to achieve renewable energy targets through one, or any combination of: purchasing Renewable Energy Credits ("RECs"), entering power purchase contracts, partnering with third parties, and, if economical, constructing new generation facilities.

9. DP&L's Application is divided into three "Books":

Book I DP&L's Standard Offer Plan;

Book II DP&L's Customer Conservation and Energy Management Plan; and

Book III DP&L's Alternative Energy Plan.

Each Book is described below.

**BOOK I: STANDARD OFFER PLAN**

**A. Standard Offer Plan**

10. DP&L is an "electric distribution utility," "electric supplier," and "electric utility" as those terms are defined in Ohio Rev. Code § 4928.01(A)(6), (10), and (11). DP&L is engaged in the business of supplying electric generation, transmission and distribution service to more than 514,000 retail customers in West Central Ohio.

11. Ohio Revised Code § 4928.141(A) provides that each Ohio electric distribution utility shall file a standard service offer ("SSO") that contains a market rate offer (pursuant to Ohio Rev. Code § 4928.142) or an ESP (pursuant to Ohio Rev. Code § 4928.143).

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<sup>2</sup> "Advanced energy resource" is defined to include "Demand-side management and any energy efficiency improvement." Ohio Rev. Code § 4928.01(A)(34)(g). DP&L will thus rely upon its CCEM Plan expenditures to achieve the advanced energy targets.

12. Ohio Revised Code § 4928.143(D) provides that "if an electric distribution utility that has a rate plan that extends beyond December 31, 2008 files an application under this section for the purpose of its compliance with division (A) of section 4928.141 of the Revised Code, that rate plan and its terms and conditions are hereby incorporated into its proposed electric security plan and shall continue in effect until the date scheduled under the rate plan for its expiration . . . ."

13. In PUCO Case No. 05-276-EL-AIR, on November 3, 2005, certain parties submitted a Stipulation and Recommendation that created a rate plan (called a "Rate Stabilization Plan" or "RSP") for DP&L that would last through December 31, 2010. The Commission approved that rate plan in a December 28, 2005 Opinion and Order, and the Supreme Court of Ohio affirmed that Commission decision in Ohio Consumers' Counsel v. Public Utils. Comm'n, 2007-Ohio-4276, 114 Ohio St. 3d 340. Pursuant to Ohio Rev. Code § 4928.143(D), that rate plan is to remain in effect through December 31, 2010.

**B. The Commission's ESP Rules**

14. Pursuant to Ohio Admin. Code § 4901:1-35-03(C)(1), a complete description of DP&L's ESP is contained in Book I of this filing, which is supported by the testimony of Gregory Campbell, Scott Kelly, Teresa Marrinan, Timothy Rice, Dona Seger-Lawson, and John Wagner.

15. Pursuant to Ohio Admin. Code § 4901:1-35-03(C)(2), pro forma financial projections of the effect of DP&L's ESP are contained in Schedule A-1 of Book I, Schedule A-1 of Book II, and Schedules A-1 and A-2 of Book III.

16. Pursuant to Ohio Admin. Code § 4901:1-35-03(C)(3), projected rate impacts by customer class/rate schedules for 2009 are contained in Schedule E-5 of Book I, Schedules E-4 and E-5 of Book II, and Schedule E-5 of Book III. DP&L will supplement this filing to provide projected rate impacts for 2010 prior to the technical conference.

17. Pursuant to Ohio Admin. Code § 4901:1-35-03(C)(5), DP&L states that its Operational Support Plan has been implemented and that the Company is not aware of any outstanding problems with the implementation.

18. Pursuant to Ohio Admin. Code § 4901:1-35-03(C)(6), DP&L's plan for addressing governmental aggregation programs and the implementation of Ohio Rev. Code § 4928.20(I)&(J) is contained in Book I, and is supported in the testimony of Dona Seger-Lawson.

19. Pursuant to Ohio Admin. Code § 4901:1-35-03(C)(7), a description of the effect on large-scale governmental aggregation of any unavoidable generation charge proposed to be established in the ESP is contained in Book I, and is supported in the testimony of Dona Seger-Lawson.

20. Pursuant to Ohio Admin. Code § 4901:1-35-03(C)(8), a detailed account of how DP&L's ESP is consistent with and advances the policies of this state identified in Ohio Rev. Code § 4928.02(A) to (N) is contained in the Book I testimony of Scott Kelly.

21. Pursuant to Ohio Admin. Code § 4901:1-35-03(C)(9)(a), DP&L states that it is not seeking the automatic recovery of fuel, fuel-related, or purchased power costs as permitted by Ohio Rev. Code § 4928.143(D) in this Application. Instead, DP&L is seeking to



defer such costs for recovery to begin on January 1, 2011 as discussed below and supported by the testimony of Teresa Marrinan, Dona Seger-Lawson and Gregory Campbell.

22. Pursuant to Ohio Admin. Code § 4901:1-35-03(C)(9)(c), DP&L seeks Commission approval to amend its tariffs to provide that if a customer who has switched to a Competitive Retail Electric Service ("CRES") Provider then switches back to DP&L's standard service offer, that returning customer would receive service at market rates. This is a necessary protection for both DP&L and its other customers to match cost incurrence and cost recovery. Because DP&L does not procure supplies to serve customers who have switched to a CRES Provider, if and when that customer returns to DP&L for service, DP&L must procure additional supply at the then-applicable market price. The fixed, average, SSO-tariffed rates would not be compensatory and would not properly assign costs to the returning customer who caused the costs to be incurred. The reasons and basis for this proposal are explained in Book I of this filing, and are supported in the testimony of Dona Seger-Lawson.

23. Also pursuant to Ohio Admin. Code § 4901:1-35(C)(9)(c), DP&L states that the Stipulation and Recommendation in Case No. 05-276-EL-AIR includes a Rate Stabilization Charge that is to be paid by all customers. Pursuant to Ohio Rev. Code § 4928.143(D), that provision of DP&L's existing rate plan is automatically included in DP&L's ESP.

24. Pursuant to Ohio Admin. Code § 4901:1-35-03(C)(9)(d), DP&L states that it is not proposing any new adjustments to any component of its SSO price beyond those that are in DP&L's existing RSP.

25. Pursuant to Ohio Admin. Code § 4901:1-35-04(B), a proposed notice for newspaper publication is attached as Exhibit 1.

C. **Fuel and Purchased Power – Ohio Admin. Code § 4901:1-35-09**

26. Ohio Rev. Code § 4928.143(D) provides that a utility that has a rate plan that extends beyond December 31, 2008 "may include in its electric security plan under this section . . . provisions for the incremental recovery or the deferral of any costs that are not being recovered under the rate plan and that the utility incurs during that continuation period to comply with section 4928.141. . . ." Additional explanation surrounding this provisions can be found in the Legislative Service Commission's Analysis of S.B. 221: "In its initial ESP application DP&L can request PUCO approval of provisions for the incremental recovery or the deferral of any of the following costs that are not being recovered under its current rate plan and that it incurs during that rate plan continuation period under the ESP: (1) costs to comply with the act's SSO/default service requirements, (2) costs to comply with the act's alternative energy requirements . . . and (3) costs to comply with the act's energy efficiency requirements . . . " Legislative Service Commission Final Analysis of Am. Sub. S.B. 221, at 19.

27. Pursuant to Ohio Rev. Code § 4928.143(D) and Ohio Admin. Code § 4901:1-35-09, DP&L seeks accounting authority to defer fuel, fuel-related and purchase power expenses that DP&L incurs from 2009 through 2010 to provide a standard service offer pursuant to Ohio Rev. Code § 4928.141 and that are not being recovered in DP&L's current rates. DP&L's request for the deferral and recovery of those expenses is explained in Book I, Chapter 5, and is supported by the testimony of Teresa Marrinan, Dona Seger-Lawson, and Gregory Campbell.

28. Ohio Admin. Code § 4901:1-35(C)(3) requires DP&L to identify the "projected rate impacts by customer/rate schedules for the duration of the ESP, including post-ESP impacts of deferrals." DP&L will make a supplemental filing to comply with this provision prior to the technical conference.

**D. Corporate Separation -- Ohio Admin. Code § 4901:1-37**

29. In this filing, DP&L seeks Commission approval of a Second Amended Corporate Separation Plan. DP&L's currently-operative Corporate Separation Plan is dated February 28, 2000, and was approved by the Commission in Case No. 99-1687-EL-ETP. DP&L seeks to amend its Corporate Separation Plan to comply with revised corporate separation requirements in the Commission's rules. DP&L's request to amend its Corporate Separation Plan is contained in Book I, and is supported in the testimony of Timothy Rice.

30. Ohio Admin. Code 4901:1-35-03(C)(4) and (F) requires DP&L to identify any Corporate Separation Plan waivers that have been granted and are to be continued. DP&L's existing Corporate Separation Plan, which was approved by the Commission, provides that DP&L will functionally separate its competitive and regulated business units and operations. DP&L has operated under this functional separation model since 2000<sup>3</sup> and intends to continue this functional separation through its Second Amended Corporate Separation Plan.

31. Ohio Admin. Code § 4901:1-35-03(F) requires DP&L to demonstrate that its current Corporate Separation Plan complies with Ohio Revised Code § 4928.17 and Ohio

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<sup>3</sup> February 28, 2000 DP&L Amended Corporate Separation Plan, pp. 16-19 (PUCO Case No. 99-1687-EL-ETP); Opinion & Order, pp. 16-18 (PUCO Case No. 99-1687-EL-ETP).

Admin. Code Chapter 4901:1-37, and is consistent with the policies in Ohio Rev. Code § 4928.02(A) to (N). DP&L demonstrates compliance in Book I, in the Second Amended Corporate Separation Plan, and in the testimony of Timothy Rice.

**E. Economic Development – Ohio Admin. Code §§ 4901:1-38 and 4901:1-35-03**

32. Pursuant to Ohio Admin. Code Chapter 4901:1-38 and Ohio Admin. Code § 4901:1-35-03(C)(9)(h), DP&L's ESP includes provisions designed to provide economic development, and job retention, which are described in the Book I, and supported in the testimony of John Wagner.

33. DP&L seeks recovery of its costs related to implementing the economic development programs to comply with the Ohio Admin. Code Chapter 4901:1-38.

**BOOK II: CUSTOMER CONSERVATION AND  
ENERGY MANAGEMENT (CCEM) PROGRAMS**

34. DP&L's CCEM Plan allows DP&L to achieve the energy efficiency targets in Ohio Revised Code § 4928.66. DP&L's CCEM Plan consists of a series of innovative programs and investments that have been proven in other jurisdictions to significantly reduce energy usage and demand. DP&L's CCEM Plan is described in detail in: (1) Executive Summary of DP&L's CCEM Programs; (2) DP&L's Energy Efficiency and Demand Response Plan; (3) DP&L's Advanced Metering Infrastructure Component; and (4) DP&L's Smart Grid Development Component. Each of those Components is being filed with this Application. In summary, DP&L's CCEM Plan consists of the following components and investments:

- a. Advanced Metering Infrastructure ("AMI"): DP&L will install AMI for all of its customers, which will enable DP&L, among other things, to provide time-of-use rates, improve customer service and outage management, and provide customers with real-time information related to their energy usage.
- b. Smart Grid: DP&L will implement Smart Grid technology for its distribution system, which will ultimately include a fully network-connected system that communicates grid status and automates transmission and distribution decision-making systems. This system will improve data reporting capabilities, reduce energy and demand usage, improve reliability, and allow for full implementation of the AMI system. By means of this Application, the Company is proposing to roll out a limited set of technologies and Smart Grid concepts pertaining to distribution and substation automation.
- c. Energy Efficiency: DP&L will implement the following energy efficiency programs: residential lighting, residential HVAC diagnostic and tune up, residential HVAC rebates, residential appliance recycling, residential appliance rebates, residential low-income affordability, residential direct load control, residential time-of-use pricing, residential peak time rebate pricing, non-residential prescriptive rebates, non-residential custom rebates, non-residential direct load control, non-residential time-of-use pricing, and education and awareness.

35. DP&L has performed a "Total Resource Cost" ("TRC") test on its energy efficiency programs, which shows that each program will save more money than the program will cost. TRC calculations are supported by the testimony of Scott Michaelson. DP&L has also determined the value of the societal benefits -- i.e., benefits beyond those that flow directly to DP&L's customers -- of the energy efficiency component of its CCEM Plan. That test shows that the benefits of DP&L's CCEM Plan exceed its costs. Societal benefits calculations are supported by the testimony of Kevin Hall. In short, DP&L's CCEM Plan is projected to generate more savings and benefits than the CCEM Plan will cost.

36. To implement its CCEM Plan, DP&L anticipates that it will need to invest \$297.1 million in capital and \$185.8 million in O&M over seven years. The majority of capital expenditures, \$255.0 million, are in support of AMI, including the meters to be installed at customers' homes and businesses and equipment to be used by customers to access the data from the advanced meters, along with related communication and information technology systems. Only through use of this equipment can customers be enabled to control their own energy usage, and can the statutory targets be met. \$41.6 million is required for Smart Grid development, and \$.5 million in capital are necessary to support DP&L's energy efficiency programs. O&M expenditures consist of \$118.4 million for energy efficiency program implementation, \$63.1 million toward AMI, and \$4.3 million toward Smart Grid development.

37. Ohio Rev. Code § 4928.143(D) provides that DP&L may recover the incremental cost that DP&L incurs to comply with the energy efficiency and peak demand reduction targets of Ohio Rev. Code § 4928.66. Pursuant to that section, DP&L requests

Commission approval to recover through a rider its O&M expenditures, recovery of and on its capital expenditures, and shared savings.

38. DP&L seeks accounting authority to defer CCEM expenditures that DP&L has incurred and will incur before the Commission authorizes the implementation of a rider to recover CCEM expenditures. The costs to be deferred are costs associated with formulating and analyzing the CCEM Plan, case expenses, and expenses associated with implementation of CCEM before authorized recovery.

39. DP&L's CCEM program is supported by the pre-filed testimony of the following witnesses:

- a. Maria Bulp -- description of CCEM energy efficiency programs, and associated costs;
- b. Gregory Campbell -- accounting treatment associated with CCEM Plan;
- c. Karen Garrison -- description of information technology projects needed to support CCEM Plan;
- d. Kevin Hall -- calculation of societal benefits of DP&L's CCEM Plan;
- e. Chris Hergenrather -- gross revenue conversion factor and tax matters;
- f. Scott Kelly -- overview of DP&L's CCEM Plan;
- g. Jeff Makholm -- calculation of rate of return;
- h. Teresa Marrinan -- calculation of market value of energy, to support Total Resource Cost test;
- i. Scott Michaelson -- calculation of Total Resource Cost test;
- j. Scott Niemann -- calculation of market value of demand, to support Total Resource Cost test;
- k. Dona Seger-Lawson -- rates, tariffs, and case expense;

- l. Jeffrey Teuscher -- description of AMI, Smart Grid and telecommunications infrastructure needed to support AMI and Smart Grid, and associated costs;
- m. John Wagner -- customer impacts, rate programs, typical bills and lost revenue; and
- n. Robert Zabors -- prudence of DP&L's energy efficiency programs.

### **BOOK III: ALTERNATIVE ENERGY PLAN**

40. Ohio Rev. Code § 4928.64(A)(1) creates certain advanced energy and renewable energy resource targets. DP&L's plan for achieving the targets is set forth in Book III -- Advanced Energy Plan, which is supported in the testimony of Gary Stephenson, and Dona Seger-Lawson.

41. Ohio Rev. Code § 4928.01(A)(34)(g) provides that an advanced energy resource includes "demand-side management and any energy efficiency improvement." (Emphasis added.) Pursuant to this section, DP&L relies on the energy efficiency programs from its CCEM Plan to help to achieve the advanced energy targets in § 4928.64.

42. DP&L's plan for achieving the renewable targets in Ohio Rev. Code § 4928.64 is divided into a near-term phase (2009-2010), mid-term phase (2011-2013) and a long-term phase (2014-2025). Near-term, DP&L expects to achieve compliance with the targets largely through purchasing Renewable Energy Credits ("RECs"). Mid-term, DP&L intends to achieve compliance with the targets through power purchase agreements, partnering with developers on projects, new construction, and DP&L intends to fill any gaps through the purchase of RECs. On July 25, 2008, DP&L issued a Request for Proposals ("RFP") in connection with meeting the renewable targets in the mid and long term. DP&L is currently in



the process of receiving and evaluating responses to the RFP and will consider any viable option in developing its plans.

43. Ohio Rev. Code § 4928.143(D) provides that DP&L may recover the incremental costs that DP&L incurs to comply with the renewable resource targets of Ohio Rev. Code § 4928.64. Pursuant to that section, DP&L seeks Commission approval to recover through a rider its renewable energy expenses and recovery of and on its capital expenditures.

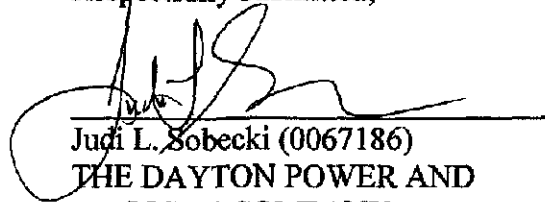
44. DP&L also seeks accounting authority to defer expenditures that DP&L makes to achieve renewable energy resource targets before the Commission authorizes implementation of a rider to recover DP&L's renewable energy expenditures.

WHEREFORE, DP&L requests that this Commission find and order as follows:

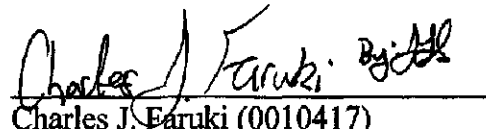
1. That DP&L's ESP be approved, including approval of cost recovery associated with economic development arrangements;
2. That DP&L's Customer Conservation and Energy Management Plan be approved, including approval of cost recovery described in this Application and supporting documents;
3. That DP&L's Alternative Energy Plan be approved, including approval of cost recovery described in this Application and supporting documents;
4. That DP&L's proposed tariffs be approved;
5. That DP&L be granted accounting authority to defer for future recovery the following:
  - a. the Customer Conservation and Emergency Management Program expenditures incurred by DP&L before the Commission authorizes DP&L to implement a rider to recover those expenditures, which expenditures include costs of formulating and analyzing CCEM Programs, case expense, and expenses associated with implementation of CCEM Plan before recovery is authorized.

- b. fuel, fuel-related and purchased power expenses that DP&L incurs from 2009-2010, to the extent that those expenses exceed recovery in DP&L's existing rates.
  - c. expenses that DP&L incurs to comply with alternative energy targets in S.B. 221 before the Commission authorizes DP&L to recover those expenses through the rider.
- 6. That DP&L's Second Amended Corporate Separation Plan be approved; and
  - 7. That the Commission issue such other orders as may be just and proper.

Respectfully submitted,



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DP&L has in place a rate plan approved by the PUCO in 2005, that will continue through December 31, 2010. That rate plan sets the rates that DP&L charges to its customers for electric service. DP&L's ESP provides that the rate plan will remain unchanged through December 31, 2010.

In addition, Ohio law was recently amended to set certain energy efficiency and peak demand reduction targets designed to reduce electric energy usage and demand in Ohio. DP&L intends to achieve these targets through a set of Customer Conservation and Energy Management ("CCEM") Programs. These CCEM Programs include the installation of Advanced Metering Infrastructure and Smart Grid technology, which will create savings opportunities for customers, increase efficiency, strengthen reliability, and enable real-time communication between customers and the DP&L distribution system. DP&L's CCEM Plan also includes a

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**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

**THE DAYTON POWER AND LIGHT COMPANY  
CASE NO. 08-1094-EL-SSO  
CASE NO. 08-1095-EL-ATA  
CASE NO. 08-1096-EL-AAM  
CASE NO. 08-1097-EL-UNC**

**BOOK I – Standard Offer Plan**

**CHAPTERS, SCHEDULES, WORKPAPERS  
AND DIRECT TESTIMONY**

**THE DAYTON POWER AND LIGHT COMPANY  
CASE NO. 08-1094-EL-SSO**

**Book I – Standard Offer**

**The Dayton Power & Light  
Company**

# **THE DAYTON POWER AND LIGHT COMPANY**

## **Book I – Standard Offer**

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## Chapter 1

### Standard Service Offer

For purposes of compliance with Ohio Revised Code (“ORC”) 4928.141(A), DP&L’s Standard Service Offer (“SSO”) for supply and pricing of its electric generation service will be that which is set forth in its existing rate plan that is currently set to expire December 31, 2010, (“Rate Stabilization Plan” or “RSP”). DP&L is in a unique position compared to Ohio’s other Electric Distribution Utilities in that it is currently operating under an RSP approved by the Public Utilities Commission of Ohio (the “Commission” or “PUCO”) in Case No. 05-276-EL-AIR, which extends beyond 2008.<sup>1</sup> Consequently, in the interest of continuing the stability resulting from its existing rate plan, DP&L’s SSO included in this Electric Security Plan (“ESP”) will be a continuation of its existing rate plan, with adjustments as provided for or required by SB 221.

Pursuant to R.C. 4928.141(A), beginning January 1, 2009, an electric distribution utility (“EDU”) must provide customers within its certified territory with an SSO of competitive retail electric service. That section requires that the EDU make an application to the Commission to establish an SSO pursuant to sections 4928.142 or 4928.143 of the Revised Code. However, section 4928.141 goes on to provide:

Pursuant to division (D) of section 4928.143 of the Revised Code, any rate plan that extends beyond December 31, 2008, shall continue to be in effect for the subject electric distribution utility for the duration of the plan’s term.

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<sup>1</sup> The Ohio Supreme Court affirmed the Commission’s Opinion and Order on September 5, 2007. Ohio Consumers’ Counsel v. Public Utilities Commission of Ohio (2007), 114 Ohio St. 3d 340; 872 N.E. 2d 269.

“Rate plan” means the standard service offer in effect on the effective date of the amendment of [section 4928.01] by S.B. 221 of the 127<sup>th</sup> General Assembly.”<sup>2</sup> Revised

Code section 4928.143(D) provides:

Regarding the rate plan requirement of divisions (A) of section 4928.141 of the Revised Code, if an electric distribution utility that has a rate plan that extends beyond December 31, 2008 files an application under this section for compliance with division (A) of section 4928.141 of the Revised Code, that rate plan and its terms and conditions are hereby incorporated into its proposed electric security plan and shall continue in effect until the date scheduled under the rate plan for its expiration, and that portion of the electric security plan shall not be subject to commission approval or disapproval under division (C) of this section, and the earnings test provided for in division (F) of this section shall not apply until after the expiration of the rate plan. (Emphasis added)

In compliance with these provisions, for purposes of its ESP, DP&L’s SSO will be that which is set forth in its existing RSP and already approved by the Commission in its Opinion and Order dated December 28, 2005, in Case No. 05-276-EL-AIR, which is fully incorporated into this ESP and attached hereto as Exhibit 1. DP&L also attaches as Exhibit 2 the Stipulation and Recommendation filed November 3, 2005 adopted as modified by the Commission in the December 28, 2005 Opinion and Order. DP&L’s SSO will be effective through December 31, 2010.

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<sup>2</sup> R.C. §4928.01(A) (33).

## Chapter 2

### Compliance with ESP Rules

#### Government Aggregation

Pursuant to proposed Ohio Administrative Code (OAC) 4901:1-35-03 (C)(6) and (7)<sup>3</sup>, DP&L is required to describe how it proposes to address governmental aggregation and to describe the effect of any unavoidable generation charge on large-scale governmental aggregation. This chapter fulfills that requirement.

ORC § 4928.20 (I) and (J), as well as all elements of Ohio Electric Choice are inconsistent with traditional, stable, cost-of-service based utility service, as DP&L has provided to its customers historically and proposes to continue to provide through 2010 in accordance with this filing. When large groups of customers leave SSO, whether through government aggregation programs or other types of aggregation, the Company faces financial risk as it is no longer serving those customers through traditional rates. Further, if and when the customers return to SSO at the end of the program term, the Company faces significant financial and operational risks if the Company is expected to procure power from the market to serve those returning customers at its existing fixed, average, SSO-tariffed rates.

The Commission has the authority pursuant to RC §4928.143(B)(2)(d) to approve “terms, conditions, or charges relating to limitations on customer shopping for retail electric generation service . . . that would have the effect of stabilizing or providing

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<sup>3</sup> Throughout this filing, references may be made to Ohio Administrative Code sections, some of which may be in effect as of the date of the filing, others may be in draft form as they may be part of the proposed PUCO Staff rules related to SB 221 implementation. To the extent the final rules are different from the proposed rules in effect at the time this filing is being drafted, the Company plans to supplement its filing as necessary to comply with the final rules.

certainty regarding retail electric service.” In light of the risks described above, DP&L proposes revising the terms and conditions contained in Tariff Sheet No. G9, Competitive Retail Generation Service, to require customers that return to utility-supplied retail generation service, to do so at market-based rates. Those proposed changes are contained in a redlined version of DP&L’s Tariff Sheet No. G9 as contained in Chapter 7 of this Book I - Standard Offer.

In addition, in a separate tariff filing DP&L will submit a new Adjustable Rate Tariff Sheet No. G23 for review and approval by the PUCO. By way of history, DP&L’s proposed Adjustable Rate Tariff was originally filed in Case No. 01-1938-EL-ATA. The parties to that case never resolved the terms and conditions of service for the proposed tariff, and the case was ultimately closed without approval. DP&L’s new Tariff Sheet No. G23 will reflect the fact that the Company is now a member of the PJM RTO and is subject to terms, conditions, and prices different from those previously established in the initial application for approval.

This change does not affect the unavoidable generation charges assessed to DP&L’s customers that take service from a Competitive Retail Electric Service (“CRES”) Provider pursuant to a large-scale government aggregation program, but does place the risk of market prices squarely with the customer that makes a choice to participate in such a program. By transferring market price risk directly to the customer that chooses to accept that risk, the Company has treated fairly its remaining SSO customers such that they are not adversely affected by a customer’s election to choose to take generation service from a CRES Provider. Thus, the Company is proposing terms and conditions that have the effect of stabilizing prices to SSO customers.

**Operational Support Plan**

By way of background, DP&L proposed an Operational Support plan as part of its filing in Case No. 99-1687-EL-ETP. Through settlement negotiations the Company agreed to certain elements that were covered by the Operational Support Plan, and agreed to continue to work with interested parties in Case No. 00-813-EL-EDI to address other terms and conditions that govern the relationship between the utility and CRES providers that registered to serve retail customers within DP&L's service territory. The net effect of those cases is that the Company's Operational Support Plan is now embodied in DP&L Tariff Sheet No. G8, Alternate Generation Supplier Coordination Tariff. That tariff has since been modified, but remains in effect today and constitutes the Company's existing Operational Support Plan.

Therefore, in compliance with OAC 4901:1-35-03 (C)(5) the Company states that it is not aware of any problems or issues in implementing its Operational Support Plan. The Company has upheld its obligations and requirements under its Operational Support Plan and is not aware of any unresolved or outstanding CRES Provider issues or complaints. DP&L would note, however, that when the Company's Operational Support Plan was developed, CRES Providers which are certified by the Commission were the only competitive service providers that existed in the electric utility industry. Since DP&L became a member of PJM, other competitive service providers have been created. These newly-created entities market and coordinate curtailment services among customers and receive payments under various PJM Demand Reduction (DR) programs.

PJM defines these new entities as Curtailment Service Providers and states that they are "Members or Special Members of PJM that participate in the PJM Interchange

Energy Market by causing Demand Resources to reduce demand.”<sup>4</sup> Curtailment Service Providers operate independently within and across the service territories of Electric Distribution Utilities (“EDUs”) with no requirement to register with the EDU or give notice of their activity other than by completing an application with PJM. EDUs are made aware of Curtailment Service Provider activities only when the EDU is contacted by the Curtailment Service Provider to request a settlement after a demand reduction. The PUCO needs to consider certifying these entities just as it certifies CRES Providers to operate in Ohio. At the least, the Company will monitor developments at PJM regarding the operations and the business rules for these new market entrants and will modify its Operational Support Plan, if necessary, to accommodate the interaction with and data requirements of Curtailment Service Providers. It may become necessary to develop tariffs to recover the cost of serving Curtailment Service Providers, depending upon their activities in the Company’s service territory and upon mandates placed on EDUs by PJM to serve their settlement needs and data requirements.

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<sup>4</sup> PJM Manual 11: Scheduling Operations, August 6, 2008, page 97.

## **Chapter 3**

### **Economic Development Plan**

#### **Introduction**

OAC 4901:1-38<sup>5</sup> outlines objectives regarding effectiveness in a global economy, job growth and retention, and the promotion of energy efficiency. These rules serve to formalize guidelines within Ohio while providing each utility with necessary flexibility to meet the unique needs of customers. This plan outlines DP&L's intent to meet the guidance of Chapter 4901:1-38 for economic development arrangements. DP&L seeks an approach for cost recovery that allows for periodic adjustments to the recovery rider and a true-up mechanism that ensures that cost recovery matches the expense incurred.

#### **New & Expanding Customers and Customer Retention Programs**

In OAC 4901:1-38, the Commission outlines arrangements for three different sets of customers:

1. New or expanding customers ("New Customer");
2. Customers likely to cease, reduce operations or relocate ("Customer Retention"); and
3. New or expanding energy efficiency production facilities ("EE Facilities")

DP&L has expanded upon the basic program elements contained in the rules and has developed a customer-oriented program for each of these sets of customers. These programs will be available to those customers taking DP&L's standard service offer.

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<sup>5</sup> Throughout this section when OAC 4901:1-38 or any sections thereof is mentioned, DP&L is referring to proposed OAC 4901:1-38 that was issued by the Commission in Case No. 08-777-EL-ORD.

Incentives will be determined by the PUCO base on data presented by the customer and DP&L.

<b>New Customer Guidelines</b>	
<b>Business Type</b>	<b>New and expanding; non-retail</b>
<b>Qualifying Factors</b>	<b>Must meet statutory job and investment requirements; must demonstrate financial viability; must identify local, state or federal support; must identify potential secondary and tertiary benefits</b>
<b>Load Requirement</b>	<b>None</b>
<b>Job Creation Requirement</b>	<b>25 full-time jobs or full-time equivalent jobs; to be added within three years of application</b>
<b>Wage Requirement</b>	<b>Average hourly base wage greater than 150% of the federal minimum wage at the time of application</b>
<b>Incentive</b>	<b>Determined by PUCO</b>
<b>Term of Commitment</b>	<b>Customer agrees to maintain operations at the project site for the term of the incentives</b>



<b>Customer Retention Guidelines</b>	
<b>Business Type</b>	Existing; non-retail; likely to cease, reduce or relocate outside of Ohio
<b>Qualifying Factors</b>	Must meet statutory job and load requirements; must demonstrate financial viability; must demonstrate that the cost of electricity is a major factor in decision; must identify local, state or federal support sought
<b>Load Requirement</b>	Average billing demand of at least 250 kW
<b>Job Retention Requirement</b>	25 full-time jobs or full-time equivalent jobs to be retained
<b>Wage Requirement</b>	None
<b>Incentive</b>	Determined by PUCO
<b>Term of Commitment</b>	Customer agrees to maintain operations at the project site for the term of the incentives

<b>Energy Efficiency Production Facilities Guidelines</b>	
<b>Business Type</b>	New or existing; manufactures or assembles products that promote the more efficient use of energy or that are used in the production of clean, renewable energy
<b>Qualifying Factors</b>	Must meet statutory job requirements, must demonstrate financial viability; must identify local, state or federal support
<b>Job Creation Requirement</b>	10 new full-time jobs or full-time equivalent jobs
<b>Wage Requirement</b>	Average hourly base wage greater than 150% of the federal minimum wage at the time of application
<b>Incentive</b>	Determined by PUCO
<b>Term of Commitment</b>	Customer agrees to maintain operations at the project site the term of the incentives

DP&L has developed these three new programs in response to the Commission's proposed rules. Prior to these rules being enacted, DP&L filed an application (Case No. 07-1079-EL-ATA) for an economic development incentive tariff to encourage building redevelopment. That application is still pending the Commission's approval. The building redevelopment program has a different set of criteria and, therefore, may be applicable to different customers. Since it provides another element of economic development support, DP&L intends to leave that program as an option for customers that may qualify. Customers can only be on one economic development tariff at a time. Therefore, a customer that qualifies for more than one program should choose the option that provides the most attractive benefits for its given circumstances.

**Unique Arrangements**

OAC 4901:1-38-05(A), recognizes the need for utilities to have flexibility with regard to customer arrangements. While the economic development programs offer valid opportunities for new, expanding and economic efficiency manufacturing customers, there could be customer conditions that require unique treatment. Such an applicant and DP&L may present information to the PUCO to approve a unique arrangement with customers when conditions warrant. In developing unique arrangements, the PUCO may consider factors which include, but are limited to, the following:

1. Alignment of customer needs to Commission's stated objectives regarding Economic Development;
2. Job creation and/or retention; and
3. Impact of business/facility on the region.

Pursuant to OAC 4901:1-38-05(B), mercantile customers, or a group of mercantile customers, may apply to the Commission directly for a reasonable arrangement with a utility. DP&L will work with mercantile customers regarding the criteria for unique arrangements, in most cases customers will apply directly to the Commission and DP&L will respond to any Commission request for information. DP&L proposes taking an active role in the development of such unique arrangements to ensure the outcome can be incorporated into DP&L's processes (i.e. billing) without significant expense. Customers that apply for and receive a unique arrangement under this section of the rules would still be required to abide by DP&L's rules regarding payment for services, deposits, etc.

**Administration**

An application form, attached as Exhibit 3, has been developed to aid customers in applying for economic development programs. This form provides the criteria for all economic development programs, allowing a customer to determine which program meets its specific circumstances and/or needs. Due to the Building Redevelopment program's specific requirements, the application for that program will remain separate.

The application form for the programs requires information from the customer such as a demonstration of financial viability, the percentage of the cost of electricity to total operating costs, etc. All information needs are specified and defined. While DP&L believes that the application form requests all required data, DP&L may revise this form from time to time as DP&L's experience indicates additional needs. DP&L will make the application form available on the Company website as well as through community organizations. DP&L will work with customers to bring the customer's information to the PUCO for their consideration.

Since the benefits and/or commitments continue for a period of time, DP&L will require customers served by one of these programs to verify compliance at least annually. DP&L will then submit an annual report to the Commission indicating which customers are and are not in compliance with program requirements. Any customer that fails to substantially comply with any of the agreed-to and required criteria will be removed from the program. In addition, the Company will charge the customer for all or part of the incentives provided as determined by Commission Order.

For customers wishing to enter into a unique arrangement with DP&L, the Commission's approval process will be open and transparent consistent with PUCO rules,

practices and procedures. In addition, reporting requirements and ramifications regarding the failure to comply with contractual requirements are the same for these customers as for those served under the other economic development programs.

### **Cost Recovery**

Pursuant to OAC 4901:1-38, utilities are permitted to recover costs incurred in complying with these rules. These costs include delta revenue and administrative costs. DP&L is requesting inclusion of its expected costs associated with the economic development program which include delta revenue and other administrative costs, including modifications to DP&L's billing system to bill for these new rate options.

Delta revenue represents the difference between revenues that would be received by the EDU from customers under SSO verses revenues received under the new economic development programs and unique arrangements. Estimates of 2009 delta revenue were developed and are depicted on Workpaper WPA-1 contained in this Book I.

In addition, other administrative costs will include the incremental accounting expenses associated with the program and information technology related costs. In providing these new rate options for customers, DP&L will have to modify its billing system to accommodate these changes. DP&L estimates that these modifications will cost approximately \$750 thousand. DP&L proposes to recover this over a two-year period, with \$372 k recovered in 2009. Thus, the amount of recovery associated with Economic Development is estimated to be \$3.1 million in 2009 as shown on Schedule A-1. Actual costs associated with these programs will be tracked and the recovery rider will be reviewed and adjusted semi-annually. Each semi-annual amount will include any

variance between actual costs and revenue collection, in addition to anticipated costs for the next time period.

For the purposes of this filing, DP&L assumed the programs would begin on April 1, 2009, with cost recovery beginning that day as well. Schedule A-2 demonstrates the economic development rider rate design. In compliance with OAC 4901:1-38-08 (A)(4) DP&L has allocated the economic development obligations to the various tariff classes based on the revenue recovered from each tariff class in 2007. Therefore, the economic development rider is in proportion to the current revenue distribution between and among tariff classes and is non-bypassable by shopping customers.

#### **Conclusion**

DP&L supports the objectives of effectiveness in a global economy, job growth and retention and the promotion of energy efficiency. This plan demonstrates DP&L's commitment to economic development and will serve to enhance the economic vitality of West Central Ohio.

## **Chapter 4**

### **Corporate Separation**

#### **Introduction and Summary of Plan**

DP&L's new proposed Corporate Separation Plan ("CSP") is attached as Exhibit 4. This CSP is being filed by DP&L to comply with the Commission's final rules and regulations (OAC 4901:1-37 et seq.) in response to the passage of S.B. 221 by the Ohio General Assembly. This plan will supersede and replace the Company's Corporate Separation Plan as filed December 17, 1999 as amended on February 28, 2000.

The CSP demonstrates that DP&L will continue to functionally separate its businesses of providing competitive retail electric services and products or services other than retail electric services from its business of providing noncompetitive retail electric services, except when specifically permitted to do otherwise. The CSP also demonstrates how DP&L and its fully separated affiliates will operate in relation to each other in accordance with the provisions of ORC 4928.

The CSP includes, in general terms, (1) how DP&L will separate its competitive retail electric service from its noncompetitive retail electric service, (2) a description of the separate accounting practices that create and track this separation of competitive versus noncompetitive retail electric service, (3) a description of the Company's Code of Conduct, (4) its cost allocation manual and (5) how the Company's structure and operation is in the public interest and does not create an undue preference or competitive advantage for DP&L's affiliates.

**A. Current Organization**

DP&L is a regional electric public utility that sells electricity to residential, commercial, industrial and governmental customers in West Central Ohio. DP&L provides “retail electric service” to consumers as defined in Revised Code Section 4928.01(A)(27). DP&L is an “electric utility” as defined in Revised Code Section 4928.01(A)(11) that is engaged in the business of supplying both a noncompetitive retail electric service and competitive retail electric services under Revised Code Section 4928.03. Electricity for the Company’s service area is primarily generated by plants wholly-owned or co-owned by DP&L.

As an integrated electric utility, DP&L operates within the statutory and regulatory framework of the state of Ohio and applicable federal law, providing services to its retail customers within its certified territory pursuant to its obligation to serve. Utility services are provided to its retail customers based on tariffed rates previously approved by the Commission.

All of the outstanding shares of common stock of DP&L are held by DPL Inc. DPL Inc. has a number of subsidiaries that provide a variety of services for DP&L, other affiliates of DPL Inc. and third parties.

A current organization chart of DPL Inc. and its active subsidiaries, including a brief description of subsidiary activities, is attached as Attachment A to the CSP.

**B. Deregulation Legislation**

On July 31, 2008, the Ohio General Assembly enacted Substitute Senate Bill 221, creating a new framework under which electric utilities must provide electric service to



its customers. This regulatory framework continues the functional separation between the electric utility that generally provides noncompetitive retail electric service and electric utility affiliates that may provide competitive retail electric services. Under this statute, an electric utility cannot, directly or indirectly, provide such competitive retail electric services, as defined by ORC 4928.01(B), except through a separate affiliate and pursuant to a Commission approved corporate separation plan that meets the requirements described in Revised Code Section 4928.17. However, SB 221 blurs the distinction between competitive services and non-competitive services as it requires the electric utility to provide unique arrangements with customers, economic development arrangements, and energy efficiency and demand response programs that would otherwise be provided in the competitive marketplace.

### **C. Purpose of Corporate Separation Plan**

Consistent with the policy goals specified in ORC 4928.02, the requirements of ORC 4928.17 and the corporate separation rules adopted by the Commission, the CSP of DP&L is intended to achieve the following purposes:

- (1) Describe the framework under which DP&L and/or its affiliates will engage in the businesses of supplying competitive retail electric services and products or services other than retail electric service; the policies, rules and procedures that will govern the interrelationships among DP&L and its affiliates with respect to such business activities; and how such policies, rules and procedures will be implemented.
- (2) Help to effectuate the policy specified in Revised Code Section 4928.02, specifically to help ensure the availability of adequate, reliable, safe, efficient, nondiscriminatory and reasonably priced retail electric service; ensure the availability of unbundled and comparable retail electric service; ensure diversity of electricity supplies and suppliers; encourage innovation and market access for cost effective supply- and demand-side retail electric service; encourage cost-effective and efficient access to information to promote effective customer choice.

(3) Satisfy the public interest in preventing unfair competitive advantages and preventing the abuse of market power.

(4) Allow DP&L and its affiliates to compete fairly, without competitive disadvantages, with other companies engaged in the same or similar businesses, including those companies that are not subject to regulation as electric utilities.

**D. Process of Implementing the Corporate Separation Plan**

The original corporate separation plan was initially implemented in response to S.B. 3 and has been modified for this filing, consistent with S.B. 221. A number of factors, events and circumstances, many of which cannot reasonably be foreseen or predicted, will influence DP&L's planning. Some of these will be beyond DP&L's ability to control or will be dependent on the actions of unrelated third parties (*e.g.*, competitors, the co-owners of DP&L's jointly-owned generation and transmission facilities, etc.). Accordingly, DP&L and its affiliates will need a reasonable degree of flexibility. For this reason, the plan is structured in a way to ensure compliance with applicable statutory and regulatory law while affording DP&L a modicum of discretion to select the precise means for maintaining such compliance in light of the relevant circumstances.

## Chapter 5

### Fuel and Purchased Power Deferral

DP&L's costs to procure coal and the volatility of coal prices have dramatically increased since DP&L's 2005 Rate Stabilization Surcharge ("RSS") case was before this Commission. Because coal-fired power plants produce 99% of the electricity generated for DP&L's jurisdictional retail load, DP&L has experienced a substantial increase in the cost of fuel, despite significant investment in environmental equipment and operational changes that have increased flexibility with regard to the types of coal that can be consumed in DP&L's power plants. The fuel, fuel-related, and purchased power costs associated with supplying standard offer service to DP&L's customers in 2009 and 2010 are forecasted to be above the expected recoveries in rates.

A number of factors have combined to cause DP&L's fuel costs to far exceed the levels built into 2005 rates: 1) production costs in the three coal basins that are the sources for coal to the DP&L plants have increased significantly, some of which is attributable to government mandates related to the Mine Improvement and New Emergency Response Act of 2006 ("MINER Act"), to new requirements imposed by court rulings, and to increased and new taxes; 2) international demand for coal has pushed up prices as an increasing percentage of existing coal production leaves the U.S. for export; and 3) the positive environmental benefits from installing scrubbers and the positive benefits of being able to burn higher sulfur coal are offset in part by the fact that because the scrubbers themselves require power to operate, more coal must be burned to produce the same level of net output. The first two factors in particular mean that the

current market prices facing DP&L as it executes new contracts are well above the average embedded price built into the 2005 rates.

The above facts affect DP&L's coal costs whether incurred directly in procuring coal for stations that DP&L owns or operates or incurred through an allocation of costs from co-owners that are the operators of coal-fired plants in which DP&L owns a share. DP&L purchases approximately 56% of its coal for stations that it operates; about 44% of its coal is purchased by other entities for co-owned plants of which DP&L owns a share.

The projected costs would be even higher but for the decisions made several years ago to install scrubbers at DP&L's Stuart and Killen stations, which have enabled DP&L to begin purchasing higher-sulfur coals from the Illinois Basin and Northern Appalachia. The flexibility to burn higher-sulfur coals, however, presents new operational challenges, including the need for additional chemicals to reduce sulfur emissions and the potential for slagging. These new coals require significant effort to burn in facilities not originally designed for their use. High-sulfur coals from the Illinois Basin and Northern Appalachia tend to have lower ash fusion temperatures, creating a higher potential for slagging in the boiler. DP&L has invested significant capital and incurs ongoing increases in operation and maintenance expenses, without which DP&L could not burn these relatively less expensive fuels. DP&L Witness Marrinan's testimony provides more details regarding DP&L's fuel, fuel-related, and purchased power costs incurred to provide the Company's Standard Service Offer.

DP&L's last fuel clause case was Case No. 99-0105-EL-EFC in 1999. Through that case, the Electric Fuel Component ("EFC") was fixed at 1.3 cents per kWh. When Senate Bill 3 was passed, EFC rates that were in effect at the time were frozen and

combined with base rates to establish the generation rates at that time. In March of 2005, DP&L filed Case No. 05-276-EL-AIR to seek implementation of its Rate Stabilization Surcharge (“RSS”), to recover growing fuel, environmental, taxes, security, and cyber security costs. Through that case, DP&L justified jurisdictional retail fuel and purchased power cost of over \$88 million, in addition to other related expenses that in total exceeded \$117 million in the test period. The Stipulation in that case resulted in DP&L being authorized to recover approximately \$76 million of these expenses, or 0.5 cents per kWh in jurisdictional retail rates related to fuel and purchased power through the RSS rider and additional recovery for environmental expense through an Environmental Investment Rider (“EIR”). Therefore the total amount of fuel and purchased power costs currently being recovered in DP&L’s jurisdictional retail rates, since January 1, 2006, is 1.8 cents per kWh (EFC of 1.3 cents, plus RSS of 0.5 cents). DP&L Witness Seger-Lawson’s testimony provides more details regarding fuel, purchased power and fuel-related recovery in DP&L’s standard offer rates.

The Electric Security Plan filing of which this is a part requests rate recovery beginning April 1, 2009, for new costs associated with DP&L’s Customer Conservation and Energy Management programs and Alternative Energy Plans that are an integral part of its plan to comply with the energy efficiency, demand response and alternative energy mandates of Senate Bill 221. In an effort to maintain and abide by DP&L’s current rate plan, approved in the 2005 Case No. 05-276-EL-AIR, and to maintain current rates through the end of 2010, DP&L is seeking Commission approval to defer fuel, fuel-related, and purchased power costs that exceed the amount currently being recovered in rates, for the period January 1, 2009 through December 31, 2010. Specifically, DP&L

asks to defer costs associated with the following items: fuel, fuel transportation and handling, purchased power, chemicals and chemical transportation and handling costs (including but not limited to, lime or limestone, soda ash or trona, urea or ammonia and magnesium hydroxide), gypsum disposal costs and net environmental emission allowances costs. DP&L Witness Campbell's testimony provides more details regarding the specific costs and the related accounts under the Uniform System of Accounts that would be recorded and deferred.

DP&L proposes that these incremental costs would be deferred in account 182.3, Other Regulatory Assets. DP&L will record an additional deferral as a carrying cost based on the Company's cost of capital, grossed up for taxes. DP&L currently anticipates that in its 2010 ESP filing, it will seek an effective date of January 1, 2011 to implement a fuel and purchased power cost recovery mechanism and recovery of the deferred costs over a 10-year period. See DP&L witness Campbell's testimony for more details on the accounting for this deferral.

The deferred amounts will be allocated between jurisdictional retail customers and wholesale customers that DP&L is committed to serve. DP&L proposes to allocate these costs using an average cost methodology, also sometimes referred to as a "slice of system" method or "load ratio share" method, using an appropriate kWh allocator. Costs associated with non-jurisdictional opportunity sales will be removed and assigned to the non-jurisdictional opportunity sales prior to the allocation and deferral. See DP&L Witness Marrinan's testimony for more details about the allocation methodology.

## BEFORE

## THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of	)	
The Dayton Power and Light Company	)	
for the Creation of a Rate Stabilization	)	Case No. 05-276-EL-AIR
Surcharge Rider and Distribution Rate	)	
Increase.	)	

OPINION AND ORDER

The Commission, considering the above-entitled application, hereby issues its opinion and order in this matter.

APPEARANCES:

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Janine L. Migden-Ostrander, Ohio Consumers' Counsel, by Jeffrey L. Small and Ann M. Hotz, Assistant Consumers' Counsel, Office of Consumers' Counsel, 10 West Broad Street, Columbus, Ohio 43215, on behalf of the residential consumers of Dayton Power and Light Company.

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Craig I. Smith, 2824 Coventry Road, Cleveland, Ohio 44120, on behalf of Cargill, Inc.

David C. Rinebolt, 231 W. Lima Street, Findlay, Ohio 45839, on behalf of Ohio Partners for Affordable Energy.

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OPINION:I. HISTORY OF THE PROCEEDING

The Dayton Power & Light Company (DP&L) is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.

On September 3, 2003, in Case No. 02-2279-EL-ATA et al., the Commission approved a stipulation (the RSP Stipulation) which extended DP&L's market development period to December 31, 2005 and provided for a rate stabilization period from January 1, 2006 through December 31, 2008. In addition, among other terms, the RSP Stipulation provided that all customers would be assessed a rate stabilization surcharge (the RSS Rider) of up to 11 percent of the tariffed generation charges as of January 1, 2004. The RSS rider would permit DP&L to recover costs associated with fuel price increases or actions taken in compliance with environmental and tax laws, regulations or court or administrative orders, and costs associated with physical security and cyber security relating to the generation of electricity from plants owned by DP&L and its affiliates, which costs are imposed by final rule, regulation or administrative or court order. The RSP Stipulation provided that adjustments to the RSS Rider be made by application by DP&L to the Commission under Section 4909.18, Revised Code. *In the Matter of the Continuation of the Rate Freeze and Extension of the Market Development Period for the Dayton Power and Light Company, Case No. 02-2279-EL-ATA, et al., Opinion and Order* (September 2, 2003).

On March 1, 2005, DP&L filed a notice of intent to file an application for an increase in rates to establish the RSS Rider. Further, on March 23, 2005, the Commission issued an entry establishing the date certain and test period for DP&L's application. On April 4, 2005, DP&L filed its application to increase rates. The Commission accepted DP&L's application for filing by entry dated May 4, 2005.

Motions to intervene were filed by Industrial Energy Users-Ohio (IEU-Ohio), Ohio Partners for Affordable Energy (OPAE), the Ohio Consumers' Counsel (OCC), Cargill, Inc. (Cargill), and Honda of America Mfg., Inc. (Honda). Those motions were granted on September 1, 2005 and October 12, 2005.

On August 26, 2005, a written report of the staff's investigation was filed. The staff concluded that, with minor adjustments, DP&L had justified an increase in the RSS Rider in excess of the 11 percent cap contained in the RSP Stipulation. By entry issued on September 1, 2005, the attorney examiner ordered that objections to the staff report be filed in accordance with Section 4909.19, Revised Code, which requires that objections be filed



within 30 days of the filing of the staff report. Objections were timely filed by DP&L, the OCC, IEU-Ohio, Honda, OPAE and Cargill.

A public hearing was held on October 27, 2005 in Dayton, Ohio. Two witnesses testified at the public hearing: Ellis Jacobs, on behalf of the Community Action Partnership of the Greater Dayton Area, and Mr. Maurice Campbell, a residential customer of DP&L.

On November 3, 2005, a partial stipulation was filed with the Commission by DP&L, Cargill, Honda and IEU-Ohio. The evidentiary hearing commenced on November 4, 2005, during which testimony was received by witnesses on behalf of DP&L, OPAE and the staff regarding the company's application and the staff report. The hearing continued on November 8, 2005, during which additional testimony was received by witnesses on behalf of DP&L. The hearing was then adjourned to allow for further discovery related to the stipulation.

The hearing continued on November 14, 2005 at which time DP&L presented witnesses supporting the stipulation. The hearing concluded on November 15, 2005, following testimony by a witness on behalf of OCC in opposition to the stipulation.

Post hearing briefs were timely filed on November 22 by staff, DP&L, OCC, OPAE, IEU-Ohio and Cargill. OPAE filed its reply brief on November 29, 2005. Reply briefs were filed on December 1, 2005 by DP&L, OCC, IEU-Ohio and staff.

## II. SUMMARY OF THE STIPULATION

The stipulation was intended by the signatory parties to resolve all outstanding issues in this proceeding. The stipulation includes, *inter alia*, the following provisions:

1. DP&L's rate stabilization period is extended through December 31, 2010.
2. DP&L will provide a market-based standard service offer (MBSSO) at rates fixed in the stipulation throughout the extended rate stabilization period.
3. The 5 percent residential generation discount established in Am. Sub. Senate Bill 3 will continue through December 31, 2008, and the 2.5 percent residential generation discount provided for by the RSP Stipulation will take effect from January 1, 2006, through December 31, 2008.
4. DP&L will implement an unavoidable RSS Rider equal to 11 percent of DP&L's January 1, 2004, tariffed generation rates.

5. Beginning on January 1 of each year from 2007 through 2010, DP&L will implement an Environmental Investment Rider (EIR) which will recover environmental plant investments and incremental operations and maintenance, depreciation, and tax costs during the rate stabilization period and will increase each year by 5.4% of DP&L's tariffed generation rates. All increases to the EIR shall be cumulative. The increases in 2009 and 2010 will be avoidable for switching customers. DP&L would implement the EIR through an ATA filing, which would be subject to review by the Commission staff for the limited purpose of confirming that the filing implements the rates provided for by the stipulation.
6. The provisions of the RSP Stipulation that were not superseded by this stipulation will remain in effect, including Section IX.F. of the RSP Stipulation, which provides that the Commission may terminate the rate stabilization period and trigger a competitive bidding process if market-based rates do not reasonably reflect the rates established by the stipulation.
7. The Voluntary Enrollment Procedure established by the RSP Stipulation will continue in 2006, as provided by the RSP Stipulation, and one additional time in 2007.
8. If subsequent legislation affects the terms of the stipulation, then the parties will engage in good faith negotiations to comply with the legislation and preserve the economic benefits of the stipulation.

### III. EVALUATION OF THE STIPULATION

Rule 4901-1-30, Ohio Administrative Code, authorizes parties to Commission proceedings to enter into stipulations. Although not binding on the Commission, the terms of such agreements are accorded substantial weight. *See Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio State 3d 123, 125 (1992), citing *Akron v. Pub. Util. Comm.*, 55 Ohio St. 2d 155 (1978).

The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. *See, e.g., Dominion Retail v. Dayton Power and Light*, Case No., 03-2405-EL-CSS et al., Opinion and Order (February 9, 2005); *Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR, Order on Remand (April 14, 1994); *Ohio Edison Co.*, Case Nos. 91-698-EL-FOR et al., Opinion and Order (December 30, 1993); *Cleveland Electric Illum. Co.*, Case No. 88-179-EL-AIR, Opinion and Order (January 31, 1989). The ultimate issue for our consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and

should be adopted. In considering the reasonableness of a stipulation, the Commission has used the following criteria:

- (1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (2) Does the settlement, as a package, benefit ratepayers and the public interest?
- (3) Does the settlement package violate any important regulatory principle or practice?

The Ohio Supreme Court has endorsed the Commission's analysis using these criteria to resolve issues in a manner economical to ratepayers and public utilities. *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, 68 Ohio St. 3d 547 (1997) (quoting *Consumers' Counsel*, at 126). The Court stated in that case that the Commission may place substantial weight on the terms of a stipulation, even though the stipulation does not bind the Commission.

- (1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?

OCC argues that the signatory parties are capable, knowledgeable parties who have breached their obligations under the RSP Stipulation. OCC further asserts that the stipulation is not the result of serious bargaining among capable, knowledgeable parties because the signatory parties did not include all of the signatory parties to the RSP Stipulation approved in Case No. 02-2779-EL-ATA. Finally, OCC argues that this stipulation cannot alter the RSP Stipulation without the agreement of all of the signatory parties to that stipulation (OCC brief at 12-13).

OPAE states that the issue is not whether the proposed settlement involved capable and knowledgeable parties; instead, OPAE argues that signatory parties lacked diversity of interests. OPAE concludes that the stipulation represents an accommodation among three self-interested parties which excludes significant consumer groups (OPAE brief at 2-3). In its reply brief, OCC concurred with OPAE's argument, noting that only two of the six parties to the RSP Stipulation also signed the stipulation in this case (OCC reply at 6).

DP&L notes that, although its witness testified that the stipulation was the product of serious bargaining among capable, knowledgeable parties, OCC's witness conceded that he did not offer an opinion on this issue (DP&L brief at 5-6; Tr. III at 20-21). Therefore, DP&L argues that based upon the evidence presented at the hearing, it is undisputed that this criterion is established. In its reply brief, DP&L argues that the Commission has rejected the proposition that this criterion is satisfied only if a

representative of each customer class signs the proposed stipulation (DP&L reply at 2, quoting *Dominion Retail v. Dayton Power and Light*, *supra*, at 17).

The Commission has previously held that it will not require any individual party's approval of stipulations in order to meet the first criterion of our three-prong standard of review. *Dominion Retail v. Dayton Power and Light*, at 18. In considering whether there was serious bargaining among capable and knowledgeable parties, the Commission evaluates the level of negotiations that appear to have occurred and takes notice of the experience and sophistication of the negotiating parties. In this case, it is clear from the record that all parties participated in negotiations. Neither OCC nor OP&E argue that they were kept away from the negotiating table. The signatory parties all routinely participate in complex cases before the Commission and are all represented by counsel who practice before the Commission on a regular basis. Moreover, although no parties representing residential consumers signed the stipulation, the signatory parties do represent a diversity of interests including the utility and industrial and commercial consumers as well as a competitive retail electric service provider. Therefore, the Commission finds that the first prong of the test is met by the stipulation.

(2) Does the settlement, as a package, benefit ratepayers and the public interest?

DP&L argues that the stipulation provides below-market prices and that the stipulation protects its standard service offer customers from volatility and rate shock (DP&L brief at 7-9). DP&L argues that there is no dispute that the stipulation will provide residential customers \$262 million in savings versus projected market rates from 2006 through 2010 (*id.* at 8).

Moreover, DP&L states that the stipulation will promote competition. According to DP&L, conducting Voluntary Enrollment Procedure (VEP) one additional time in 2007 will promote competition (DP&L brief at 9). Moreover, the fact that the increases in the EIR for 2009 and 2010 are avoidable will increase the shopping credits and promote competition. Finally, DP&L argues that shopping customers impose costs on DP&L because of its statutory provider of last resort obligation. DP&L argues that the value of these costs substantially exceeds the unavoidable portions of the rate stabilization charge and the EIR. In support of this, DP&L cites the testimony of its witness Strunk, who testified that the right of switching customers to return to DP&L's MBSSO is equivalent to granting customers a financial option to purchase generation from DP&L at a fixed price (*id.* at 10-13; DP&L Ex. 13C at 2-4). According to DP&L, Mr. Strunk's testimony established that the value of this option provided to switching customers substantially exceeds the price of the unavoidable portions of the rate stabilization charge and the EIR (DP&L brief at 13; DP&L Ex. 13C at 6). Therefore, DP&L argues that the stipulation promotes competition because the stipulation does not require switching customers to pay full value for their ability to return to the MBSSO.

IEU-Ohio argues that the stipulation will benefit customers, CRES providers and DP&L by eliminating the uncertainty on issues regarding price and reliability of supply for the period after December 31, 2008. IEU-Ohio states that the stipulation protects DP&L's customers from price volatility and potential price increases that may occur if the rate stabilization period ends on December 31, 2008. IEU-Ohio acknowledges that customers will see higher prices on their total bill than they would have under the RSP Stipulation; however, such increases are a result of known, measurable and justifiable increases in costs beyond the control of DP&L (IEU-Ohio brief at 5).

OCC states that, unlike many other stipulations approved by the Commission, the stipulation provides a complex solution to a simple compliance case and that the signatory parties propose to disturb a settlement that resolved the complex legal issues in Case No. 02-2279-EL-ATA (OCC brief at 13). Citing the testimony of its expert witness, OCC argues that residential customers would pay in excess of \$20 million more under the stipulation compared with the RSP Stipulation (OCC Ex. 1B at 5-6). OCC alleges that the average generation rate, using DP&L's market forecasts, would be a mere 0.36 percent above that proposed in the stipulation (*id.* at 14-15.) Further, OCC argues that the fact that the new charges are unavoidable would make it impossible for a marketer to compete with only the avoidable portion of DP&L's generation rate (*id.* at 16.)

OPAE contends that the stipulation fails to benefit ratepayers and that the stipulation is not in the public interest. OPAE argues that the stipulation raises customer rates above those contemplated by the RSP Stipulation. On the other hand, OPAE states that the benefit of protection of customers from a volatile market is unproven and speculative (OPAE brief at 5-7). OPAE further argues that the stipulation makes generation-related charges unavoidable despite the fact that such charges should be included as part of DP&L's market-based standard service offer (*id.* at 8-9). Finally, OPAE argues that, under the provisions of Am. Sub. Senate Bill 3, it is unreasonable and unlawful to charge customers for environmental compliance costs associated with generation (*id.* at 10-11).

The stipulation presented in this case would extend the rate stabilization plan approved by the Commission in Case No. 02-2279-EL-ATA. Therefore, in determining whether this settlement, as a package, benefits ratepayers and the public interest, the Commission will be guided by the three goals the Commission set forth for the rate stabilization plans: (1) rate certainty for customers; (2) financial stability for the utility; and (3) the further development of competitive markets. *In the Matter of the Application of The Cincinnati Gas & Electric Company to Modify its Nonresidential Generation Rates to Provide for Market-Bases Standard Service Offer Pricing and to Establish an Alternative Competitive-Bid Service Rate Option Subsequent to the Market Development Period*, Case No. 03-93-EL-ATA, Opinion and Order (September 29, 2004) at 15.

Although DP&L alleges a \$262 million savings to residential consumers as the result of stipulation, the Commission finds that the comparison between rates to be paid under the stipulation and projected market rates from 2006 through 2010 is not the relevant comparison for the review and evaluation of the stipulation filed in this case. The RSP stipulation, which was approved by the Commission, establishes the price to be offered customers from 2006 through 2008, unless and until otherwise ordered by this Commission. Therefore, the proper comparison is between: (1) the price residential customers would pay from 2006 through 2008 under the RSP stipulation plus projected market prices in 2009 and 2010, and (2) the prices for 2006 through 2010 provided under the stipulation filed in this case. According to OCC's witness Haugh, the total generation revenue paid by residential customers under this comparison is substantially equal; under both scenarios, residential customers would pay \$1.66 billion from 2006 through 2010 (OCC Exhibit 1b, Schedule MPH-1, Scenario I and Scenario III, Schedule MPH -3, and Schedule MPH-5).

Nonetheless, the Commission's review cannot end with this comparison. The projected market prices for 2009 and 2010 are simply projections. According to the testimony at the hearing, it is undisputed that the current markets for power for 2009 and 2010 are not liquid and that this lack of financial liquidity makes such markets difficult to predict (Tr. III at 24). The Commission finds that there is significant value in providing predictable, stable rates for 2009 and 2010 rather than relying on projected market rates. Because of the unpredictable nature of the market for 2009 and 2010, the Commission finds that, although it is difficult to quantify the value of stable, predictable rates precisely, the known rates do have value for customers. Further, the Commission notes that DP&L's witness Shrunk testified that the value was consistent with that provided by an option purchased in the futures market (DP&L Ex. 13C at 2, 6). Moreover, this value is enhanced because the Commission retains the authority to terminate the rate stabilization period, at any time, in the event that market rates are substantially below the prices provided for by the stipulation (Signatory Parties Ex. 1 at 6; OCC Ex. 2 at 14-15. *See also, Dayton Power and Light Company*, Case No. 02-2279-EL-ATA at 26-27).

Moreover, the Commission must review the settlement package for benefits to all ratepayers and the public interest. No commercial and industrial customers have opposed the stipulation. Instead, representative of commercial and industrial customers are signatory parties to the stipulation and these parties agree that the stipulation benefits ratepayers by eliminating uncertainty and providing for stable, predictable rates through 2010.

Therefore, the Commission finds that the stipulation, as presented, meets the first goal for rate stabilization plans: the stipulation provides rate certainty to customers for the period January 1, 2006 through December 31, 2010. The second goal established by the Commission for rate stabilization plans is to provide financial stability for the utility. *Cincinnati Gas and Electric Co.*, Case No. 03-93-EL-ATA at 15. The testimony of DP&L witness Seger-Lawson established that the increases in the EIR provided for by the stipulation should recover revenues of \$374,318,805 between January 1, 2006, and December 31, 2010 (DP&L Ex. 11F, Attachment A). The Commission finds that this revenue should provide financial stability to the utility by recovering environmental compliance costs incurred by DP&L and thus meets the second goal for rate stabilization plans.

Nonetheless, the Commission is concerned by the impact of the stipulation on competition. The third goal for rate stabilization plans is to further the development of competitive markets. *Cincinnati Gas and Electric Co.*, Case No. 03-93-EL-ATA at 15. The Commission notes that, as presented, the stipulation provides that the increases to the EIR scheduled for 2009 and 2010 are avoidable. The Commission believes that the entire EIR should be avoidable to customers who shop for the duration of the stipulation. Making the entire EIR avoidable would promote competitive markets by increasing the shopping credit to customers who switch to competitive provider. Therefore, the Commission will modify the stipulation to provide that all increases in the EIR be avoidable from 2007 through 2010. The Commission finds that, as modified, the stipulation meets the goal of promoting the development of competitive markets.

In addition, the Commission believes that the stipulation does not specifically address whether DP&L is committed to financially support the Voluntary Enrollment Procedure (VEP). At the hearing, DP&L's witness Seger-Lawson testified that DP&L is committing the resources to support VEP in the amount of \$500,000 per year (Tr. III at 139-140). Therefore, in order to clarify this provision of the stipulation, the Commission orders DP&L to commit up to \$500,000 to support VEP in 2007, in addition to the funds already committed to support VEP in 2006 by the RSP Stipulation.

The Commission finds that the value of extending stable, predictable rates through 2010 is a significant benefit to ratepayers and the public interest and that such value outweighs the burden of the increased rates. Moreover, the Commission finds that the stipulation, as modified, meets the three goals established by the Commission for rate stabilization plans. Therefore, upon careful consideration of the record in this proceeding, the Commission finds that the stipulation, as a package and as modified by the Commission, benefits ratepayers and the public interest.

3) Does the settlement package violate any important regulatory principle or practice?

The OCC argues in its post-hearing brief that approval of the stipulation would violate important regulatory principles and practices. Specifically, OCC argues that the stipulation is a collateral attack on the Commission's order approving the RSP stipulation in Case No. 02-2279-EL-ATA and is therefore illegal (OCC brief at 16-17). Further, OCC argues that the settlement package violates DP&L's tariffs (*id.* at 18-20). Finally, OCC argues that approval of this stipulation undermines the settlement process (*id.* at 20-21).

DP&L asserts that the stipulation does not violate any important regulatory principles or practices. DP&L argues that the stipulation provides market-based rates and provides for competitive bidding through the voluntary enrollment process (DP&L brief at 25-26). Moreover, DP&L argues that the stipulation is not barred by the doctrine of collateral estoppel because several important facts and events have occurred since the RSP stipulation was approved by the Commission. DP&L states that, although the RSP Stipulation included several provisions designed to promote competition, there has been very little customer switching to competitive providers since the Commission approved the RSP Stipulation; DP&L cites to undisputed testimony at the hearing that only 0.03 percent of its load have switched to competitive providers unaffiliated with DP&L (*id.* at 26-27; DP&L Ex. 11E at 3). Moreover, DP&L argues that fuel and environmental cost increases have greatly exceeded expectations at the time the RSP Stipulation was approved, noting that the staff report demonstrates that the increase in such costs exceeded 11 percent in the first year of the RSP Stipulation alone (DP&L brief at 27; Staff Ex. 2, Schedule A-1).

The Commission finds that the stipulation does not represent an improper collateral attack on the Commission's order approving the RSP Stipulation in Case No. 02-2279-EL-ATA. The Commission finds that, based upon the evidence in the record in this proceeding, the competitive market in DP&L's service territory has not developed as the Commission expected when it approved the RSP Stipulation. According to the testimony at hearing, only 0.03 percent of DP&L's total load has switched to a competitive supplier not affiliated with DP&L (DP&L Ex. 11E at 3). In addition to this testimony, the Commission notes that, in 2005, there were four rounds of competitive bidding under the Voluntary Enrollment Program and that none of the rounds of competitive bidding produced a single bidder (*In the Matter of the Commission's Selection of Generation Providers for The Dayton Power and Light Company's Voluntary Enrollment Procedure*, Case No. 05-302-EL-UNC, Reports of the VEP Oversight Group dated March 8, 2005, May 12, 2005, July 7, 2005, and August 31, 2005). Similarly, the Commission finds that the record in this proceeding demonstrates that fuel and environmental costs vastly exceeded the Commission's expectations at the time the RSP Stipulation was approved. The Commission believes in the precedential value upon all of its prior decisions, including the



decision to adopt the RSP Stipulation in Case No. 02-2279-EL-ATA; however, in light of the changed circumstances enumerated above, the Commission finds that extension and modification of the RSP Stipulation is clearly needed. *Consumers' Counsel v. Pub. Util. Comm.* (1984), 10 Ohio State 3d 49.

The Commission finds that the stipulation does not violate any important regulatory principles or practices. OCC alleges that the "settlement package" violates DP&L's tariff. At the hearing, the OCC elicited testimony from DP&L's witness Seger-Lawson that DP&L had offered to waive the tariff provision requiring sixty days notice to return to its standard offer service for Cargill and Honda (Tr. III at 104-107). The OCC believes that such waivers are improper and, therefore, the "settlement package" violates DP&L's tariffs. The Commission notes that DP&L's witness Seger-Lawson also testified at the hearing that DP&L will apply the waiver in a non-discriminatory fashion to any similarly situated customer (*id.* at 107). To the extent that OCC or any other party believes that DP&L has applied such waiver in a discriminatory fashion, they may file a complaint with the Commission under Section 4905.26, Revised Code. However, the Commission finds that this waiver is not part of the stipulation presented to the Commission for review and, therefore, is not relevant to this proceeding.

#### IV. RATE STABILIZATION SURCHARGE RIDER

The stipulation proposed a RSS Rider amounting to 11 percent of DP&L tariffed generation rates as of January 1, 2004. The staff recommended that DP&L be authorized to increase its revenue by \$76,250,127, an increase of 11 percent over current generation revenue and of 7.30 percent over total current revenue (Staff Ex. 2 at 2; Staff Ex. 3 at 2). Adding the increase of \$76,250,127 to the test-year revenue of \$1,043,610,976 produces a new pro forma revenue total of \$1,119,817,954.

The Commission finds the recommended increase of \$76,250,127 in revenue to be fair, reasonable and supported by the record and, therefore, will authorize DP&L to implement the RSS Rider proposed by the stipulation.

#### V. TARIFFS

As part of its investigation in this proceeding, the staff reviewed the proposed tariff provisions for the RSS Rider, including the methodology used to calculate the rates to be included in the RSS Rider and the placement of the rider in DP&L's Distribution Service Tariff, and has recommended that they be approved by the Commission. The tariffs filed by DP&L do not reflect the 2.5 percent generation reduction for residential customers provided in the stipulation. The Commission directs DP&L to make this adjustment in the final tariffs. Otherwise, the Commission finds that the tariffs filed on April 4, 2005, are reasonable, and they will be approved by the Commission.

## VI. OTHER ISSUES

OCC objected that the staff report failed to require DP&L to reduce its generation rates for residential customers by the additional 2.5 percent provided for by the RSP Stipulation, as modified by the Commission. The OCC states that the Commission had ruled, in adopting the RSP Stipulation, that the additional 2.5 percent reduction will take effect if "insufficient competition" has been experienced in the DP&L service territory (OCC brief at 6-7). OCC notes the testimony of its witness Haugh, who testified that residential competition has not developed in areas served by DP&L (OCC Ex. 1-A at 11). Because the stipulation includes the additional 2.5 percent reduction in generation rates sought by the OCC, the Commission finds that, in light of our adoption of the modified stipulation in this case, the OCC's objection is moot.

OCC objected to the staff report's conclusion that the placement of the RSS Rider in the company's Distribution Service Tariff is reasonable. OCC argues that DP&L agreed in the RSP Stipulation that the RSS is a generation charge and that the tariffs should conform to that agreement (OCC brief at 9). In the staff report, the staff concluded that, since the rider is unavoidable, its placement in the Distribution Service Tariff is reasonable (staff report at 27). The Commission agrees with the staff's conclusion that placement of the rider in the Distribution Service Tariff reduces confusion as to whether the charges are avoidable; therefore, the Commission finds that this objection should be denied.

Finally, OCC objected to the failure of the staff report to evaluate DP&L's application for compliance with the requirements of Section 4909.18, Revised Code. Staff argues that OCC has failed to identify with any particularity either DP&L's or the staff's failure to comply with such requirements (staff brief at 6; staff reply at 3). Further, staff argues that the process for adjusting the RSS Rider was set forth in the RSP Stipulation, of which the OCC was a signatory party. Staff notes that the Commission specifically found that the RSS mechanism was "reasonable and legally sustainable" (*id.* at 4, quoting *Dayton Power and Light*, Case No. 02-2279-EL-ATA at 28) and that this finding was upheld by the Supreme Court in *Constellation NewEnergy, Inc. v. Pub. Util. Comm'n*, (2004) 104 Ohio St. 3d 530, 539. Finally, the staff notes that, in this proceeding, the Commission has granted to DP&L waivers of a number of the Commission's Standard Filing Requirements (staff reply at 5; Entry (March 23, 2005)). The Commission finds that the RSP Stipulation clearly stated that adjustments to the RSS Rider should be made by application of the company under Section 4909.18, Revised Code, and that the parties intended that such application be limited to the rider only, rather than a general rate proceeding. Therefore, the Commission finds that OCC objection should be denied.

OPAE objected to the failure of the staff report to require DP&L to provide increased funding for energy efficiency services to low-income customers. OPAE believes that such services could mitigate the impact of the rate increases resulting from the stipulation. OPAE cites to the testimony of its witness Donnellan, the chief executive officer of the Community Action Partnership of the Greater Dayton Area, who testified for the need for \$1 million in funding for these services (OPAE brief at 12).

DP&L disagrees with OPAE's objection. DP&L argues that past contributions of funds by DP&L for energy efficiency funding occurred in the context of settlements and that OPAE declined to participate in the settlement in this case. DP&L also argues that witness Donnellan provided no basis for arriving at the \$1 million figure for funding energy efficiency programs and that witness Donnellan provided no plan on how his organization would spend these funds (DP&L brief at 21). The staff also disagreed with OPAE's objection. The staff argues that the RSS Rider sought in this proceeding was previously authorized subject to review and verification, by the Commission in the RSP Stipulation and that there was no provision in that case for the funds recommended by OPAE (staff brief at 6). Therefore, the staff concludes that such funding is beyond the limited scope of this proceeding (*id.* at 6-7; staff reply at 9).

The Commission will not order DP&L to provide such funding at this time. The Commission believes that, absent a provision in the stipulation, the question of funding for energy efficiency programs is properly left to general rate cases. Although, as provided for in the RSP Stipulation, this case was brought pursuant to Section 4909.18, Revised Code, the scope of this proceeding remains a limited one, and the Commission finds that OPAE's recommendation is outside of the scope of this proceeding and its objection should be denied.

Although the stipulation purports to have resolved all outstanding issues in this proceeding, there are a number of objections to the staff report which have not been addressed on brief or withdrawn. To the extent that any such objection is not specifically addressed in this opinion and order, the Commission finds that the objection should be denied.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) DP&L is an electric light company within the meaning of Sections 4905.03(A)(4) and 4928.01(A)(7), Revised Code, and, as such, is a public utility as defined by Section 4905.02, Revised Code, subject to the jurisdiction and supervision of the Commission.

- (2) On March 1, 2005, DP&L filed a notice of intent to file an application for an increase in rates to be charged. In that notice, DP&L requested a test period beginning October 1, 2004, and ending September 30, 2005, and a date certain of March 31, 2005.
- (3) DP&L's application was filed pursuant to, and this Commission has jurisdiction over the application under, the provisions of Section 4909.18, Revised Code. The application complies with the requirements of this statute.
- (4) By entry of March 23, 2005, the Commission approved the requested test year and date certain.
- (5) On April 4, 2005, DP&L filed its application for an increase in rates. By entry dated May 4, 2005, the Commission accepted DP&L's application for filing.
- (6) Intervention was granted to: the Ohio Consumers' Counsel; Industrial Energy Users-Ohio; Ohio Partners for Affordable Energy; Cargill, Inc.; and Honda of America Mfg., Inc.
- (7) A motion was granted to admit David C. Rinebolt to practice *pro hac vice* on behalf of OP&E.
- (8) On August 26, 2005, staff filed its written report of investigation with the Commission. Objections to the staff report were filed by several parties.
- (9) A prehearing conference was held on October 6, 2005.
- (10) The local public hearing was held on October 27, 2005, pursuant to published notice. Two public witnesses gave unsworn testimony.
- (11) The evidentiary hearing commenced on November 4, 2005, and continued on November 8, 2005, November 14, 2005, and November 15, 2005.
- (12) On November 3, 2005, a stipulation which purports to resolve all of the issues raised by these proceedings was filed by four parties.

- (13) The ultimate issue for the Commission's consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of the stipulation, the Commission has used the following criteria:
- (a) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
  - (b) Does the settlement, as a package, benefit ratepayers and the public interest?
  - (c) Does the settlement package violate any important regulatory principle or practice?
- (14) The stipulation was the product of serious bargaining among capable, knowledgeable parties representing a diversity of interests including the utility and industrial and commercial consumers as well as a competitive retail electric service provider.
- (15) As modified by this Opinion and Order, the stipulation, as a package, benefits ratepayers and the public interest. The stipulated resolution of this case is for many reasons advantageous and meets the three goals established by the Commission for the consideration of rate stabilization plans.
- (16) The stipulation does not violate any important regulatory principles or practices. In light of the changed circumstances since the approval of the RSP Stipulation, extension and modification of the RSP Stipulation is clearly needed.
- (17) The stipulation submitted by the parties is reasonable and, as indicated herein, shall be adopted as modified by the Commission.
- (18) DP&L is authorized to implement the RSS Rider to increase its revenue by \$76,250,127, an increase of 11 percent over current generation revenue and of 7.30 percent over total current revenue. This RSS Rider is fair, reasonable and supported by the record in this proceeding.

ORDER:

ORDERED, That the stipulation presented in these proceedings be adopted as modified by the Commission. It is, further,

ORDERED, That the application of The Dayton Power and Light Company for authority to increase its rates and charges for service is granted to the extent provided in this opinion and order. It is, further

ORDERED, That DP&L is authorized to file in final form four complete, printed copies of tariffs consistent with this opinion and order, and to cancel and withdraw its superseded tariffs. One copy shall be filed with this case docket, one copy shall be filed with the applicant's TRF docket and the remaining two copies shall be designated for distribution to the Rates and Tariff Division of the Commission's Utilities Department. The applicant shall also update its tariffs previously filed electronically with the Commission's docketing division. It is, further,

ORDERED, That the effective date of the new tariffs shall be a date not earlier than both January 1, 2006, and the date upon which four complete, printed copies of final tariffs are filed with the Commission. The new tariffs shall be effective for services rendered on or after such effective date. It is, further,

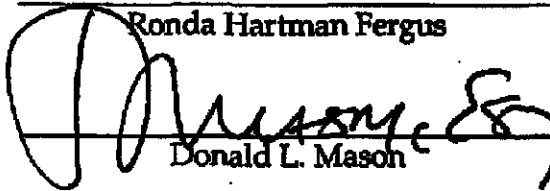
ORDERED, That DP&L shall notify all affected customers of the tariff changes via a bill message or a bill insert within 30 days of the effective date of the tariffs. It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman



Ronda Hartman Fergus



Judith A. Jones



Clarence D. Rogers, Jr.

GAP:ct

Entered in the Journal

DEC 28 2003



Renee J. Jenkins  
Secretary

FILE

Exhibit 2 15

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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In The Matter of the Application of the : Case No. 05-276-EL-AIR  
Dayton Power and Light Company for the :  
Creation of A Rate Stabilization Surcharge : Attorney Examiner: Gregory A. Price  
Rider and Distribution Rate Increase :

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STIPULATION AND RECOMMENDATION

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Ohio Administrative Code Rule 4901-1-30 provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in that proceeding. This Stipulation and Recommendation ("Stipulation") sets forth the understanding of the parties that have signed below (the "Signatory Parties"). The Signatory Parties recommend that the Public Utilities Commission of Ohio ("Commission") approve and adopt, as part of its Opinion and Order, this Stipulation which will resolve all of the issues in the above-captioned proceeding.

This Stipulation is a product of lengthy, serious, arm's-length bargaining among the Signatory Parties (who are capable, knowledgeable parties) with the participation of the Commission's Staff, which negotiations were undertaken by the Signatory Parties to settle this proceeding. This Stipulation was negotiated among all parties to the proceedings and no party was excluded from negotiations. This Stipulation is supported by adequate data and information; as a package, the Stipulation benefits customers and the public interest; promotes effective competition and the development of a competitive marketplace; represents a just and reasonable resolution of all issues in this proceeding; violates no regulatory principle or practice; and complies with and promotes the policies and requirements of Ohio Rev. Code Chapter 4928.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
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While this Stipulation is not binding on the Commission, it is entitled to careful consideration by the Commission, where, as here, it is sponsored by parties representing a wide range of interests;

WHEREAS, in 1999, the Ohio General Assembly passed Am. Sub. Senate Bill 3, which deregulated electric generation service in Ohio;

WHEREAS, Senate Bill 3 states that it is the policy of the State to: (1) "[e]nsure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service"; and (2) "[e]nsure the availability of unbundled and comparable retail electric service that provides consumers with the supplier, price, terms, conditions, and qualify options they elect to meet their respective needs" (Ohio Rev. Code § 4921.02(A) & (B));

WHEREAS, Senate Bill 3 provides that utilities would have a five-year market development period ("MDP"), designed to provide stable prices to consumers while competition is given time to develop;

WHEREAS, DP&L filed an Electric Transition Plan ("ETP") (Case No. 99-1687-EL-ETP) as required by Senate Bill 3;

WHEREAS, the parties to DP&L's ETP proceeding expected competition and stable prices to develop rapidly in DP&L's service territory, and therefore, the parties entered a Stipulation and Recommendation ("ETP Stipulation") that established a three-year MDP for DP&L;

WHEREAS, competition and stable prices did not develop as anticipated, and DP&L therefore filed an application at the Commission in which DP&L asked the Commission

to extend DP&L's MDP to last the full five years permitted under Senate Bill 3 (Case No. 02-2779-EL-ATA);

WHEREAS, the parties to that case entered a Stipulation and Recommendation ("RSP Stipulation") designed to provide stable rates through 2008, in part by extending DP&L's MDP until 2005 and by creating a Rate Stabilization Period ("RSP") through 2008;

WHEREAS, the RSP Stipulation permits DP&L to implement a Rate Stabilization Surcharge ("RSS") during the RSP (i.e., from 2006-2008), which permits DP&L to recover increases in fuel, environmental, security and tax costs, subject to a limit equal to 11% of DP&L's January 1, 2004 generation rate;

WHEREAS, since the RSP Stipulation was signed, market prices for fuel have increased substantially and stringent environmental restrictions have been imposed by the United States Environmental Protection Agency, which have resulted in substantial increases in costs for DP&L and are expected to result in substantial additional future cost increases for DP&L;

WHEREAS, DP&L has filed an application to implement the RSS, which establishes that DP&L has allowable cost increases in excess of the 11% limit;

WHEREAS, the Commission's Staff has prepared a Staff Report of Investigation, which found that DP&L has incurred allowable cost increases in excess of the 11% limit;

WHEREAS, the increased fuel costs, environmental restrictions and lack of new generation sources affect the market price of power, and the parties anticipate that market rates in 2009 and 2010 will be well above DP&L's current generation rate;

WHEREAS, customers would face rate shock if DP&L's RSP were permitted to end after 2008 and customers were required to pay the forecasted market rates in 2009 and 2010;

WHEREAS, it is in the best interests of DP&L and its customers to enter into an agreement that will provide stable prices through 2010, to allow the marketplace additional time to develop and to protect consumers from volatile market prices and rate shock.

For the purposes of resolving all issues raised in this proceeding, the Signatory Parties stipulate, agree and recommend as follows:

**I. THE RATE STABILIZATION PERIOD**

- A. **The Rate Stabilization Period:** DP&L shall have a Rate Stabilization Period ("RSP") that starts on January 1, 2006 and extends to December 31, 2010.
- B. **DP&L's Market-Based Standard Service Offer:**
1. During the RSP, DP&L shall provide a market-based standard service offer ("MBSSO") pursuant to Ohio Rev. Code § 4929.14(A).
  2. The 5% residential discount established in Senate Bill 3 and the 2.5% residential discount agreed to in the RSP Stipulation shall continue through 2008.
  3. The market-based rates to be charged by DP&L during the RSP are set forth on Attachment A.

**C. Rate Stabilization Charge**

1. Beginning on January 1, 2006 and continuing throughout the RSP, DP&L shall be entitled to charge a Rate Stabilization Charge ("RSC") to compensate DP&L for providing stabilized rates for customers and Provider of Last Resort service.
2. The RSC shall equal 11% of DP&L's January 1, 2004 tariffed generation rates. The RSC shall be a one-time 11% increase and shall be unavoidable.
3. The RSC rates to be applicable are set forth on Attachment B.

**D. The Environmental Investment Rider**

1. Starting on January 1, 2007, DP&L shall be entitled to recover an Environmental Investment Rider ("EIR") to recover environmental plant investments and incremental O&M, depreciation and tax costs during the RSP.
2. Starting on January 1 of each year from 2007 through 2010, the EIR shall increase by 5.4% of DP&L's January 1, 2004 tariffed generation rates. All increases to the EIR shall be cumulative.
3. A portion of the EIR will be avoidable for switching customers, as follows: 100% of the 5.4% increase in 2009 and 100% of the 5.4% increase in 2010 will be avoidable.

4. The EIR rates to be paid by switching and MBSSO customers for 2007 through 2010 are set forth on Attachment C.
  5. The EIR shall be implemented through an ATA filing to be made by DP&L no later than three (3) months before the EIR is scheduled to be increased each year. The Commission's Staff shall review DP&L's filing for the limited purpose of confirming that the filing implements the rates set forth on Attachment C.
- E. **The RSP Stipulation:** As market conditions have changed, this Stipulation supersedes Section IX.A, D, E and G of the RSP Stipulation. Section IX.C of the RSP Stipulation ends December 31, 2008. The remaining provisions of RSP Stipulation § IX continue in effect for the period identified in Section I.A of this Stipulation.
- F. **Voluntary Enrollment Procedure ("VEP"):** DP&L agrees to conduct a VEP bidding process one time in 2006 and one time in 2007. The VEP bidding process shall be conducted in the same manner that the VEP bidding process was conducted in 2005.
- G. **Subsequent Legislation:** The parties recognize that subsequent legislation in Ohio may be enacted that affects the rates, terms, and conditions of this Stipulation. In such event, the Company and Signatory Parties, through good faith negotiations, will comply with the subsequently-enacted legislation by amending this Stipulation to the extent

necessary, while endeavoring to preserve the respective benefits of the compromises reached herein, subject to Commission approval.

## **II. OTHER CONDITIONS**

- A. In arm's-length bargaining, the Signatory Parties have negotiated terms and conditions that are embodied in this Stipulation. This Agreement involves a variety of difficult, complicated issues that would otherwise be resolved only through expensive, complex, protracted litigation. This Stipulation contains the entire Agreement among the Signatory Parties, and embodies a complete settlement of all claims, defenses, issues and objections in these proceedings. The Signatory Parties agree that this Stipulation is in the best interests of the public and of all parties, and urge the Commission to adopt it.
- B. The Signatory Parties agree that the evidence in this matter supports the reasonableness of the Stipulation, as that evidence supported a range of positions and possible outcomes, and the Stipulation is within the range of outcomes supported by the evidence.
- C. All Signatory Parties, other than DP&L, are withdrawing without prejudice, and consistent with this Stipulation, their filed testimony and objections to the Staff Report.
- D. This Stipulation is a consensus among the Signatory Parties of an overall approach to rates. It is submitted for the purposes of this case alone and should not be understood to reflect the positions that an individual

Signatory Party may take as to any individual provision of the Stipulation standing alone, nor the position a Signatory Party may have taken if all of the issues in this proceeding had been litigated. Nothing in this Stipulation shall be used or construed for any purpose to imply, suggest or otherwise indicate that the results produced through the compromise reflected herein represent fully the objectives of any Signatory Party. This Stipulation is submitted for purposes of this proceeding only, and is not deemed binding in any other proceeding, except as expressly provided herein, nor is it to be offered or relied upon in any other proceedings, except as necessary to enforce the terms of this Stipulation. As with such Stipulations reviewed by the Commission, the willingness of Signatory Parties to sponsor this document currently is predicated on the reasonableness of the Stipulation taken as a whole.

- E. The Signatory Parties agree to, and intend to support, the reasonableness of this Stipulation before the Commission and in any appeal from the Commission's adoption or enforcement of this Stipulation.
- F. The Signatory Parties agree that if the Commission rejects all or any part of this Stipulation, or otherwise materially modifies its terms, any Signatory Parties shall have the right within thirty (30) business days of the Commission's Order, either to file an application for rehearing or to terminate and withdraw from the Stipulation by filing a notice with the Commission. If not fully adopted by the Commission or if rejected by the Supreme Court of Ohio, the Stipulation shall not prejudice any positions

taken by any party or any issue before the Commission in any other proceeding and shall not be admissible evidence in this or any other proceeding. If not fully adopted by the Commission, if rejected by the Supreme Court of Ohio or if modified by the Ohio General Assembly, within ten (10) days the Signatory Parties shall make a good faith effort to preserve the essential economic relationships established according to the Stipulation.

IN WITNESS THEREOF, the undersigned parties agree to this Stipulation and Recommendation as of this 3rd day of November, 2005. The undersigned parties respectfully request the Commission to issue its Opinion and Order approving and adopting this Stipulation.

THE DAYTON POWER AND LIGHT  
COMPANY

By Charles J. Faruki  
Charles J. Faruki

INDUSTRIAL ENERGY USERS-OHIO

By Samuel C. Randazzo  
Samuel C. Randazzo

HONDA OF AMERICA MFG., INC.

By M. Howard Petricoff  
M. Howard Petricoff

CARGILL, INCORPORATED

By Craig L. Smith  
Craig L. Smith



taken by any party or any issue before the Commission in any other proceeding and shall not be admissible evidence in this or any other proceeding. If not fully adopted by the Commission, if rejected by the Supreme Court of Ohio or if modified by the Ohio General Assembly, within ten (10) days the Signatory Parties shall make a good faith effort to preserve the essential economic relationships established according to the *Stipulation*.

IN WITNESS THEREOF, the undersigned parties agree to this Stipulation and Recommendation as of this 3rd day of November, 2005. The undersigned parties respectfully request the Commission to issue its Opinion and Order approving and adopting this Stipulation.

THE DAYTON POWER AND LIGHT  
COMPANY

By \_\_\_\_\_  
Charles J. Faruki

HONDA OF AMERICA MFG., INC.

By \_\_\_\_\_  
M. Howard Petricoff

INDUSTRIAL ENERGY USERS-OHIO

By \_\_\_\_\_  
Samuel C. Randazzo

CARGILL, INCORPORATED

By   
Craig I. Smith

**CERTIFICATE OF SERVICE**

I certify that a copy of the Stipulation and Recommendation has been served via the method indicated upon the following counsel, this 3rd day of November, 2005:

Jeffrey L. Small, Esq.  
Office of the Ohio Consumers' Counsel  
10 West Broad Street  
Suite 1800  
Columbus, OH 43215

**(VIA HAND DELIVERY)**

Attorney for The Office of the Ohio Consumers' Counsel

Samuel C. Randazzo, Esq.  
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**(VIA HAND DELIVERY)**

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**(VIA E-MAIL AND U.S. MAIL)**

Attorney for Ohio Partners for Affordable Energy

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**(VIA E-MAIL AND U.S. MAIL)**

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**(VIA HAND DELIVERY)**

Attorneys for Honda of America, Mfg., Inc.

  
\_\_\_\_\_  
Jeffrey S. Sharkey

158077.2

**Case No. 05-276-EL-AIR**  
**Market-Based Generation Rates, 2006 - 2010**

		Tariff Charges	
		2006 - 2008	2009 - 2010
<b>Residential</b>			
Energy Charge (0-750 kWh)	Per kWh	\$0.05817	\$0.06072
Energy Charge (over 750kWh)	Per kWh	\$0.04581	\$0.04952
<b>Residential Heating - Rate A</b>			
Energy Charge (0-750 kWh)	Per kWh	\$0.05817	\$0.06072
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.04581	\$0.04952
Energy Charge (over 750 kWh) Winter	Per kWh	\$0.02744	\$0.02967
<b>Residential Heating - Rate B</b>			
Energy Charge (0-750 kWh)	Per kWh	\$0.05817	\$0.06072
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.04581	\$0.04952
Energy Charge (over 750 kWh but less than the first 150 kWh per kW of Billing Demand) Winter			
	Per kWh	\$0.04581	\$0.04952
Energy Charge (all kWh over 150 kWh per kW of Billing Demand) Winter			
	Per kWh	\$0.01458	\$0.01576
<b>Secondary</b>			
Billed Demand (over 5 kW)	Per kW	\$7.38595	\$7.38595
Energy Charge (0-1,500 kWh)	Per kWh	\$0.06190	\$0.06190
Energy Charge (1,501-125,000 kWh)	Per kWh	\$0.02722	\$0.02722
Energy Charge (over 125,000 kWh)	Per kWh	\$0.02307	\$0.02307
Max Charge ^1	Per kWh	\$0.14428	\$0.14428
<b>Primary</b>			
Billed Demand	Per kW	\$9.11019	\$9.11019
Energy Charge	Per kWh	\$0.02176	\$0.02176
Max Charge ^1	Per kWh	\$0.15228	\$0.15228
<b>Primary-Substation</b>			
Billed Demand	Per kW	\$9.63121	\$9.63121
Energy Charge	Per kWh	\$0.02072	\$0.02072
<b>High Voltage</b>			
Billed Demand	Per kW	\$9.40715	\$9.40715
Energy Charge	Per kWh	\$0.02048	\$0.02048
<b>Private Outdoor Lighting</b>			
7,000 Lumens Mercury	Per lamp, Per month	\$1.93609	\$1.93609
21,000 Lumens Mercury	Per lamp, Per month	\$3.60036	\$3.60036
2,500 Lumens Incandescent	Per lamp, Per month	\$2.39106	\$2.39106
7,000 Lumens Fluorescent	Per lamp, Per month	\$3.37016	\$3.37016
4,000 Lumens PT Mercury	Per lamp, Per month	\$5.38056	\$5.38056
<b>School</b>			
Energy Charge	Per kWh	\$0.05401	\$0.05401
<b>Street Lighting</b>			
Energy Charge	Per kWh	\$0.02457	\$0.02457

Notes: ^1 DP&L's Max Charge provision for Secondary and Primary Tariff Classes is a bundled rate. This charge reflects only the generation portion of the Max Charge.

**Case No. 05-276-EL-AIR**  
**Rate Stabilization Charge (RSC), 2006 - 2010**

		<b>Tariff Charges</b>
<b>Residential</b>		
Energy Charge (0-750 kWh)	Per kWh	\$0.00634
Energy Charge (over 750kWh)	Per kWh	\$0.00517
<b>Residential Heating - Rate A</b>		
Energy Charge (0-750 kWh)	Per kWh	\$0.00634
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.00517
Energy Charge (over 750 kWh) Winter	Per kWh	\$0.00310
<b>Residential Heating - Rate B</b>		
Energy Charge (0-750 kWh)	Per kWh	\$0.00634
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.00517
Energy Charge (over 750 kWh but less than the first 150 kWh per kW of Billing Demand) Winter	Per kWh	\$0.00517
Energy Charge (all kWh over 150 kWh per kW of Billing Demand) Winter	Per kWh	\$0.00165
<b>Secondary</b>		
Billed Demand (over 5 kW)	Per kW	\$0.81245
Energy Charge (0-1,500 kWh)	Per kWh	\$0.00681
Energy Charge (1,501-125,000 kWh)	Per kWh	\$0.00299
Energy Charge (over 125,000 kWh)	Per kWh	\$0.00254
Max Charge ^1	Per kWh	\$0.01587
<b>Primary</b>		
Billed Demand	Per kW	\$1.00212
Energy Charge	Per kWh	\$0.00239
Max Charge ^1	Per kWh	\$0.01675
<b>Primary-Substation</b>		
Billed Demand	Per kW	\$1.05943
Energy Charge	Per kWh	\$0.00228
<b>High Voltage</b>		
Billed Demand	Per kW	\$1.03479
Energy Charge	Per kWh	\$0.00225
<b>Private Outdoor Lighting</b>		
7,000 Lumens Mercury	Per lamp, Per month	\$0.21297
21,000 Lumens Mercury	Per lamp, Per month	\$0.39604
2,500 Lumens Incandescent	Per lamp, Per month	\$0.26302
7,000 Lumens Fluorescent	Per lamp, Per month	\$0.37072
4,000 Lumens PT Mercury	Per lamp, Per month	\$0.59186
<b>School</b>		
Energy Charge	Per kWh	\$0.00594
<b>Street Lighting</b>		
Energy Charge	Per kWh	\$0.00270

Notes: ^1 DP&L's Max Charge provision for Secondary and Primary Tariff Classes is a bundled rate. This charge reflects only the RSC portion of the Max Charge.

	Tariff Charges					
	2007		2008		2010	
	All		All	Standard	Switched	Standard
<b>Residential</b>						
Energy Charge (0-750 kWh)	\$0.00311	Per kWh	\$0.00622	\$0.00933	\$0.00622	\$0.01244
Energy Charge (over 750 kWh)	\$0.00254	Per kWh	\$0.00508	\$0.00762	\$0.00508	\$0.01016
<b>Residential Heating - Rate A</b>						
Energy Charge (0-750 kWh)	\$0.00311	Per kWh	\$0.00622	\$0.00933	\$0.00622	\$0.01244
Energy Charge (over 750 kWh) Summer	\$0.00254	Per kWh	\$0.00508	\$0.00762	\$0.00508	\$0.01016
Energy Charge (over 750 kWh) Winter	\$0.00152	Per kWh	\$0.00304	\$0.00456	\$0.00304	\$0.00808
<b>Residential Heating - Rate B</b>						
Energy Charge (0-750 kWh)	\$0.00311	Per kWh	\$0.00622	\$0.00933	\$0.00622	\$0.01244
Energy Charge (over 750 kWh) Summer	\$0.00254	Per kWh	\$0.00508	\$0.00762	\$0.00508	\$0.01016
Energy Charge (over 750 kWh but less than the first 150 kWh per kW of Billing Demand) Winter	\$0.00254	Per kWh	\$0.00508	\$0.00762	\$0.00508	\$0.01016
<b>Secondary</b>						
Energy Charge (all kWh over 150 kWh per kW of Billing Demand) Winter	\$0.00061	Per kWh	\$0.00162	\$0.00243	\$0.00162	\$0.00324
<b>Primary</b>						
Billed Demand (over 5 kW)	\$0.38884	Per kW	\$0.79768	\$1.1862	\$0.79768	\$1.58536
Energy Charge (0-1,500 kWh)	\$0.00334	Per kWh	\$0.00668	\$0.01002	\$0.00668	\$0.01336
Energy Charge (1,501-125,000 kWh)	\$0.00147	Per kWh	\$0.00294	\$0.00441	\$0.00294	\$0.00688
Energy Charge (over 125,000 kWh)	\$0.00125	Per kWh	\$0.00250	\$0.00375	\$0.00250	\$0.00500
Max Charge <sup>1</sup>	\$0.00779	Per kWh	\$0.01558	\$0.02337	\$0.01558	\$0.03116
Billed Demand	\$0.49195	Per kW	\$0.98390	\$1.47585	\$0.98390	\$1.96780
Energy Charge	\$0.00118	Per kWh	\$0.00236	\$0.00354	\$0.00236	\$0.00472
Max Charge <sup>1</sup>	\$0.00622	Per kWh	\$0.01244	\$0.02466	\$0.01244	\$0.02488
<b>Primary-Substation</b>						
Billed Demand	\$0.52009	Per kW	\$1.04018	\$1.56027	\$1.04018	\$2.08036
Energy Charge	\$0.00112	Per kWh	\$0.00224	\$0.00336	\$0.00224	\$0.00448
High Voltage	\$0.50799	Per kW	\$1.01598	\$1.52397	\$1.01598	\$2.03196
Billed Demand	\$0.00111	Per kWh	\$0.00222	\$0.00333	\$0.00222	\$0.00444
<b>Private Outdoor Lighting</b>						
7,000 Lumens Mercury	\$0.10455	Per lamp, Per month	\$0.20910	\$0.31365	\$0.20910	\$0.41820
21,000 Lumens Mercury	\$0.19442	Per lamp, Per month	\$0.38884	\$0.58326	\$0.38884	\$0.77768
2,500 Lumens Incandescent	\$0.12812	Per lamp, Per month	\$0.25624	\$0.38736	\$0.25624	\$0.51248
7,000 Lumens Fluorescent	\$0.18199	Per lamp, Per month	\$0.36398	\$0.54597	\$0.36398	\$0.72796
4,000 Lumens PT Mercury	\$0.29053	Per lamp, Per month	\$0.58110	\$0.87165	\$0.58110	\$1.16220
<b>School</b>						
Energy Charge	\$0.00292	Per kWh	\$0.00584	\$0.00876	\$0.00584	\$0.01168
<b>Street Lighting</b>						
Energy Charge	\$0.00133	Per kWh	\$0.00266	\$0.00399	\$0.00266	\$0.00532

Notes: <sup>1</sup> DP&L's Max Charge provision for Secondary and Primary Tariff Classes is a bundled rate. This charge reflects only the EIR portion of the Max Charge.

**DAYTON POWER AND LIGHT COMPANY****Economic Development Programs**

Customer Name: \_\_\_\_\_

DP&amp;L Account Number: \_\_\_\_\_

Service Location: \_\_\_\_\_  
(Address) (City) (State) (Zip Code) (County)

Type of Operation: \_\_\_\_\_

DP&amp;L Standard Rate: \_\_\_\_\_ Standard Industrial Classification (SIC Code): \_\_\_\_\_

**Program Requirements (check all that apply)****New or Expanding Customer**  
(DP&L's Tariff Sheet No. D38)

- ☐ Non-Retail
- ☐ Create 25 new full-time or full-time equivalent jobs over three (3) years.
- ☐ Average hourly base wage rate of new full-time jobs must be at least 150% of federal minimum wage.
- ☐ Minimum investment of \$500,000 including land, building, machinery/equipment and infrastructure.
- ☐ Applicant must agree to maintain operations at the project site for at least twice the term of the incentives.

**Customer Retention**

(DP&amp;L's Tariff Sheet No. D39)

- ☐ Non-Retail
- ☐ Retain 25 full-time or full-time equivalent jobs.
- ☐ Average billing load must be at least 250 kilowatts (kW).
- ☐ Annual electric cost must be at least 10% of total annual operating cost:  
Total Annual Operational Expense: \_\_\_\_\_  
Total Annual Electric Expense: \_\_\_\_\_  
Electricity Portion of Total Annual Operating Expense: \_\_\_\_\_
- ☐ The customer must demonstrate that the cost of electricity is a "major factor" in its decision to cease, reduce, or relocate its facilities to an *out-of-state* site.
- ☐ The applicant must agree to maintain operations at the project site for the term of the incentive.

**Energy Efficiency Production Facility**

(DP&amp;L's Tariff Sheet No. D40)

- ☐ Manufacturers or assembles energy efficiency products.
- ☐ Create 10 new full-time or full-time equivalent jobs over three (3) years.
- ☐ Average hourly base wage rate of new full-time job must be at least 150% of federal minimum wage.
- ☐ Minimum investment of \$250,000 including land, building, machinery/equipment and infrastructure.
- ☐ Average billing load must be less than 1,000 kilowatts (kW).
- ☐ Applicant must agree to maintain operations at the project site for at least twice the term of the incentives.

**Benefits****New Customer**

10% discount off total monthly DP&amp;L electric charges for 36 months.

**Expanding Customer**

20% discount off monthly increase in DP&amp;L electric charges for 36 months.

**Benefits**

10% discount off total monthly DP&amp;L electric charges for 24 months.

**Benefits****New Customer**

20% discount off total monthly DP&amp;L electric charges for 36 months.

**Expanding Customer**

5% discount off historic total monthly DP&amp;L electric charges and 20% discount off monthly increase in DP&amp;L electric charges for 36 months.

Please attach documentation supporting job creation or retention, wage rate, and investment requirements.

Please attach all Commitment Letters from other Governments/Agencies/ Organizations providing incentive funding for this project.

Please attach documentation identifying secondary and tertiary benefits resulting from this project.

**Creditworthiness:**

*New customers must provide balance sheets from the past three (3) years. Expanding and new customers must maintain DP&L's highest credit classification with respect to monthly payments for electric service. Failure to comply with this requirement may, at the sole discretion of the Company, result in the termination of this Application upon three (3) days written notice. Upon termination, Customer will reimburse DP&L the total amount of discount received up to the date of termination.*

**Terms and Conditions of Service:**

This Energy Service Agreement ("Agreement") is entered into on this date \_\_\_\_\_ ("Effective Date"), by and between The Dayton Power and Light Company, located at 1065 Woodman Drive, Dayton, Ohio 45432, and \_\_\_\_\_ ("Customer") located at \_\_\_\_\_.

1. **Authorized Locations** - This Agreement relates only to the Customer account numbers and locations listed on Appendix A ("Participating Accounts").
2. **Term** - This Agreement shall be effective upon approval by DP&L, and shall remain in effect for a term of \_\_\_\_\_ years.
3. **Price** - In accordance with the applicable DP&L Tariff, Customer shall pay monthly charges equal to DP&L's Standard Offer Service (service under DP&L's standard tariffed rates, minus \_\_\_\_\_).
4. **Credit** - In accordance with DP&L Tariffs, DP&L may demand that the Customer provide reasonable credit assurances including, but not limited to, an escrow Agreement, letter of credit, parental guaranty, or surety bond, to provide a mechanism for timely payment.
5. **Tariffs** - All aspects of the provision of electrical service by DP&L which are not addressed herein, shall be governed by DP&L's filed and approved service Tariffs for each respective customer class.

STATE OF OHIO

COUNTY OF \_\_\_\_\_ )  
 ) ss  
 )

I, \_\_\_\_\_, an authorized representative of \_\_\_\_\_, do hereby state that the information provided herein and in the affixed attachments is true and accurate to the best of my knowledge.

**Further Affiant sayeth naught.**

By: \_\_\_\_\_

**Title:** \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

**Notary Public**

AGREED TO AND ACCEPTED BY:

**THE DAYTON POWER AND LIGHT COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

**Title:** \_\_\_\_\_

Date: \_\_\_\_\_



**THE DAYTON POWER AND LIGHT COMPANY**  
**SECOND AMENDED CORPORATE SEPARATION PLAN**

**OCTOBER 1, 2008**

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## **SECOND AMENDED CORPORATE SEPARATION PLAN**

### **I. INTRODUCTION**

This Second Amended Corporate Separation Plan is being filed by The Dayton Power and Light Company (the "Company" or "DP&L") to comply with the Public Utilities Commission of Ohio (the "Commission") final rules and regulations (Ohio Administrative Code (OAC) Sections 4901:1-37 et seq.) in response to the passage of S.B. 221 by the Ohio General Assembly. This plan amends, supersedes and replaces the Company's Corporate Separation Plan as filed December 17, 1999 as amended on February 28, 2000.

This Second Amended Corporate Separation Plan demonstrates that DP&L will continue to maintain functional separation of its businesses of providing competitive retail electric services and products or services other than retail electric services from its business of providing noncompetitive retail electric services, except when specifically permitted to do otherwise. This Second Amended Corporate Separation Plan also demonstrates how DP&L and its fully separated affiliates will operate in relation to each other in compliance with the provisions of Chapter 4928.

This Second Amended Corporate Separation Plan addresses, in general terms, (1) how DP&L will maintain separation of its competitive retail electric service and products and services other than retail electric service from its noncompetitive retail electric service, (2) a description of the separate accounting practices that perform this separation of competitive versus noncompetitive retail electric service, (3) a description of the Company's Code of Conduct, (4)

its Cost Allocation Manual, and (5) how the Company's structure and operation is in the public interest and does not create an undue preference or competitive advantage for DP&L's affiliates.

**A. Current Organization**

DP&L is a regional electric public utility that sells electricity to residential, commercial, industrial and governmental customers in West Central Ohio. DP&L provides "retail electric service" to consumers as defined in Revised Code Section 4928.01(A)(27). DP&L is an "electric utility" as defined in Revised Code Section 4928.01(A)(11) that is engaged in the business of supplying both a noncompetitive retail electric service and competitive retail electric services under Revised Code Section 4928.03. Electricity for the Company's service area is primarily generated by plants wholly-owned or co-owned by DP&L.

As an integrated electric utility, DP&L operates within the statutory and regulatory framework of the state of Ohio and applicable federal law, providing services to its retail customers within its certified territory pursuant to its obligation to serve. Utility services are provided to its retail customers based on tariffed rates previously approved by the Commission.

All of the outstanding shares of common stock of DP&L are held by DPL Inc. DPL Inc. has a number of subsidiaries that provide a variety of services for DP&L, other affiliates of DPL Inc. and third parties.

A current organization chart of DPL Inc. and its subsidiaries, including a brief description of subsidiary activities, is attached as Exhibit 1.

**B. Deregulation Legislation**

On May 31, 2008, the Ohio General Assembly enacted Substitute Senate Bill 221, creating a new framework under which electric utilities must provide electric service to their

customers. This regulatory framework continues the functional separation between the electric utility that generally provides noncompetitive retail electric service and electric utility affiliates that may provide competitive retail electric services and products and services other than retail electric service. Under this statute, an electric utility cannot, directly or indirectly, provide such competitive retail electric services, as defined by R.C. 4928.01(B), (i) except through a separate affiliate and pursuant to a Commission approved corporate separation plan that meets the requirements described in Revised Code Section 4928.17, or (ii) except as otherwise permitted by state statute.

**C. Purpose of Second Amended Corporate Separation Plan**

Consistent with the policy goals specified in Revised Code Section 4928.02, the requirements of Revised Code Section 4928.17 and the corporate separation rules adopted by the Commission, the Second Amended Corporate Separation Plan of DP&L as stated herein is intended to achieve the following:

- (1) Describe the framework under which DP&L and/or its affiliates will engage in the businesses of supplying competitive retail electric services and products or services other than retail electric service; the policies, rules and procedures that will govern the interrelationships among DP&L and its affiliates with respect to such business activities; and how such policies, rules and procedures will be implemented.
- (2) Help to effectuate the policy specified in Revised Code Section 4928.02, specifically to help ensure the availability of adequate, reliable, safe, efficient, nondiscriminatory and reasonably priced retail electric service; ensure the availability of unbundled and comparable retail electric service; ensure diversity of electricity supplies and suppliers; encourage innovation and market access for cost effective supply- and demand-side retail electric service; encourage cost-effective and efficient access to information to promote effective customer choice.
- (3) Satisfy the public interest in preventing unfair competitive advantages and preventing the abuse of market power.

- (4) Allow DP&L and its affiliates to compete fairly, without competitive disadvantages, with other companies engaged in the same or similar businesses, including those companies that are not subject to regulation as electric utilities.

**D. Process of Implementing the Second Amended Corporate Separation Plan**

DP&L's original Corporate Separation Plan as amended was implemented in response to S. B. 3 and has been modified for this filing, to be consistent with S. B. 221. A number of factors, events and circumstances, many of which cannot reasonably be foreseen or predicted, will influence DP&L's planning. Some of these will be beyond DP&L's ability to control or will be dependent on the actions of unrelated third parties (e.g., competitors, the co-owners of DP&L's jointly-owned generation and transmission facilities, etc.). Accordingly, DP&L and its affiliates will need a reasonable degree of flexibility. For this reason, the plan is structured in a way to ensure compliance with applicable statutory and regulatory law, while affording DP&L a modicum of discretion to select the precise means for achieving and maintaining such compliance in light of the relevant circumstances.

**II. SECOND AMENDED CORPORATE SEPARATION PLAN PROVISIONS**

**A. Policy**

DP&L acknowledges the policy goals of the state of Ohio as described in Revised Code Section 4928.02. Accordingly, consistent with the corporate separation rules, DP&L will not extend any undue preference or advantage to any of its affiliates that engage in the business of providing a competitive retail electric service or a non-electric retail product or service without just compensation as provided herein. Further, DP&L will act so as to effectuate the policy

specified in Revised Code Section 4928.02 and to satisfy the public interest in preventing unfair competitive advantage and abuse of market power.

As required by Revised Code Section 4928.17 and the corporate separation rules, DP&L will not engage, either directly or through an affiliate, in the business of supplying a noncompetitive retail electric service and either a competitive retail electric service or a product or service other than retail electric service, except as otherwise authorized by law and except pursuant to the provisions of this Second Amended Corporate Separation Plan as approved by the Commission.

**B. Fully Separated Affiliates**

Except as permitted by state law and pursuant to its Commission-approved Second Amended Corporate Separation Plan, DP&L will not directly engage in the business of supplying competitive retail electric services, as defined in Revised Code Section 4928.01(B). Competitive retail electric service will be provided only through an affiliate that is fully separate from DP&L, as required by Revised Code Section 4928.17(A)(1).

Each such affiliate or business unit offering competitive retail electric services will generally operate separately from DP&L, except as specifically permitted by state statute under this Commission-approved Second Amended Corporate Separation Plan, and such affiliates or business units will operate independently of each other, all as provided herein.

To the extent deemed economically feasible and prudent, DP&L and its affiliates that provide a competitive retail electric service will endeavor to satisfy their own respective needs through their own respective employees, facilities, equipment and other assets and resources. Employees will be employed by one corporate entity (*i.e.*, DP&L or an affiliate) and no

employee will be employed by more than one entity, although an employee may in certain instances provide services for both his or her employer and an affiliate. As required by Revised Code Section 4928.18(D)(2) and OAC Section 4901:1-37-04(A)(5), any common use or sharing of employee services, consultant services, independent contractor services, facilities, equipment, employee benefit plans and/or other services permitted by Revised Code Section 4928.18(D)(2) shall not in any way violate the Code of Conduct adopted herein and shall be appropriately accounted for and the costs thereof allocated pursuant to the terms of this plan and as more specifically described in the Cost Allocation Manual provided for under Section II.F. DP&L will maintain a copy of any shared employee's job description in the Cost Allocation Manual.

While the DP&L affiliated group may have certain officers and directors in common, such officers and directors owe a fiduciary duty under general corporate law principles to each of the entities he or she is serving as well as an obligation to such entity to abide by the terms and conditions of this Second Amended Corporate Separation Plan, including without limitation, the Code of Conduct.

#### **C. Accounting Records**

As required by Revised Code Section 4928.17(A)(1) and corporate separation rule OAC Section 4901:1-37-04(B), DP&L and each affiliate or business unit in the DP&L group will maintain, in accordance with generally accepted accounting principles, an applicable uniform system of accounts, books, records and accounts that are separate from the books, records and accounts of each other affiliate or business unit.



#### **D. Financial Arrangements**

To the extent required by Revised Code Section 4928.17(A)(3) and the applicable corporate separation rules, subject to the provisions of Subsection II.A.3. regarding currently existing financing arrangements, and except as may otherwise be approved by the Commission of financial arrangements of DP&L with respect to its affiliates engaged in the business of providing a competitive retail electric service or a product or service other than retail electric service will be subject to the following restrictions:

- (1) Any indebtedness incurred by an affiliate shall be without recourse to DP&L.
- (2) DP&L will not enter into any agreement with terms under which it is obligated to commit funds to maintain the financial viability of its affiliate.
- (3) DP&L will not make any investment in an affiliate under any circumstances in which it would be liable for the debts and/or liabilities of such affiliate incurred as a result of actions or omissions of such affiliate.
- (4) DP&L will not issue any security for the purpose of financing the acquisition, ownership or operation of any of its affiliates.
- (5) DP&L will not assume any obligation or liability as a guarantor, endorser, surety, or otherwise with respect to any security of any of its affiliates.
- (6) DP&L will not pledge, mortgage or use as collateral any of its assets for the benefit of any of its affiliates.

#### **E. Code of Conduct**

Pursuant to Revised Code Section 4928.17(A)(1), which requires the corporate separation plan to include the Code of Conduct ordered by the Commission pursuant to a rule adopted under Revised Code Section 4928.06, and consistent with corporate separation rules OAC Section 4901:1-37-04(D)(1) through (D)(11), DP&L adopts the following Code of Conduct to govern the

relationship of DP&L with its affiliates or business units engaged in the business of providing a competitive retail electric service or a product or service other than retail electric service:

- (1) DP&L shall not release any proprietary customer information (*e.g.*, individual customer load profiles or billing histories) to an affiliate, or otherwise, without the prior authorization of the customer, except as required by a regulatory agency or court of law.
- (2) DP&L shall make customer lists, which include names, addresses and telephone numbers, available on a non-discriminatory basis to all non-affiliated and affiliated certified retail electric competitors transacting business in its service territory, unless otherwise directed by the customer. This paragraph does not apply to customer-specific information, obtained with proper authorization, necessary to fulfill the terms of a contract, or information relating to the provision of general and administrative support services.
- (3) Employees of DP&L's affiliates shall not have access to any information about DP&L's transmission or distribution systems (*e.g.*, system operations, capability, price, curtailments and ancillary services), that is not contemporaneously and in the same form and manner available to a non-affiliated competitor of retail electric service.
- (4) DP&L shall treat as confidential all information obtained from a competitive retail electric service provider, both affiliated and non-affiliated, and shall not release such information unless a competitive retail electric service provider provides authorization to do so or unless the information was or thereafter becomes available to the public other than as a result of disclosure by DP&L.
- (5) Except as specifically authorized by state statute and as set forth in its Commission-approved Second Amended Corporate Separation Plan, DP&L shall not tie (nor allow its affiliates to tie) or otherwise condition the provision of its services, discounts, rebates, fee waivers or any other waivers of its ordinary terms and conditions of service, including but not limited to DP&L's tariff provisions, to the taking of any goods and/or services from affiliates.
- (6) In order to ensure effective competition in the provision of retail electric service, DP&L shall avoid anticompetitive subsidies flowing from a noncompetitive retail electric service to a competitive retail electric service or to a product or service other than retail electric service, and vice versa.

- (7) Upon a request from a customer, DP&L shall provide a complete list of all certified suppliers, registered pursuant to DP&L's tariff requirements, of competitive retail electric services operating on DP&L's system, but shall not endorse any suppliers nor indicate that any supplier will receive preference because of an affiliate relationship.
- (8) DP&L shall strive to ensure that its activities do not create unreasonable sales practices, market deficiencies or market power.
- (9) Employees of DP&L shall not indicate a preference for an affiliated company's services.
- (10) DP&L shall provide comparable access to products and services related to tariffed products and services.

  - (a) DP&L shall not unduly discriminate in the offering of its products and/or services.
  - (b) DP&L shall apply all tariff provisions in the same manner to the same or similarly situated entities, regardless of any affiliation or non-affiliation.
  - (c) DP&L shall not, through a tariff provision, a contract, or otherwise, give its affiliates preference over non-affiliated competitors providing a competitive retail electric service or their customers in matters relating to any product and/or service.
  - (d) DP&L shall follow all tariff provisions.
  - (e) Except to the extent legally permitted, DP&L shall not be permitted to provide discounts, rebates, or fee waivers for any state regulated monopoly service.
  - (f) Violations of this code of conduct shall be enforced and subject to the disciplinary actions described in Revised Code Sections 4928.18(C) and (D).
- (11) Shared representatives and employees of the DP&L shall clearly disclose upon whose behalf public representations are being made.
- (12) Notwithstanding any provision contained in this code of conduct, in an emergency situation, DP&L may take actions necessary to ensure public safety and system reliability. DP&L will maintain a log of all such actions that do not comply with this code of conduct.

As part of meeting the requirements of paragraph (8) above, DP&L does not intend to engage in joint advertising or joint marketing of any kind with its affiliates supplying a competitive retail electric service or directly promote or market any product or service offered by any such affiliate, except as authorized by state statute and pursuant to its Commission-approved Second Amended Corporate Separation Plan. DP&L generation affiliate and other non-EDU affiliates will not trade upon, promote, or advertise their affiliate relationship with DP&L, nor will DP&L allow the name "The Dayton Power and Light Company" or the logo shown on Exhibit 2 to be used by an affiliate in any material circulated by the affiliate, unless it discloses in plain legible or audible language, on the first page or at the first point where DP&L's name or logo is mentioned, that: (i) the affiliate is not the same company as DP&L; (ii) the affiliate is not regulated by the Commission; and (iii) the customer does not have to buy the affiliate's products in order to continue to receive quality, regulated service from DP&L. The application of the name/logo disclaimer is limited to the use of the name or logo in Ohio.

#### **F. Cost Allocation Manual**

In order to help ensure that anticompetitive cross-subsidization does not occur between DP&L and its affiliates and business units providing any competitive retail electric service or any product or service other than retail electric service, DP&L or its business unit will maintain a Cost Allocation Manual as required by OAC 4901:1-37-08. With respect to any asset, product or service provided or transferred by an affiliate or business unit to DP&L, or by DP&L to an affiliate or business unit, the affiliate or business unit providing or receiving the same shall submit to DP&L for inclusion in the Cost Allocation Manual, and DP&L shall maintain in the Cost Allocation Manual, information documenting the allocation of costs between the affiliate or

business unit and DP&L. The Cost Allocation Manual will include the methods to be used for allocating costs and transferring assets between DP&L and its affiliates and business units, which costs will be based on "fully allocated costs" as required by corporate separation rule OAC 4901:1-37-04(B) and will be traceable to the books of the applicable corporate entity providing such product or service or making such transfer.

In addition to this information, the Cost Allocation Manual will include the following:

- (a) An organization chart of DPL Inc. depicting all active affiliates, as well as a description of activities in which such affiliates are involved.
- (b) A description of all assets, services and products provided to and from DP&L and its affiliates.
- (c) A copy of the job description of each shared employee.
- (d) Information on employees who have either transferred from DP&L to one of its affiliates or are shared between DP&L and such affiliate, including a copy of all transferred employees' previous and new job descriptions and a list of names and job summaries for shared consultants and shared independent contractors.
- (e) A log of all complaints made to DP&L regarding corporate separation.
- (f) Minutes of each DP&L board of directors meeting.

DP&L and its affiliates and business units will maintain all affiliate transaction information and the DP&L board of directors minutes in the Cost Allocation Manual for not less than three years. As required by the corporate separation rules, the initial version of the revised Cost Allocation Manual will be made available to the Commission's Staff for review. Upon approval of this Second Amended Corporate Separation Plan, DP&L will send to the Director of the Utilities Department of the Commission (or their designee) a summary every twelve months of any significant changes made in the Cost Allocation Manual during such twelve-month

period. Pursuant to corporate separation rule OAC 4901:1-37-08(I), DP&L designates the general counsel of DP&L or his designee to act as a contact person for the Commission's Staff when seeking data regarding affiliate and business unit transactions, personnel transfers and sharing of employees. DP&L may change this designation at any time, and will promptly notify the Commission of any change.

#### **G. Complaint Procedures**

All complaints received by DP&L with respect to compliance with the corporate separation rules will be referred to the legal counsel of DP&L or his designee. If and to the extent that the complaint provides basic information sufficient to enable the legal counsel or his designee to do so, the legal counsel or his designee will acknowledge the complaint within five business days of its receipt and will thereafter prepare a written statement of the complaint, containing the name of the complainant and a detailed factual report of the complaint, including all relevant dates, companies involved, employees involved and the specific claim. The legal counsel or his designee will communicate the results of any preliminary investigation made by legal counsel or his or her designee to the complainant in writing in not less than 30 days after the complaint has been received, including a description of any course of action taken. The legal counsel or his designee will also keep a file to be placed in the Cost Allocation Manual of any complaint statements for a period of not less than three years. This complaint procedure will not in any way limit the rights of a party to file a complaint with the Commission.

#### **H. Access to Books and Records**

DP&L will comply with legally enacted corporate separation rules relating to Commission and Staff access to, and review of, books and records of DP&L and its affiliates.

## **I. Effective Date**

The above plan provisions will become effective beginning April 1, 2009.

## **III. IMPLEMENTATION OF AMENDED CORPORATE SEPARATION PLAN**

### **A. Corporate Reorganization**

#### **1. Transfer of Businesses and Assets to Separate Corporate Entities**

DP&L has (i) previously transferred some of its generating assets and some of its retail generation service business to one or more fully separated affiliates or business units or (ii) functionally separated its retail generation business from its non-competitive retail electric service under DP&L. Both the fully separated retail electric affiliate and DP&L are wholly-owned by DPL Inc.

Organization charts showing how DPL Inc. and its affiliates are organized are attached as Exhibits 1.

#### **2. Functional Separation**

DP&L's various operations have been functionally separated for a number of years. Functional separation is used where legal separation is not feasible or unnecessary. The obstacles to legal separation are described below.

#### **3. Indenture and Related Issues**

Substantially all of the assets of DP&L, including its electric generating assets and transmission and distribution assets, are subject to, and encumbered by, the first mortgage lien of the indenture pursuant to which DP&L's outstanding first mortgage bonds were issued. The controlling indenture was drafted in the 1930's and did not contemplate or include provisions

readily enabling DP&L to redeploy its assets as required by, or desirable in connection with, the deregulation of the electric utility industry. As a result, a large number of complex indenture-related issues would have to be analyzed and resolved for DP&L to permit the transfer of the electric generating assets.

**B. Sharing of Employees, Facilities and Services**

Shared employees, facilities and services are accounted for according to the time or use they provide to each entity.

The transmission service business unit of DP&L is administered entirely through the PJM Interconnection.

As described in Subsection III.A.1., DPL Inc. currently has a number of wholly-owned subsidiaries that provide services or facilities to DP&L and its affiliates. It is anticipated that these subsidiaries will continue. In addition, it is possible that DPL Inc. will determine that it is economically feasible and prudent to provide additional services on a company-wide or shared basis, such as legal, accounting, auditing, finance, real estate or human resource services. Also, employees of DP&L and its affiliates currently participate in employee benefit plans that are common to one or more of such entities. For economic purposes as well as for Internal Revenue Code and ERISA compliance reasons, DPL Inc. and its subsidiaries may determine that their current employee benefit plans should continue to cover employees of DP&L and one or more of its affiliates rather than causing each entity to establish and maintain separate plans. In such event, the costs of employee benefit plans are allocated to each affiliate in proportion to the number of employees covered by each such plan or, if not allocable on such basis, in accordance with the other rules for allocating these costs among affiliates as described in the Cost Allocation



Manual. In the event that separation of such plans becomes economically feasible and prudent, DP&L and the other subsidiaries of DPL Inc. may establish and maintain separate employee benefit plans.

Any of the above described services (or any other services) which are provided by DP&L to an affiliate or by an affiliate to DP&L will be properly described in the Cost Allocation Manual, and the cost of such services shall be allocated pursuant to the methods of allocation described in the Cost Allocation Manual.

### **C. Employee Education and Training**

To maintain employee awareness of the requirements in this Second Amended Corporate Separation Plan, including, without limitation, the Code of Conduct provisions and the Cost Allocation Manual requirements, DP&L routinely trains its employees on the subject. This training is either provided live or via a web-based program. The program describes the Second Amended Corporate Separation Plan (and how the plan affects each employee in light of his or her job description and the specific company for which the employee works or will be working), the provisions of the Code of Conduct to be followed by the employees, the appropriate documentation to be forwarded to DP&L to be included in the Cost Allocation Manual and when such documentation should be forwarded, the complaint procedure and the methods for bringing complaints and violations to the attention of the appropriate party. The compliance procedure (described below) and penalties and consequences with respect to the failure of an employee or an affiliate to comply with the Second Amended Corporate Separation Plan or the Code of Conduct will also be explained at these sessions. The employees will also be advised of the

penalties to which DP&L will be subject in the event of a failure to comply. Once the Second Amended Corporate Separation plan is approved, DP&L will implement the Employee Education Plan as set forth in Exhibit 4.

#### **D. Compliance Procedure**

To ensure that its Second Amended Corporate Separation Plan is implemented properly by DP&L and its affiliates, DP&L will implement the following compliance monitoring procedures and plans for corrective action:

- (1) After training, each employee of DP&L or its affiliates will be required to acknowledge participation in the training.
- (2) DP&L will designate an individual to whom employees may report possible violations of the Code of Conduct and other failures to comply with the Amended Corporate Separation Plan.
- (3) Possible violations and other failures will be reported to the person designated to accept notice of same, who will investigate such matters, prepare a report and, if appropriate, a course of recommended action and report to management. DP&L and the relevant affiliate will take reasonable steps necessary to remedy such violation.
- (4) Failure to observe the limitations described in the Code of Conduct with regard to the use of non-public DP&L information will result in appropriate disciplinary action.

#### **IV. DESCRIPTION OF COMPLIANCE WITH COMMISSION RULES FOR CORPORATE SEPARATION PLANS.**

In accordance with Corporate Separation Rule OAC 4901:1-37-05(B)(12), DP&L lists below each corporate separation rule and a description of how DP&L will comply with that rule:

Corporate Separation Rule OAC 4901:1-37-04(A)(2) – Each electric utility and its affiliate that provide services to customers within the electric utility's service territory shall not share facilities and services if such sharing in any way violates paragraph (D) of this rule.

As described in Section II.B., any sharing of facilities or services by DP&L with any of its affiliates will be subject to the Code of Conduct restrictions and Cost Allocation Manual requirements.

Corporate Separation Rule OAC 4901:1-37-04(B) - Each electric utility and its affiliates shall maintain, in accordance with generally accepted accounting principles, an applicable uniform system of accounts, books, records and accounts that are separate from the books, records and accounts of its affiliates.

As described in Section II.C., DP&L and each of its affiliates will maintain separate books, records and accounts in accordance with the provisions of this rule.

Corporate Separation Rule OAC 4901:1-37-04(C)(1) – Unless otherwise approved by the Commission, the financial arrangements of an electric utility are subject to the following restrictions: Any indebtedness incurred by an affiliate shall be without recourse to the electric utility.

As described in Subsection II.D.1., any indebtedness incurred by an affiliate of DP&L will be without recourse to DP&L.

Corporate Separation Rule OAC 4901:1-37-04(C)(2) – Unless otherwise approved by the Commission, the financial arrangements of an electric utility are subject to the following restrictions: an electric utility shall not enter into any agreement with terms under which the electric utility is obligated to commit funds to maintain the financial viability of an affiliate.

As described in Subsection II.D.2., DP&L will not enter into any agreement with terms under which it is obligated to commit funds to maintain the financial viability of an affiliate.

Corporate Separation Rule OAC 4901:1-37-04(C)(3) - An electric utility shall not make any investment in an affiliate under any circumstances in which the electric utility would be liable for the debts and/or liabilities of the affiliate incurred as a result of actions or omissions of an affiliate.

As described in Subsection II.D.3., DP&L will not make any investment in an affiliate under any circumstances in which DP&L would be liable for the debts and/or liabilities of such affiliate incurred as a result of actions or omissions of such affiliate.

Corporate Separation Rule OAC 4901:1-37-04(C)(4) - An electric utility shall not issue any security for the purpose of financing the acquisition, ownership or operation of an affiliate.

As described in Subsection II.D.4., DP&L will not issue any security for the purpose of financing the acquisition, ownership or operation of any of its affiliates.

Corporate Separation Rule OAC 4901:1-37-04(C)(5) - An electric utility shall not assume any obligation or liability as a guarantor, endorser, surety, or otherwise with respect to any security of an affiliate.

As described in Subsection II.D.5., DP&L will not assume any obligation or liability as a guarantor, endorser, surety or otherwise with respect to any security of any of its affiliates.

Corporate Separation Rule OAC 4901:1-37-04(C)(6) - An electric utility shall not pledge, mortgage, or use as collateral, any assets of the electric utility for the benefit of an affiliate.

As described in Subsection II.D.6., DP&L will not pledge, mortgage or use as collateral, any assets of DP&L for the benefit of any of its affiliates.

Corporate Separation Rule OAC 4901:1-37-04(D)(1) - The electric utility shall not release any proprietary customer information (e.g., individual customer load profiles or billing histories) to an affiliate, or otherwise, without the prior authorization of the customer, except as required by a regulatory agency or court of law.

See Section II.E. above which describes DP&L's and its affiliates' obligation to comply with the Code of Conduct. Also See Exhibit 3.

Corporate Separation Rule OAC 4901:1-37-04(D)(2) - On or after the effective date of this chapter, the electric utility shall make customer lists, which include name, address and telephone number, available on a nondiscriminatory basis to all nonaffiliated and affiliated certified retail electric service providers transacting business in its service territory, unless otherwise directed by the customer. This provision does not apply to customer-specific information, obtained with proper authorization, necessary to fulfill the terms of a contract, or information relating to the provision of general and administrative support services.

See Section II.E. above which describes DP&L's and its affiliates' obligation to comply with the Code of Conduct. Also, see Exhibit 3.

Corporate Separation Rule OAC 4901:1-37-04(D)(3) - Employees of the electric utility's affiliates shall not have access to any information about the electric utility's transmission or distribution systems (e.g., system operations, capability, price, curtailments and ancillary services), that is not contemporaneously and in the same form and manner available to a nonaffiliated competitor of retail electric service.

See Section II.E. above which describes DP&L's and its affiliates' obligation to comply with the Code of Conduct. Also, see Exhibit 3.

Corporate Separation Rule OAC 4901:1-37-04(D)(4) – An electric utility shall treat as confidential all information obtained from a competitive retail electric service provider, both affiliated and non-affiliated, and shall not release such information unless a competitive retail electric service provider provides authorization to do so or unless the information was thereafter becomes available to the public other than as a result of disclosure by the utility.

See Section II.E. above which describes DP&L's and its affiliates' obligation to comply with the Code of Conduct. Also, see Exhibit 3.

Corporate Separation Rule OAC 4901:1-37-04(D)(5) - The electric utility shall not tie (nor allow an affiliate to tie) or otherwise condition the provision of the electric utility's regulated services, discounts, rebates, fee waivers, or any other waivers of the electric utility's ordinary terms and conditions of service, including but not limited to tariff provisions, to the taking of any goods and/or services from the electric utility's affiliates.

See Section II.E. above which describes DP&L's and its affiliates' obligation to comply with the Code of Conduct. Also, see Exhibit 3.

Corporate Separation Rule OAC 4901:1-37-04(D)(6) – The electric utility shall ensure effective competition in the provision of retail electric service by avoiding anticompetitive subsidies flowing from a noncompetitive retail electric service to a competitive retail electric service or to a product or service other than retail electric service, and vice versa.

See Section II.E. above which describes DP&L's and its affiliates' obligation to comply with the Code of Conduct. Also, see Exhibit 3.

Corporate Separation Rule OAC 4901:1-37-04(D)(7) - The electric utility, upon request from a customer, shall provide a complete list of all competitive retail electric service providers operating on the system, but shall not endorse any competitive retail electric service providers or

indicate that any competitive retail electric service providers will receive preference because of an affiliate relationship.

See Section II.E. above which describes DP&L's and its affiliates' obligation to comply with the Code of Conduct. Also, see Exhibit 3.

Corporate Separation Rule OAC 4901:1-37-04(D)(8) – The electric utility shall ensure retail electric service consumers protection against unreasonable sales practices, market deficiencies, and market power.

See Section II.E. above which describes DP&L's and its affiliates' obligation to comply with the Code of Conduct. Also, see Exhibit 3.

Corporate Separation Rule OAC 4901:1-37-04(D)(9) – Employees of the electric utility shall not indicate a preference for an affiliated electric services company.

See Section II.E. above which describes DP&L's and its affiliates' obligation to comply with the Code of Conduct. Also, see Exhibit 3.

Corporate Separation Rule OAC 4901:1-37-04(D)(10) - The electric utility shall provide comparable access to products and services related to tariffed products and services and specifically comply with the following:

Corporate Separation Rule OAC 4901:1-37-04(D)(10)(a) - An electric utility shall be prohibited from unduly discriminating in the offering of its products and/or services.

See Section II.E. above which describes DP&L's and its affiliates' obligation to comply with the Code of Conduct. Also, see Exhibit 3.

Corporate Separation Rule 4901:1-37-04(D)(10)(b) - The electric utility shall apply all tariff provisions in the same manner to the same or similarly situated entities, regardless of any affiliation or non-affiliation.

See Section II.E. above which describes DP&L's and its affiliates' obligation to comply with the Code of Conduct. Also, see Exhibit 3.

Corporate Separation Rule OAC 4901:1-37-04(D)(10)(c) - The electric utility shall not, through a tariff provision, a contract, or otherwise, give its affiliates preference over nonaffiliated competitors of retail electric service or their customers in matters relating to any product and/or service.

See Section II.E. above which describes DP&L's and its affiliates' obligation to comply with the Code of Conduct. Also, see Exhibit 3.

Corporate Separation Rule OAC 4901:1-37-04(D)(10)(d) - The electric utility shall strictly follow all tariff provisions.

See Section II.E. above which describes DP&L's and its affiliates' obligation to comply with the Code of Conduct. Also, see Exhibit 3.

Corporate Separation Rule OAC 4901:1-37-04(D)(10)(e) - Except to the extent allowed by state law, the electric utility shall not be permitted to provide discounts, rebates, or fee waivers for any state regulated monopoly service.

See Section II.E. above which describes DP&L's and its affiliates' obligation to comply with the Code of Conduct. Also, see Exhibit 3.

Corporate Separation Rule 4901:1-37-04(D)(11) - Shared representatives or shared employees of the electric utility and affiliated electric services company shall clearly disclose upon whose behalf their public representations are being made.

See Section II.E. above which describes DP&L's and its affiliates' obligation to comply with the Code of Conduct. Also, see Exhibit 3.

Corporate Separation Rule OAC 4901:1-37-04(E)(1) and (2) - Notwithstanding the foregoing, in a declared emergency situation, an electric utility may take actions necessary to ensure public safety and system reliability. The electric utility shall maintain a log of all such actions that do



not comply with this chapter and such log shall be subject to review by the Commission and its staff.

See Section II.E. above which describes DP&L's and its affiliates' obligation to comply with the Code of Conduct. Also, see Exhibit 3.

Corporate Separation Rule OAC 4901:1-37-05(B)(8) - A description and timeline of all planned education and training, throughout the holding company structure, to ensure that electric utility and affiliate employees know and can implement the policies and procedures of this rule.

As described in Section III.C., DP&L has instituted an education and training program to familiarize the employees of DP&L and its affiliates with the requirements of the Amended Corporate Separation Plan. Information will be maintained on the Company website. See Exhibit 4.

Corporate Separation Rule OAC 4901:1-37-05(B)(9) - A copy of a policy statement to be signed by electric utility and affiliate employees who have access to any nonpublic electric utility information, which indicates that they are aware of, have read, and will follow all policies and procedures regarding limitation on the use of nonpublic electric utility information. The statement will include a provision stating that failure to observe these limitations will result in appropriate disciplinary action.

See Exhibit 3.

Corporate Separation Rule OAC 4901:1-37-05(B)(10) - A description of the internal compliance monitoring procedures and the methods for corrective action for compliance.

See Section III.D.

Corporate Separation Rule OAC 4901:1-37-05(B)(14)(a)-(f) - The electric utility shall establish a complaint procedure for the issues concerning compliance with this chapter, which at minimum shall include the following: All complaints, whether written or verbal, shall be referred to the

legal counsel of the utility or their designee. The legal counsel shall orally acknowledge the complaint within five working days of its receipt. The legal counsel shall prepare a written statement of the complaint that shall contain the name of the complainant and a detailed factual report of the complaint, including all relevant dates, companies involved, employees involved, and the specific claim. The legal counsel shall communicate the results of the preliminary investigation to the complainant in writing within thirty days after the complaint was received, including a description of any course of action that was taken. The legal counsel shall keep a file in the CAM of all such complaint statements for a period of not less than three years. This complaint procedure shall not in any way limit the rights of a party to file a complaint with the Commission.

As described in Section II.G. above, DP&L will establish a complaint procedure concerning compliance with the corporate separation rules. Such procedure will follow those described by this rule.

Corporate Separation Rule OAC 4901:1-37-07(A) – The electric utility shall maintain records sufficient to demonstrate compliance with this chapter, and shall produce, upon request of staff, all books, accounts, and/or other pertinent records kept by an electric utility or its affiliates as they may relate to the businesses for which corporate separation is required under Section 4928.17 of the Revised Code, including those required under section 4928.145 of the Revised Code.

As described in Section II.H. above, DP&L will comply with the corporate separation rules relating to the examination of books and pertinent records.

Corporate Separation Rule OAC 4901:1-37-07(B) - The staff may investigate such electric utility and/or affiliate operations and the interrelationship of those operations at the staff's discretion.

In addition, the employees and officers of the electric utility and its affiliates shall be made available for informational interviews, at a mutually agreed time and place, as required by the staff to ensure proper separations are being followed.

As described in Section II.H. above, DP&L will comply with the corporate separation rules relating to investigating DP&L and will make available its employees and officers for informational interviews.

Corporate Separation Rule OAC 4901:1-37-07(C) - If such employees, officers, books and records cannot be reasonably made available to the staff in the state of Ohio, then upon request of the staff, the appropriate electric utility or affiliate shall reimburse the Commission for reasonable travel expenses incurred.

Section II.H. above.

Corporate Separation Rule OAC 4901:1-37-08(A) - Each electric utility that receives products and/or services from an affiliate and/or that provides products and/or services to an affiliate shall maintain information in the CAM, documenting how costs are allocated between the electric utility and affiliates and the regulated and nonregulated operations.

See Section II.F. regarding the adoption and use of a Cost Allocation Manual by DP&L and its affiliates.

Corporate Separation Rule OAC 4901:1-37-08(B) - The CAM will be maintained by the electric utility.

See Section II.F. regarding the adoption and use of a Cost Allocation Manual by DP&L and its affiliates.

Corporate Separation Rule OAC 4901:1-37-08(C) - The CAM is intended to ensure the Commission that no cross-subsidization is occurring between the electric utility and its affiliates.

See Section II.F. regarding the adoption and use of a Cost Allocation Manual by DP&L and its affiliates.

Corporate Separation Rule OAC 4901:1-37-08(D) - The CAM will include:

Corporate Separation Rule OAC 4901:1-37-08(D)(1) - An organization chart of the holding company, depicting all affiliates, as well as a description of activities in which the affiliates are involved.

See Section II.F. regarding the adoption and use of a Cost Allocation Manual by DP&L and its affiliates.

Corporate Separation Rule OAC 4901:1-37-08(D)(2) - A description of all assets, services and products provided to and from the electric utility and its affiliates.

See Section II.F. regarding the adoption and use of a Cost Allocation Manual by DP&L and its affiliates.

Corporate Separation Rule OAC 4901:1-37-08(D)(3) - All documentation including written agreements, accounting bulletins, procedures, work order manuals, or related documents, which govern how costs are allocated between affiliates.

See Section II.F. regarding the adoption and use of a Cost Allocation Manual by DP&L and its affiliates.

Corporate Separation Rule OAC 4901:1-37-08(D)(4), (5) and (6) - A copy of the job description of each shared employee. A list of names and job summaries for shared consultants and shared independent contractors. A copy of all transferred employees' (from the electric utility to an affiliate or vice versa) previous and new job descriptions.

See Section II.F. regarding the adoption and use of a Cost Allocation Manual by DP&L and its affiliates.

Corporate Separation Rule OAC 4901:1-37-08(D)(7) - A log of all complaints brought to the utility regarding this rule.

See Section II.F. regarding the adoption and use of a Cost Allocation Manual by DP&L and its affiliates.

Corporate Separation Rule OAC 4901:1-37-08(D)(8) - A copy of the minutes of each board of directors meeting, where it shall be maintained for a minimum of three years.

See Section II.F. regarding the adoption and use of a Cost Allocation Manual by DP&L and its affiliates.

Corporate Separation Rule OAC 4901:1-37-08(E) - The method for charging costs and transferring assets shall be based on fully allocated costs.

See Section II.F. regarding the adoption and use of a Cost Allocation Manual by DP&L and its affiliates.

Corporate Separation Rule OAC 4901:1-37-08(F) - The costs should be traceable to the books of the applicable corporate entity.

See Section II.F. regarding the adoption and use of a Cost Allocation Manual by DP&L and its affiliates.

Corporate Separation Rule OAC 4901:1-37-08(G) - The electric utility and affiliates shall maintain all underlying affiliate transaction information for a minimum of three years.

See Section II.F. regarding the adoption and use of a Cost Allocation Manual by DP&L and its affiliates.

Corporate Separation Rule OAC 4901:1-37-08(H) - Following approval of a corporate separation plan, an electric utility shall provide the director of the utilities department (or their designee) with a summary of any changes in the CAM at least every twelve months.

See Section II.F. regarding the adoption and use of a Cost Allocation Manual by DP&L and its affiliates.

Corporate Separation Rule OAC 4901:1-37-08(I) - The compliance officer designated by the electric utility will act as a contact for the staff when staff seeks data regarding affiliate transactions, personnel transfers, and the sharing of employees.

See Section II.F. regarding the adoption and use of a Cost Allocation Manual by DP&L and its affiliates.

## **V. SELECTED DP&L ASSETS**

DPL Inc., through its subsidiaries, DP&L and DPL Energy LLC (DPLE), own peaking units that provide supplementary power during times when electric consumption is peaking. DP&L owns Tait Units 1, 2 and 3 as well some diesel peaking units scattered throughout the Dayton metropolitan area. DPLE owns Tait Units 4-7, which are located adjacent to Tait Units 1-3 and a peaking station in Montpelier, Indiana. Although the DP&L diesel peaking units are

currently in rate base, Tait Units 1-3 were constructed after DP&L's last formal rate case, so DP&L is not currently earning a return on this investment. In turn, DP&L's Tait Units 4-7 and Montpelier are not regulated assets and cannot receive rate base recovery. Under S.B. 221 and associated rules, DP&L cannot include those generating assets constructed after its last rate case (i.e. Tait Units 1-3) in rate base, but is permitted to potentially earn a return on new generating unit construction. Currently, both DP&L and DP&L sell their power through PJM. DP&L intends to transfer Tait Units 1-3 to its unregulated affiliate, DP&L.

DP&L also intends to transfer its 4.9% ownership in the Ohio Valley Electric Corporation ("OVEC"), a company created in 1952 by several utilities in the region to provide power to a uranium enrichment facility near Portsmouth, Ohio for the Atomic Energy Commission ("AEC" n.k.a. the United States Department of Energy). OVEC signed a power agreement with the AEC, which provided for excess energy sales to the utilities that created OVEC that were not otherwise used by the AEC. That power agreement between OVEC and AEC was terminated in April 2003, making the entire output of OVEC available to the owner-utilities in proportion to their respective ownership interest. DP&L's investment in OVEC has not been and is not currently in DP&L's rate base. DP&L intends to transfer its ownership and contractual rights in OVEC to its unregulated affiliate, DP&L.

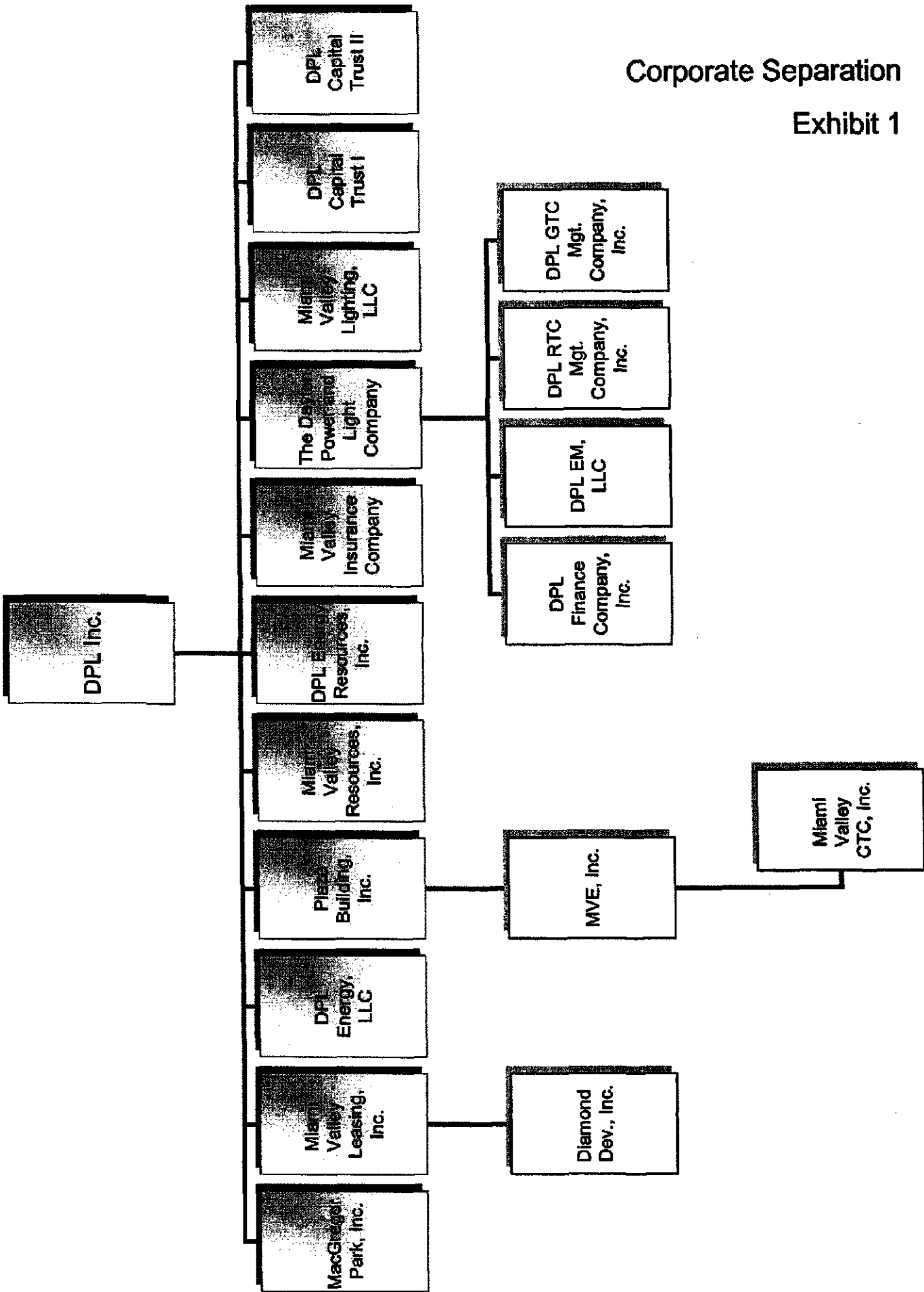
## **VI. SPECIAL CUSTOMER SERVICES**

As a part of S. B. 221, the General Assembly approved amendments to Revised Code Section 4905.31. As amended, this statute grants to public utilities the authority to enter into reasonable arrangements both with other public utilities and with its customers for both the

provision of electric services (such as time-of-use rates or some other classification of electric service) or “any other financial device that may be practicable or advantageous to the parties interested.” Any such schedule or arrangement must be filed, approved by and subject to the continuing supervision and regulation of the Commission. Accordingly, DP&L proposes to insert a new tariff provision to cover certain “special customer services” that can be provided by DP&L employees at the request of the customer. These “special customer services” include, but are not limited to, the following: performing maintenance of customer electrical facilities; providing upgrades or increases to an existing service connection at the customer’s request; locating underground cables on the customer’s premises; making a generator available to a customer during construction to avoid an outage. To ensure that customers realize that other vendors can perform these services, DP&L’s tariff will state that no approved special services may be provided to a customer until DP&L first notifies the customer that other suppliers may provide this same service. The rates for any special service shall be negotiated with the customer but in no case will such special services be provided at less than on a fully-allocated cost basis. DP&L’s proposed tariff will also state that any approved special services can be provided only, if their provision does not unduly interfere with DP&L’s obligation to serve its customers.

Corporate Separation

Exhibit 1





DPL Inc. (Parent)	Holding Company
MacGregor Park, Inc.	Owns and operates DPL's headquarters property at MacGregor Park.
Miami Valley Leasing, Inc.	Owns real estate, leases equipment, and owns an interest in a partnership, CTC of Dayton Partnership No. 1, which formerly provided transportation services to DPL Inc. and its subsidiaries.
Diamond Development, Inc.	Acquires and sells real estate interest for DPL Inc. and its subsidiaries.
DPL Energy, LLC	Operates peaking generation facilities and markets wholesale electric
Plaza Building, Inc.	Owns all of the outstanding stock of MVE, Inc. Does no business.
MVE, Inc.	Formerly responsible for the management of the Company's financial asset portfolio. Does no business
Miami Valley CTC, Inc.	Owns an interest in a general partnership, CTC of Dayton Partnership No. 1, which formerly provided transportation services to DPL Inc. and its subsidiaries.
Miami Valley Resources, Inc.	Formerly a retail natural gas supplier, it now performs natural gas supply management for DPL Energy and the electric peaking plants
DPL Energy Resources Inc.	Markets retail electric service in DP&L's West Central Ohio service territory.
Miami Valley Insurance Company	Provides insurance to DPL Inc. and its subsidiaries. MVIC is incorporated in the State of Vermont.
The Dayton Power and Light Company	Electric Company
DPL Finance Company, Inc.	Provides financing opportunities to affiliated companies. DPL finance Company, Inc. is incorporated in the State of Delaware.
DPL E M, LLC	Set up to own and manage utility emission credits. Does no business.
DPL RTC Mgt. Company, Inc.	Formerly owned and managed DP&L's regulatory transition fees, which were authorized by the PUCO in 2000 as part of deregulation. Does no business.
DPL GTC Mgt. Company, Inc.	Formerly owned and managed DP&L's

Corporate Separation  
Exhibit 1a

	customer transition fees, which were authorized by the PUCO in 2000 as part of deregulation. Does no business
Miami Valley Lighting, LLC	Operates a street and private lighting business in DP&L's West Central Ohio electric service territory.
DPL Capital Trust I	Issued and sold securities under an Amended and Restated Declaration of Trust dated 3/13/00. DPL Capital Trust I is a Delaware business trust. Does no business.
DPL Capital Trust II	Issued and sold securities under an Amended and Restated Declaration of Trust dated 8/31/01. DPL Capital Trust II is a Delaware business trust.

**DP&L Logo**



**POLICY STATEMENT**

The undersigned has been made aware of, has read and will follow each of the policies and procedures regarding limitations and restrictions on the use of non-public information of The Dayton Power and Light Company ("DP&L") and its affiliates as contained in the Code of Conduct adopted by DP&L and each of its affiliates as part of DP&L's Second Amended Corporate Separation Plan filed with the Public Utilities Commission of Ohio. The undersigned acknowledges that failure by the undersigned to observe these limitations and restrictions will result in appropriate disciplinary action taken against the undersigned.

The undersigned has also been informed that the Cost Allocation Manual requires employees, as part of the Second Amended Corporate Separation Plan, to account for their time so that the appropriate costs and expenses can be reported and correctly accounted for. The undersigned has been given the opportunity to ask questions regarding the Code of Conduct and Cost Allocation Manual and understands the compliance program included therein, including the appropriate method in which complaints are to be handled and the appropriate persons to whom possible violations should be reported. The undersigned has attended one or more training sessions offered by DP&L with regard to the implementation and operation of the Second Amended Corporate Separation Plan.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Date: \_\_\_\_\_

### **Employee Education Plan**

The Dayton Power and Light Company ("DP&L" or the "Company") will implement a program to accomplish the training of employees within six months of approval of the Second Amended Corporate Separation Plan. Plan training will reintroduce the plan to employees. In particular, employees will be made aware that the Commission has rules that apply to DP&L and its (1) accounting for costs, (2) employees' use of customer and supplier information, and (3) prohibitions on recommending any particular electric supplier.

Upon approval of the Second Amended Corporate Separation Plan, current training materials, whether for a web based, live or written presentation, will be updated within six weeks. The legal department will contact We Comply, the Company's internet-based training facilitator and review each page and quiz question, making changes as necessary to ensure that the material accurately presents the Company's policies and obligations. At the same time, materials used for live and written training sessions will be similarly updated.

Two weeks after training materials have been updated and internally approved, each employee with computer access will receive notice that he or she has four weeks to complete the training. Each week for the next three weeks, any of these employees who have not completed the program, will be sent weekly reminders. Those who have still not completed training at the end of four weeks will be individually contacted so that the program is completed. DP&L's web-based training programs create electronic verifications of the training and the time it was completed by each employee.

Following roll-out of web-based training, live and written training will be scheduled for those employees unable to complete training via the internet. This process will be completed as quickly as possible, but six weeks will be scheduled to allow the time necessary to reach employees in outlying locations and to accommodate work schedules.

New employees will receive training on the Company's Second Amended Corporate Separation Plan as part of their new employee orientation plan. These employees usually receive the web-based program, but occasionally may be trained via a live presentation. The Human Resources Department assigns training to new employees.

Training verification as recorded electronically will be stored on the We Comply server. Verification that other employees have been trained will be kept by DP&L's Legal Department.

Finally, DP&L's Legal and Regulatory staffs will be available on an ongoing basis to answer corporate separation questions and interpret the plan as might be requested.

*Corporate Separation Training Timeline*

<b>Date from approval of plan</b>	<b>Task</b>
6 weeks	Update all training materials.
8 weeks	Notice to begin web-based training, with weekly reminders in weeks 9, 10 and 11.
9 weeks	Live presentations, to the extent necessary, will be arranged and scheduled for completion within the next six weeks. Revised written materials will be distributed to employees who do not have computer access and will not be available for a live presentation and training completed within six weeks.
16 weeks	All employees will have received the new training.
Ongoing	New employees trained as part of new employee orientation. Legal and Regulatory Staffs available to answer questions.

THE DAYTON POWER AND LIGHT COMPANY

Case No. 08-1094-EL-SSO

Book I - Standard Service Offer

Economic Development Summary

Data: 12 Months Forecast

Type of Filing: Original

Work Paper Reference No(s): WPA-1

Schedule A-1

Page 1 of 1

Witness Responsible:

John B. Wagner, Jr.

Line No.	Account No.	Description	(A)	(B)	2009 (C)	Source (D)
1	481/482	Delta Revenue for Calendar 2009			\$2,698,308	WPA-1, Line 8
2						
3	920	Billing System Modification			\$372,920	Estimate (Represents 50% of total expected costs)
4						
5		Total Requested Recovery			<u>\$3,071,228</u>	Line 1 + Line 3

THE DAYTON POWER AND LIGHT COMPANY

Case No. 08-1094-EL-SSO

Book 1 - Standard Service Offer

Economic Development Cost Recovery Rider

Data: 12 Months Forecast

Type of Filing: Original

Work Paper Reference No(s): A-1

Schedule A-2

Page 1 of 1

Witness Responsible:

John B. Wagner, Jr.

Line No.	Tariff Class (A)	2007 kWh Sales (B) <sup>1</sup>	2007 Revenues (C)	Percent of Revenues (D)	Economic Development Requested Recovery (E) <sup>2</sup>	Cost Recovery Rider (F = E / B)
1	Residential	3,741,878,834	\$376,197,459	35.71%	\$1,096,814	0.0002931
2	Residential Heat	1,839,971,610	\$159,940,056	15.18%	\$466,310	0.0002534
3	Secondary	4,527,282,557	\$362,300,173	34.39%	\$1,056,296	0.0002333
4	Primary	3,157,587,719	\$124,667,054	11.83%	\$363,470	0.0001151
5	Primary Substation	921,742,782	\$6,811,532	0.65%	\$19,859	0.0000215
6	High Voltage	956,498,150	\$9,174,548	0.87%	\$26,749	0.0000280
7	Street Lighting	54,868,603	\$2,801,791	0.27%	\$8,169	0.0001489
8	School Rate	81,163,439	\$7,450,589	0.71%	\$21,722	0.0002676
9	Private Outdoor Lighting	32,543,086	\$4,060,618	0.39%	\$11,839	0.0003638
10						
11	Total	15,313,536,781	1,053,403,820		\$3,071,228	

Notes ^1: The Cost Recovery Rider was calculated using the 2007 kWh sales as the 2009 sales forecasts are not available by tariff class.

^2: Economic Development Recovery by tariff class was developed by multiplying the percent of revenues by tariff class (D) times the total Economic Development Requested Recovery (E) amount



The Dayton Power and Light Company

Case No: 08-1094-EL-SSO

Typical Bill Comparison

Residential

Data: 0 Months Actual, 12 Months Estimated

Type of Filing: Original

Work Paper Reference: None

Schedule E-5

Page 1 of 12

Witness Responsible:

John B. Wagner, Jr.

Line No.	Level of		Current Bill (C)	Proposed Bill (D)	Dollar Increase		Percent Increase (F = E/C)
	(A)	(B)			(E = D - C)	(F = E/C)	
1	0.0	50	\$9.87	\$9.88	0.01	0.10%	
2	0.0	100	\$15.39	\$15.42	0.03	0.19%	
3	0.0	200	\$26.42	\$26.48	0.06	0.23%	
4	0.0	400	\$48.52	\$48.64	0.12	0.25%	
5	0.0	500	\$59.57	\$59.72	0.15	0.25%	
6	0.0	750	\$87.18	\$87.40	0.22	0.25%	
7	0.0	1,000	\$111.20	\$111.49	0.29	0.26%	
8	0.0	1,200	\$130.43	\$130.78	0.35	0.27%	
9	0.0	1,400	\$149.67	\$150.08	0.41	0.27%	
10	0.0	1,500	\$159.31	\$159.75	0.44	0.28%	
11	0.0	2,000	\$207.37	\$207.96	0.59	0.28%	
12	0.0	2,500	\$255.25	\$255.98	0.73	0.29%	
13	0.0	3,000	\$303.08	\$303.96	0.88	0.29%	
14	0.0	4,000	\$398.79	\$399.96	1.17	0.29%	
15	0.0	5,000	\$494.50	\$495.97	1.47	0.30%	
16	0.0	7,500	\$733.81	\$736.01	2.20	0.30%	

The Dayton Power and Light Company  
Case No: 08-1094-EL-SSO  
Typical Bill Comparison  
Residential Heat (Summer)

Data: 0 Months Actual, 12 Months Estimated  
Type of Filing: Original  
Work Paper Reference: None

Schedule E-5  
Page 2 of 12  
Witness Responsible:  
John B. Wagner, Jr.

Line No.	Level of		Current Bill (C)	Proposed Bill (D)	Dollar Increase	
	(KW) (A)	(KWH) (B)			(Decrease) (E = D - C)	Percent Increase (F = E/C)
1	0.0	50	\$9.86	\$9.87	0.01	0.10%
2	0.0	100	\$15.36	\$15.39	0.03	0.20%
3	0.0	200	\$26.36	\$26.41	0.05	0.19%
4	0.0	400	\$48.40	\$48.50	0.10	0.21%
5	0.0	500	\$59.42	\$59.55	0.13	0.22%
6	0.0	750	\$86.95	\$87.14	0.19	0.22%
7	0.0	1,000	\$110.90	\$111.15	0.25	0.23%
8	0.0	1,200	\$130.07	\$130.37	0.30	0.23%
9	0.0	1,400	\$149.25	\$149.60	0.35	0.23%
10	0.0	1,500	\$158.86	\$159.24	0.38	0.24%
11	0.0	2,000	\$206.77	\$207.28	0.51	0.25%
12	0.0	2,500	\$254.50	\$255.13	0.63	0.25%
13	0.0	3,000	\$302.18	\$302.94	0.76	0.25%
14	0.0	4,000	\$397.59	\$398.60	1.01	0.25%
15	0.0	5,000	\$493.00	\$494.27	1.27	0.26%
16	0.0	7,500	\$731.56	\$733.46	1.90	0.26%

The Dayton Power and Light Company  
Case No: 08-1094-EL-SSO  
Typical Bill Comparison  
Residential Heat (Winter)

Data: 0 Months Actual, 12 Months Estimated  
Type of Filing: Original  
Work Paper Reference: None

Schedule E-5  
Page 3 of 12

Witness Responsible:  
John B. Wagner, Jr.

Line No.	Level of (KW) (A)	Level of (KWH) (B)	Current Bill (C)	Proposed Bill (D)	Dollar Increase (Decrease) (E = D - C)	Percent Increase (F = E/C)
1	0.0	50	\$9.86	\$9.87	0.01	0.10%
2	0.0	100	\$15.36	\$15.39	0.03	0.20%
3	0.0	200	\$26.36	\$26.41	0.05	0.19%
4	0.0	400	\$48.40	\$48.50	0.10	0.21%
5	0.0	500	\$59.42	\$59.55	0.13	0.22%
6	0.0	750	\$86.95	\$87.14	0.19	0.22%
7	0.0	1,000	\$104.80	\$104.85	0.25	0.24%
8	0.0	1,200	\$118.71	\$119.01	0.30	0.25%
9	0.0	1,400	\$132.84	\$133.19	0.35	0.26%
10	0.0	1,500	\$139.92	\$140.30	0.38	0.27%
11	0.0	2,000	\$175.21	\$175.72	0.51	0.29%
12	0.0	2,500	\$210.30	\$210.93	0.63	0.30%
13	0.0	3,000	\$245.37	\$246.13	0.76	0.31%
14	0.0	4,000	\$315.52	\$316.53	1.01	0.32%
15	0.0	5,000	\$385.67	\$386.94	1.27	0.33%
16	0.0	7,500	\$561.06	\$562.97	1.91	0.34%

The Dayton Power and Light Company  
Case No: 08-1094-EL-SSO  
Typical Bill Comparison  
Secondary Unmetered

Data: 0 Months Actual, 12 Months Estimated  
Type of Filing: Original  
Work Paper Reference: None

Schedule E-5  
Page 4 of 12  
Witness Responsible:  
John B. Wagner, Jr.

Line No.	Level of		Level of (KWH) (B)	Current Bill (C)	Proposed Bill (D)	Dollar Increase (Decrease)		Percent Increase (F = E/C)
	(KW) (A)					(E = D - C)		
1	5	50		\$11.90	\$11.91	0.01	0.08%	
2	5	100		\$17.05	\$17.07	0.02	0.12%	
3	10	150		\$22.19	\$22.22	0.03	0.14%	
4	25	200		\$27.31	\$27.36	0.05	0.18%	
5	25	300		\$37.57	\$37.64	0.07	0.19%	
6	25	400		\$47.84	\$47.93	0.09	0.19%	
7	50	500		\$58.15	\$58.27	0.12	0.21%	
8	50	600		\$68.40	\$68.54	0.14	0.20%	
9	200	800		\$88.93	\$89.12	0.19	0.21%	
10	200	1,000		\$109.47	\$109.70	0.23	0.21%	
11	300	1,200		\$130.01	\$130.29	0.28	0.22%	
12	500	1,400		\$160.85	\$161.20	0.35	0.22%	
13	1,000	1,600		\$164.94	\$165.31	0.37	0.22%	
14	1,000	2,000		\$181.31	\$181.78	0.47	0.26%	
15	2,500	2,200		\$189.39	\$189.90	0.51	0.27%	
16	2,500	2,400		\$197.48	\$198.04	0.56	0.28%	

The Dayton Power and Light Company

Case No: 08-1094-EL-SSO

Typical Bill Comparison

Secondary Single Phase

Data: 0 Months Actual, 12 Months Estimated

Type of Filing: Original

Work Paper Reference: None

Schedule E-5

Page 5 of 12

Witness Responsible:

John B. Wagner, Jr.

Line No.	Level of		Current Bill (C)	Proposed Bill (D)	Dollar Increase	
	(KW) (A)	(KWH) (B)			(Decrease) (E = D - C)	Percent Increase (F = E/C)
1	5	750	\$85.81	\$85.99	0.18	0.21%
2	5	1,500	\$162.84	\$163.19	0.35	0.21%
3	10	1,500	\$239.21	\$239.56	0.35	0.15%
4	25	5,000	\$610.13	\$611.30	1.17	0.19%
5	25	7,500	\$711.27	\$713.02	1.75	0.25%
6	25	10,000	\$812.41	\$814.74	2.33	0.29%
7	50	15,000	\$1,396.52	\$1,400.02	3.50	0.25%
8	50	25,000	\$1,795.47	\$1,801.31	5.84	0.33%
9	200	50,000	\$5,083.79	\$5,095.48	11.69	0.23%
10	200	100,000	\$7,078.61	\$7,101.96	23.35	0.33%
11	300	125,000	\$8,603.28	\$8,632.47	29.19	0.30%
12	500	200,000	\$15,248.71	\$15,295.41	46.70	0.31%
13	1,000	300,000	\$26,339.55	\$26,409.61	70.06	0.27%
14	1,000	500,000	\$33,248.51	\$33,365.28	116.77	0.35%
15	2,500	750,000	\$64,793.85	\$64,968.99	175.14	0.27%
16	2,500	1,000,000	\$73,378.35	\$73,611.88	233.53	0.32%

The Dayton Power and Light Company  
Case No: 08-1094-EL-SSO  
Typical Bill Comparison  
Secondary Three Phase

Schedule E-5  
Page 6 of 12  
Witness Responsible:  
John B. Wagner, Jr.

Data: 0 Months Actual, 12 Months Estimated  
Type of Filing: Original  
Work Paper Reference: None

Line No.	Level of		Current Bill (C)	Proposed Bill (D)	Dollar Increase (Decrease)		Percent Increase (F = E/C)
	(KW) (A)	(KWH) (B)			(E = D - C)		
1	5	500	\$67.49	\$67.61	0.12	0.18%	
2	5	1,500	\$170.19	\$170.54	0.35	0.21%	
3	10	1,500	\$246.56	\$246.91	0.35	0.14%	
4	25	5,000	\$617.48	\$618.65	1.17	0.19%	
5	25	7,500	\$718.62	\$720.37	1.75	0.24%	
6	25	10,000	\$819.76	\$822.09	2.33	0.28%	
7	50	25,000	\$1,802.82	\$1,808.66	5.84	0.32%	
8	200	50,000	\$5,091.14	\$5,102.82	11.68	0.23%	
9	200	125,000	\$8,083.35	\$8,112.54	29.19	0.36%	
10	500	200,000	\$15,256.06	\$15,302.76	46.70	0.31%	
11	1,000	300,000	\$26,346.90	\$26,416.95	70.05	0.27%	
12	1,000	500,000	\$33,255.86	\$33,372.63	116.77	0.35%	
13	2,500	750,000	\$64,801.20	\$64,976.34	175.14	0.27%	
14	2,500	1,000,000	\$73,385.70	\$73,619.23	233.53	0.32%	
15	5,000	1,500,000	\$128,685.17	\$129,035.46	350.29	0.27%	
16	5,000	2,000,000	\$145,802.78	\$146,269.83	467.05	0.32%	

The Dayton Power and Light Company  
Case No: 08-1094-EL-SSO  
Typical Bill Comparison  
Primary Service

Data: 0 Months Actual, 12 Months Estimated  
Type of Filing: Original  
Work Paper Reference: None  
Schedule E-5  
Page 7 of 12  
Witness Responsible:  
John B. Wagner, Jr.

Line No.	Level of (KW) (A)	Level of (KWH) (B)	Current Bill (C)	Proposed Bill (D)	Dollar Increase (Decrease) (E = D - C)	Percent Increase (F = E/C)
1	5	1,000	\$206.68	\$206.80	0.12	0.06%
2	5	2,500	\$258.99	\$257.28	0.29	0.11%
3	10	5,000	\$417.85	\$418.43	0.58	0.14%
4	25	7,500	\$734.35	\$735.21	0.86	0.12%
5	25	10,000	\$817.41	\$818.56	1.15	0.14%
6	50	20,000	\$1,535.92	\$1,538.23	2.31	0.15%
7	50	30,000	\$1,862.61	\$1,866.06	3.45	0.19%
8	200	50,000	\$4,850.12	\$4,855.88	5.76	0.12%
9	200	75,000	\$5,666.82	\$5,675.45	8.63	0.15%
10	200	100,000	\$6,483.49	\$6,485.01	11.52	0.18%
11	500	250,000	\$16,052.01	\$16,080.81	28.80	0.18%
12	1,000	500,000	\$31,998.44	\$32,057.05	57.61	0.18%
13	2,500	1,000,000	\$71,623.33	\$71,738.54	115.21	0.16%
14	5,000	2,500,000	\$159,063.08	\$159,351.11	288.03	0.18%
15	10,000	5,000,000	\$317,763.75	\$318,339.81	576.06	0.18%
16	25,000	7,500,000	\$632,076.82	\$632,940.91	864.09	0.14%
17	25,000	10,000,000	\$712,971.30	\$714,123.41	1,152.11	0.16%
18	50,000	15,000,000	\$1,263,791.24	\$1,265,519.41	1,728.17	0.14%

The Dayton Power and Light Company  
Case No: 08-1094-EL-SSO  
Typical Bill Comparison  
Primary Substation

Data: 0 Months Actual, 12 Months Estimated  
Type of Filing: Original  
Work Paper Reference: None

Schedule E-5  
Page 8 of 12  
Witness Responsible:  
John B. Wagner, Jr.

Line No.	Level of (KW) (A)	Level of (KWH) (B)	Current Bill (C)	Proposed Bill (D)	Dollar Increase (Decrease) (E = D - C)	Percent Increase (F = E/C)
1	3,000	1,000,000	\$76,177.08	\$76,198.58	21.52	0.03%
2	5,000	2,000,000	\$137,012.26	\$137,055.30	43.04	0.03%
3	5,000	3,000,000	\$168,038.75	\$168,103.32	64.57	0.04%
4	10,000	4,000,000	\$273,587.05	\$273,673.14	86.09	0.03%
5	10,000	5,000,000	\$304,613.53	\$304,721.14	107.61	0.04%
6	15,000	6,000,000	\$410,161.83	\$410,290.96	129.13	0.03%
7	15,000	7,000,000	\$441,188.32	\$441,338.97	150.65	0.03%
8	15,000	8,000,000	\$472,214.80	\$472,386.97	172.17	0.04%
9	25,000	9,000,000	\$652,284.91	\$652,478.60	193.69	0.03%
10	25,000	10,000,000	\$683,311.40	\$683,526.61	215.21	0.03%
11	30,000	12,500,000	\$835,399.42	\$835,668.43	269.01	0.03%
12	30,000	15,000,000	\$912,965.84	\$913,288.45	322.61	0.04%
13	50,000	17,500,000	\$1,286,619.09	\$1,288,995.71	376.62	0.03%
14	50,000	20,000,000	\$1,366,185.30	\$1,366,615.72	430.42	0.03%
15	50,000	25,000,000	\$1,521,317.75	\$1,521,855.77	538.02	0.04%



The Dayton Power and Light Company  
Case No: 08-1094-EL-SSO  
Typical Bill Comparison  
High Voltage Service

Data: 0 Months Actual, 12 Months Estimated  
Type of Filing: Original  
Work Paper Reference: None  
Schedule E-5  
Page 9 of 12  
Witness Responsible:  
John B. Wagner, Jr.

Line No.	Level of (KW) (A)	Level of (KWH) (B)	Current Bill (C)	Proposed Bill (D)	Dollar Increase (Decrease) (E = D - C)	Percent Increase (F = E/C)
1	1,000	500,000	\$29,895.21	\$29,909.22	14.01	0.05%
2	2,000	1,000,000	\$59,459.04	\$59,487.07	28.03	0.05%
3	3,000	1,500,000	\$88,919.77	\$88,961.81	42.04	0.05%
4	3,500	2,000,000	\$111,332.15	\$111,388.20	56.05	0.05%
5	5,000	2,500,000	\$147,841.23	\$147,911.30	70.07	0.05%
6	7,500	3,000,000	\$198,447.08	\$198,531.16	84.08	0.04%
7	7,500	4,000,000	\$229,175.07	\$229,287.18	112.11	0.05%
8	10,000	5,000,000	\$295,144.87	\$295,285.00	140.13	0.05%
9	10,000	6,000,000	\$325,872.86	\$326,041.02	168.16	0.05%
10	12,500	7,000,000	\$391,842.71	\$392,038.90	196.19	0.05%
11	12,500	8,000,000	\$422,570.69	\$422,794.91	224.22	0.05%
12	15,000	9,000,000	\$488,540.49	\$488,792.74	252.25	0.05%
13	20,000	10,000,000	\$589,752.16	\$590,032.43	280.27	0.05%
14	40,000	20,000,000	\$1,178,966.73	\$1,179,527.27	560.54	0.05%
15	60,000	30,000,000	\$1,768,181.31	\$1,769,022.12	840.81	0.05%

The Dayton Power and Light Company  
Case No: 08-1094-EL-SSO  
Typical Bill Comparison  
Private Outdoor Lighting

Data: 0 Months Actual, 12 Months Estimated  
Type of Filing: Original  
Work Paper Reference: None  
Schedule E-5  
Page 10 of 12  
Witness Responsible:  
John B. Wagner, Jr.

Line No.	Level of (KW) (A)	Level of (KWH) (B)	Current Bill (C)	Proposed Bill (D)	Dollar Increase (Decrease) (E = D - C)	Percent Increase (F = E/C)
1	7000					
2	Mercury	75	\$14.75	\$14.77	0.02	0.14%
3	21000					
4	Mercury	154	\$23.85	\$23.70	0.05	0.21%
5	2500					
6	Incandescent	64	\$14.44	\$14.46	0.02	0.14%
7	7000					
8	Fluorescent	66	\$15.85	\$15.87	0.02	0.13%
9	4000					
10	Mercury	43	\$16.56	\$16.57	0.01	0.06%

Note: Current and proposed bills included monthly charge for 1 fixture, 1 pole, and 1 span

The Dayton Power and Light Company  
Case No: 08-1094-EL-SSO  
Typical Bill Comparison  
School Rate

Data: 0 Months Actual, 12 Months Estimated  
Type of Filing: Original  
Work Paper Reference: None

Schedule E-5  
Page 11 of 12

Witness Responsible:  
John B. Wagner, Jr.

Line No.	Level of (KW) (A)	Level of (KWH) (B)	Current Bill (C)	Proposed Bill (D)	Dollar Increase (Decrease) (E = D - C)	Percent Increase (F = E/C)
1	0.0	1,000	\$136.21	\$136.48	0.27	0.20%
2	0.0	2,500	\$281.87	\$282.54	0.67	0.24%
3	0.0	5,000	\$523.78	\$525.12	1.34	0.26%
4	0.0	10,000	\$1,007.66	\$1,010.34	2.68	0.27%
5	0.0	15,000	\$1,491.54	\$1,495.55	4.01	0.27%
6	0.0	25,000	\$2,453.69	\$2,460.39	6.70	0.27%
7	0.0	50,000	\$4,859.07	\$4,872.47	13.40	0.28%
8	0.0	75,000	\$7,264.47	\$7,284.56	20.09	0.28%
9	0.0	100,000	\$9,669.85	\$9,696.64	26.79	0.28%
10	0.0	150,000	\$14,480.62	\$14,520.80	40.18	0.28%
11	0.0	200,000	\$19,291.39	\$19,344.96	53.57	0.28%
12	0.0	250,000	\$24,102.17	\$24,169.13	66.96	0.28%
13	0.0	300,000	\$28,912.83	\$28,993.29	80.36	0.28%
14	0.0	350,000	\$33,723.70	\$33,817.45	93.75	0.28%
15	0.0	400,000	\$38,534.48	\$38,641.62	107.14	0.28%
16	0.0	450,000	\$43,345.25	\$43,465.78	120.53	0.28%
17	0.0	500,000	\$48,156.01	\$48,289.94	133.93	0.28%

The Dayton Power and Light Company  
Case No: 08-1094-EL-SSO  
Typical Bill Comparison  
Street Lighting

Schedule E-5  
Page 12 of 12  
Witness Responsible:  
John B. Wagner, Jr.

Data: 0 Months Actual, 12 Months Estimated  
Type of Filing: Original  
Work Paper Reference: None

Line No.	Level of		Current Bill (C)	Proposed Bill (D)	Dollar Increase (Decrease)		Percent Increase (F = E/C)
	(A)	(B)			(E = D - C)		
1	0	50	\$4.80	\$4.81	0.01	0.21%	
2	0	100	\$7.51	\$7.52	0.01	0.13%	
3	0	200	\$12.90	\$12.93	0.03	0.23%	
4	0	400	\$23.71	\$23.77	0.06	0.25%	
5	0	500	\$29.16	\$29.23	0.07	0.24%	
6	0	750	\$42.66	\$42.77	0.11	0.26%	
7	0	1,000	\$56.15	\$56.30	0.15	0.27%	
8	0	1,200	\$66.96	\$67.14	0.18	0.27%	
9	0	1,400	\$77.77	\$77.98	0.21	0.27%	
10	0	1,600	\$88.60	\$88.84	0.24	0.27%	
11	0	2,000	\$110.21	\$110.51	0.30	0.27%	
12	0	2,500	\$137.05	\$137.42	0.37	0.27%	
13	0	3,000	\$163.81	\$164.26	0.45	0.27%	
14	0	4,000	\$217.42	\$218.02	0.60	0.28%	
15	0	5,000	\$271.02	\$271.77	0.75	0.28%	

**THE DAYTON POWER AND LIGHT COMPANY  
CASE NO. 08-1094-EL-SSO**

**Book I – Standard Offer**

**Tariffs**

**The Dayton Power & Light Company**

THE DAYTON POWER AND LIGHT COMPANY  
MacGregor Park  
1065 Woodman Drive  
Dayton, Ohio 45432

Original Sheet No. D41  
Page 1 of 1

P.U.C.O. No. 17  
**ELECTRIC DISTRIBUTION SERVICE**  
**ECONOMIC DEVELOPMENT COST RECOVERY RIDER**

The rates and charges listed in this tariff are to recover costs related to DP&L economic development programs. The cost associated with these programs may change over time based on customer participation. The Economic Development Cost Recovery Rider shall be assessed on kilowatt-hours (kWh) of electricity per tariff class distributed under this Schedule at the rates stated below, effective on a bills-rendered basis in the Company's first cycle billing unit for the month of April 2009.

**CHARGES:**

Residential	\$ 0.0002931 per kWh
Residential Heat	\$ 0.0002534 per kWh
Secondary Service	\$ 0.0002333 per kWh
Primary Service	\$ 0.0001151 per kWh
Primary-Substation	\$ 0.0000215 per kWh
High Voltage	\$ 0.0000280 per kWh
Street Lighting	\$ 0.0001489 per kWh
School Rate	\$ 0.0002676 per kWh
Private Outdoor Lighting	\$ 0.0003638 per kWh

The Cost Recovery Tariff shall be assessed until the Company's costs are fully recovered and will be revised twice a year.

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Filed pursuant to the Opinion and Order in Case No. 08-1094-EL-SSO dated \_\_\_\_\_, 2008 of the  
Public Utilities Commission of Ohio.

Issued \_\_\_\_\_, 2008

Effective \_\_\_\_\_, 2008

Issued by  
PAUL M. BARBAS, President and Chief Executive Officer

THE DAYTON POWER AND LIGHT COMPANY  
No. G9  
MacGregor Park  
1065 Woodman Dr.  
Sheet No. G9  
Dayton, OH 45432

~~Second~~First Revised Sheet

Cancels  
First Revised Original

Page 1 of 4

P.U.C.O. No. 17  
ELECTRIC GENERATION SERVICE  
COMPETITIVE RETAIL GENERATION SERVICE

APPLICABLE:

Any Customer who chooses to take generation service from a PUCO approved Alternate Generation Supplier ("AGS"). Only one AGS can provide competitive generation service per billing account.

TERM OF SERVICE:

Customers may select an AGS for any length of time that is at least one (1) billing cycle, subject to the terms and conditions between the AGS and the Customer. However, if a Customer chooses to return to DP&L retail generation service, it shall take service under DP&L's Adjustable Rate Tariff Sheet No. G23, any of the Company's Standard Offer Tariff Sheets (G10-G18) the following restrictions will apply:

Residential and Small Commercial

~~There is no minimum required term for Residential and Small Commercial Customers from January 1, 2001 through May 15, 2002. However, beginning May 16, 2002, such Customers can either (1) return to any of the Company's Standard Offer Tariff Sheets and be subject to a Minimum Stay Period; or (2) choose DP&L's Adjustable Rate Tariff Sheet No. G23. In compliance with the Commission's Entry on Rehearing in Case No. 00-813-EL-EDI issued August 31, 2000, the minimum stay provision for Residential and Small Commercial Customers will not be implemented if adequate notice was not provided.~~

~~The Company will provide a one-time notice to Small Commercial and Residential Customers sixty (60) days prior to the end of any Minimum Stay Period. After such period, if the Customer selects an AGS, applicable Switching Fees will apply as defined in Tariff Sheet No. D34.~~

Industrial and Large Commercial

~~Large Commercial Customers and all industrial Customers must remain on the applicable Standard Offer Tariff Sheet for a minimum period of one (1) year, or select DP&L's Adjustable Rate Tariff Sheet No. G23. Applicable Switching Fees may apply as defined in Tariff Sheet No. D34.~~

DEFAULT SERVICE:

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Filed pursuant to the Opinion and Order in Case No. 08-1094-EL-SSO7-1252-EL-ATA dated  
April 30, 2008 of the Public Utilities Commission of Ohio.

Issued April 30, 2008

Effective July 14, 2008

Issued by  
PAUL M. BARBAS, President and Chief Executive Officer

THE DAYTON POWER AND LIGHT COMPANY  
No. G9  
MacGregor Park  
1065 Woodman Dr.  
Sheet No. G9  
Dayton, OH 45432

~~Second~~ First Revised Sheet

Cancels  
First Revised ~~Original~~

Page 2 of 4

P.U.C.O. No. 17  
ELECTRIC GENERATION SERVICE  
COMPETITIVE RETAIL GENERATION SERVICE

~~During the Market Development Period,~~ Customers who do not select an AGS, opt-out of a government aggregation program or are dropped by their Alternate Generation Supplier due to a violation of coordination obligations, will be served under the Company's applicable Standard Offer Tariff Sheet (G10-G18).

Customers served under any of the Company's Standard Offer Tariff Sheets as a result of opting-out of a government aggregation program or due to a violation of coordination obligations by their Alternate Generation Supplier will not be subject to any minimum required term.

REQUIRED SERVICES:

Customers receiving Generation Service under this Tariff Sheet must also take Transmission and associated Ancillary Services from DP&L under Tariff Sheet No. T8. Rate Stabilization Surcharge, Tariff Sheet No. G25, will also apply to any Customer receiving Generation Service under this Tariff Sheet. The Customer must also take Electric Distribution Service under the applicable Tariff Sheet No. D17 through D25.

RULES AND REGULATIONS:

All the Electric Distribution Service Rules and Regulations shall apply to customers taking service under this Tariff Sheet.

RATES PER MONTH:

Customer must agree to and be provided a copy of the terms and conditions of service, including, but not limited to, price, switching fees and service termination disclosure.

Customers receiving service under this Tariff Sheet will continue to pay the rates contained on the Standard Offer Service Schedules that coincides with its Distribution Service Type but will also receive a Shopping Credit as delineated in Tariff Sheet No. G22.

CUSTOMER ELECTION:

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Filed pursuant to the Opinion and Order in Case No. 08-1094-EL-SSO7-1252-EL-ATA dated  
April 30, 2008 of the Public Utilities Commission of Ohio.

Issued April 30, 2008

Effective July 14, 2008

Issued by  
PAUL M. BARBAS, President and Chief Executive Officer



THE DAYTON POWER AND LIGHT COMPANY  
No. G9  
MacGregor Park  
1065 Woodman Dr.  
Sheet No. G9  
Dayton, OH 45432

~~Second~~First Revised Sheet

Cancels  
~~First Revised~~ Original

Page 3 of 4

P.U.C.O. No. 17  
ELECTRIC GENERATION SERVICE  
COMPETITIVE RETAIL GENERATION SERVICE

The Customer must contact the AGS directly to obtain competitive electric service. The AGS is required to follow the enrollment procedures as described in the Alternate Generation Supplier Coordination Tariff. If a Customer contacts the Company to request initial service from an AGS, or to request a change of suppliers, the Company will inform the Customer that the AGS must be contacted directly with the request. The Company will also provide the Customer with a list of DP&L approved AGSs and contact information.

HOURLY METERS:

Any Customer who chooses to take generation service under this Tariff Sheet and has a billing demand of one hundred (100) kW or higher in the last twelve (12) months must install at ~~its~~their own expense an hourly meter. The Company will make a list of acceptable hourly meters accessible on the public section of the DP&L Internet Site. Billing demand is defined on the applicable Distribution Service Tariff Sheets D18 through D22.

Prior to the installation of the new meter, the Customer, at its own expense, must make all necessary data communication arrangements to the satisfaction of the Company. All meters will be the sole property of the Company.

LIMITATION OF LIABILITY:

The Company shall have no liability with respect to any transaction or arrangement by or between a Customer and AGS. The Company is not liable for a Customer's lost savings arising out of an error or omission in customer enrollment or switching by the AGS.

SWITCHING FEE:

The Company will be entitled to impose a Switching Fee in accordance with Tariff Sheet No. D34 for any changes made by either a Customer or an authorized agent to a different AGS.

CERTIFIED AGS

A list of all AGSs can be found on DP&L's Internet Site or by calling DP&L at 1-800-way-to-go.

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Page 4 of 4

P.U.C.O. No. 17  
ELECTRIC GENERATION SERVICE  
COMPETTITIVE RETAIL GENERATION SERVICE

NOTICE TO RETURN TO STANDARD OFFER:

Other than in the event of a violation of coordination obligations by an Alternate Generation Supplier, Large Commercial Customers and all industrial customers must provide a minimum of ninety (90) days prior notice to the Company before returning to DP&L retail generation Standard Offer service between May 1 and October 31 of each calendar year. Between November 1 and April 30 of each calendar year, these customers must provide a minimum of sixty (60) days prior notice.

Once notice has been provided to the Company, Customer will be served under the Company's Tariff Sheet No. G23 according to the timing of this notice provision and the Term of Contract described therein will apply.

Returning to DP&L retail generation Standard Offer service without such notice will result in a penalty charge of \$10/kW based on the highest single month peak kW demand during the three billing periods subsequent to their return.

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THE DAYTON POWER AND LIGHT COMPANY

Case No. 08-1094-EL-SSQ

Book I - Standard Service Offer

Economic Development Customer Benefits

Data: 12 Months Forecast

Type of Filing: Original

Work Paper Reference No(s): None

Worksheet: WPA-1

Page 1 of 1

Witness Responsible:

John B. Wagner, Jr.

Line No.	Description	(A)	2009 Eligible Customers (B)	Revenue Per Customer (C)	Total Revenue (D = B * C)	Estimated Discount % (E)	2009 Discount (F = D * E)	Source (G)
1	Economic Development Options							
2	D38 - Customer Attraction - New Customers		77	\$89,564	\$6,896,431	10.0%	\$689,643	10% Discount off all revenue
3	D39 - Customer Attraction - Expanding Customers		12	\$175,095	\$2,101,139	20.0%	\$205,274	20% Discount off all revenue over historical level (Line 2)
4	D39 - Customer Retention		5	\$175,095	\$875,474	10.0%	\$87,547	10% Discount off all revenue
5	D40 - Energy Efficiency Production Facility		10	\$175,095	\$1,750,949	12.3%	\$215,844	5% Discount off historical revenue level (Line 2) 20% Discount off additional
6	Unique Arrangements						\$1,500,000	DP&L Estimate
7								
8	Total Estimated Annual Discounts for 2009						\$2,698,308	Sum Lines 2 through 6

Note:

2009 Revenue Column D, Line 2 is based on a 250 KW secondary customer using 90,000 kWh  
2009 Revenue Column D, Lines 3 through 5 are based on a 500 KW secondary customer using 180,000 kWh

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

**THE DAYTON POWER AND LIGHT COMPANY  
CASE NO. 08-1094-EL-SSO**

**BOOK I – Standard Service Offer**

**DIRECT TESTIMONY  
OF GREGORY S. CAMPBELL, CPA**

- ☐ **MANAGEMENT POLICIES, PRACTICES, AND ORGANIZATION**
- ☒ **OPERATING INCOME**
- ☐ **RATE BASE**
- ☒ **ALLOCATIONS**
- ☐ **RATE OF RETURN**
- ☐ **RATES AND TARIFFS**
- ☒ **OTHER**

**BEFORE THE**  
**PUBLIC UTILITIES COMMISSION OF OHIO**  
  
**DIRECT TESTIMONY OF**  
  
**GREGORY S. CAMPBELL, CPA**  
  
**ON BEHALF OF**  
**THE DAYTON POWER AND LIGHT COMPANY**

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III.	CONCLUSION.....	6

**I. INTRODUCTION**

**Q. Please state your name and business address.**

**A. My name is Gregory S. Campbell. My business address is 1065 Woodman Drive,  
Dayton, Ohio.**

**Q. By whom and in what capacity are you employed?**

**A. I am employed by The Dayton Power and Light Company ("DP&L" or "Company") as  
Director, Accounting Policy and External Reporting.**

**Q. How long have you been in your present position?**

**A. I assumed my present position on June 18, 2008. Prior to that time, I had been employed  
from 1981 through 2008 by American Electric Power, serving in a number of accounting  
and financial positions with that company.**

**Q. What are your responsibilities in your current position and to whom do you report?**

**A. In my current position, I am responsible for financial reporting to certain regulatory  
bodies, including the SEC and FERC. I am also responsible for reviewing certain  
accounting transactions to insure adherence to Generally Accepted Accounting  
Principles. I report to the Assistant Controller of DP&L.**

**Q. Will you describe briefly your educational and business background?**

**A. I received a Bachelor of Business Administration degree in Accounting from the College  
of William and Mary in 1977, and am a Certified Public Accountant. From 1977 to  
1981, I worked for two large public accounting firms: Coopers and Lybrand, and Peat,  
Marwick and Mitchell. During the years 1981 through 1984, I worked in the Accounting  
Department of one of American Electric Power's electric operating subsidiaries,**

23 Appalachian Power Company. From 1984 until 2008, I worked for the American  
24 Electric Power Service Corporation in a variety of jobs, including Accounting Policy and  
25 Research for fourteen years, accounting for fiber optic operations, and accounting and  
26 financial analysis for regulated and non-regulated operations. In June 2008, I accepted  
27 my current position at DP&L.

28 **Q. Have you previously provided testimony before the Public Utilities Commission of**  
29 **Ohio ("PUCO" or the "Commission")?**

30 **A. Yes. I have sponsored testimony before the PUCO in a number of cases on behalf of**  
31 **Columbus Southern Power and Ohio Power Company, two subsidiaries of American**  
32 **Electric Power. My previous testimony included both base rate and fuel cases.**

33 **Q. What is the purpose of this testimony?**

34 **A. The purpose of this testimony is to support the Company's request for Commission**  
35 **authorization to defer retail jurisdictional fuel, purchased power and fuel-related costs**  
36 **beginning January 1, 2009. This deferral would continue through December 31, 2010.**

37 **II. FUEL DEFERRAL MECHANISM**

38 **Q. Why is the Company requesting a fuel deferral mechanism?**

39 **A. The costs of fuel and related costs have increased substantially. See the testimony of**  
40 **DP&L Witness Marrinan for information regarding these cost increases.**

41 **Q. What types of costs would be included in the fuel deferral mechanism?**

42 **A. Ohio Senate Bill 221 allows for automatic recovery of all prudently-incurred fuel,**  
43 **purchased power and fuel-related components. DP&L is not requesting a specific fuel**  
44 **recovery mechanism at this time. DP&L is requesting Commission approval to defer the**

45 excess of the fuel amount embedded in its authorized rates of 1.8 cents per kWh as  
46 discussed in DP&L Witness Seger-Lawson's direct testimony and in Chapter 5 of Book I.  
47 DP&L is also requesting permission to record a return on these deferred costs using the  
48 Company's overall rate of return until the costs are fully recovered.

49 **Q. What specific costs would be included in the fuel deferral mechanism?**

50 **A.** The following is a list of accounts and costs that are proposed for inclusion in the fuel  
51 deferral mechanism. I have also included a brief description of the nature of the costs.  
52 DP&L would only defer the excess of the retail jurisdictional share of these amounts for  
53 recovery from its jurisdictional customers.

- 54 • **501 Fuel** – This account includes the costs of fuel, transportation and handling of fuel  
55 at the plant site used in the production of steam for the generation of electricity.

56 DP&L would also include, as an offset, the net gains and losses of coal sales in this  
57 component of costs. These above costs and credits would be included in the  
58 calculation of the fuel deferral. Certain other costs in this account such as the labor  
59 associated with fuel purchasing and the removal and disposal of fly ash would not be  
60 included in the deferral calculation.

- 61 • **502 Steam Expenses (Fuel -Related)** – This account includes the costs of materials  
62 and expenses used in the production of steam for the generation of electricity.

63 Recently, most of the charges to this account have been chemicals or consumable  
64 supplies used in environmental equipment such as selective catalytic reduction  
65 ("SCR") and flue gas desulfurization equipment ("FGD") equipment. DP&L will  
66 include the costs that will be incurred by the Company or its share of the costs

67 incurred for the jointly owned plants. These costs include, but are not limited to, lime



or limestone, soda ash or trona, urea or ammonia and magnesium hydroxide. Some chemicals are used by DP&L and the same or similar ones are used by our partners in our jointly-owned plants. Lime or limestone is used in FGDs to remove sulfur from the post-combustion process. Soda ash or trona is used to hinder the formation of SO<sub>3</sub> when FGD and SCR units are used together. Urea or ammonia is used as a chemical agent to remove nitrous oxide ("NOX"). Magnesium hydroxide is used to reduce slagging. Any new chemicals will be included in the fuel deferral mechanism. DP&L will also include the costs of the disposal of gypsum, net of sales, which is produced from the operation of the FGDs. DP&L would include these chemical and gypsum costs (net of sales) discussed above in the calculation of the fuel deferral. All other costs in this account, such as water analysis and operation of National Pollution Discharge Elimination System ("NPDES") equipment, would not be included in the calculation of the deferral.

- **509 Allowances** – This account records the costs of emission allowances used, such as sulfur dioxide ("SO<sub>2</sub>") and NOX.
- **547 Fuel** – This account includes the costs of fuel used in gas and diesel peaking units.
- **555 Purchased Power** – This account includes the costs of electricity purchased from others. This would include the demand and energy charges for the purchases.
- **411.8 Gain from Disposition of Allowances and 411.9 Losses from Disposition of Allowances** – These accounts include gains and losses on allowance sales and would be included in the deferral calculation.

- 90       • **Carrying costs on deferred balances using the overall weighted cost of capital.**

91   **Q.   How would these deferred costs be allocated to the retail jurisdiction?**

92   **A.   DP&L Witness Marrinan describes how these costs will be allocated to the retail**  
93       **jurisdiction.**

94   **Q.   How will the amount that is deferred be calculated?**

95   **A.   The total amounts included in these accounts will be jurisdictionalized and then summed.**  
96       **The total jurisdictional retail costs will then be divided by retail sales for the month. If**  
97       **the resulting amount is over or under the 1.8 cents per kWh, (the amount of fuel recovery**  
98       **included in DP&L's current rates), then the difference will be multiplied by jurisdictional**  
99       **retail sales and the increase or decrease will be recorded in the deferral account.**

100 **Q.   Where on the books would these costs be deferred, what would be the carrying**  
101       **costs, and what is the expected recovery period?**

102 **A.   Each month, these costs would be deferred in account 182.3, Other Regulatory Assets.**  
103       **The monthly deferral would be based on the latest information available, and any**  
104       **corrections needed for information received later would be recorded in the subsequent**  
105       **month. DP&L would record an additional deferral as a carrying cost using the overall**  
106       **rate of return of 13.32% grossed up for federal income taxes. The Company will be**  
107       **requesting recovery of the deferred costs at December 31, 2010 over a 10-year period**  
108       **beginning January 1, 2011 with a carrying cost return until all the deferrals are recovered.**  
109       **DP&L would also record deferred federal income taxes associated with these deferred**  
110       **fuel costs.**

111 **III. CONCLUSION**

112 **Q. Please summarize your testimony.**

113 **A. In summary, DP&L is requesting permission to defer the retail jurisdictional fuel,**  
114 **purchased power and fuel-related costs in excess of 1.8 cents per kWh beginning**  
115 **January 1, 2009 with a carrying cost return on the unrecovered balance.**

116 **Q. Does this conclude your direct testimony?**

117 **A. Yes, it does.**

**BEFORE THE**

**PUBLIC UTILITIES COMMISSION OF OHIO**

**THE DAYTON POWER AND LIGHT COMPANY**  
**CASE NO. 08-1094-EL-SSO**

**Book I – Standard Offer**

**DIRECT TESTIMONY**

**OF SCOTT J. KELLY**

- ☐ **MANAGEMENT POLICIES, PRACTICES, AND ORGANIZATION**
- ☐ **OPERATING INCOME**
- ☐ **RATE BASE**
- ☐ **ALLOCATIONS**
- ☐ **RATE OF RETURN**
- ☐ **RATES AND TARIFFS**
- ☒ **OTHER**

**BEFORE THE**  
**PUBLIC UTILITIES COMMISSION OF OHIO**  
**DIRECT TESTIMONY OF**  
**SCOTT J. KELLY**  
**ON BEHALF OF**  
**THE DAYTON POWER AND LIGHT COMPANY**

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**I. INTRODUCTION**

**Q. Please state your name and business address.**

A. My name is Scott J. Kelly. My business address is 1065 Woodman Drive, Dayton, OH 45432

**Q. By whom and in what capacity are you employed?**

A. I am employed by The Dayton Power and Light Company ("DP&L" or "Company") as Senior Vice President, Service Operations.

**Q. How long have you been in your present position?**

A. I assumed my present position in March, 2007. Prior to that, I was Director of Engineering and Business Development (1/2002 – 3/2007), Customer Business Manager (6/2001 – 1/2002), Customer Group Manager (1/1997 – 6/2001), Operations Manager, Marysville (12/1995 – 12/1996), Assistant Manager, Centerville (4/1995 – 12/1995) and Assistant Manager assigned to Special Project Team (11/1994 – 4/1995).

**Q. What are your responsibilities in your current position and to whom do you report?**

A. In my current position, I am responsible for delivering reliable and quality service to DP&L's 500,000 customers located throughout West Central Ohio. I report to the President and Chief Executive Officer of DP&L.

**Q. Will you describe briefly your educational and business background?**

A. I received a Bachelor of Science degree in Mechanical Engineering from Carnegie Mellon in 1988 and a Master of Business Administration from Xavier University in 2006.

1 Prior to DP&L, I spent six years at Rockwell International, holding various manager-  
2 level positions.

3 **Q. What is the purpose of this testimony?**

4 **A. The purpose of this testimony is to demonstrate that DP&L's Electric Security Plan**  
5 **("ESP") is consistent with and advances the policies in Ohio Rev. Code § 4928.02.**

6 **II. DP&L'S FILING IS CONSISTENT WITH AND ADVANCES THE**  
7 **POLICIES IN OHIO REV. CODE § 4928.02**

8 **Q. Is DP&L's ESP consistent with and does it advance the state policies in Ohio Rev.**  
9 **Code § 4928.02(A) to "[e]nsure the availability to consumers of adequate, reliable,**  
10 **safe, efficient, nondiscriminatory, and reasonably priced retail electric service"?**

11 **A. Yes. As explained in Book I and in the testimony of DP&L Witness Seger-Lawson,**  
12 **DP&L's ESP includes a Standard Service Offer pursuant to Ohio Rev. Code**  
13 **§ 4928.143(D) that maintains the low prices set in DP&L's rate plan in Case No. 05-276-**  
14 **EL-AIR. Further, as explained in Book II and in the testimony of DP&L Witness**  
15 **Teuscher, DP&L's Customer Conservation and Energy Management ("CCEM") plan**  
16 **includes implementation of a Smart Grid, which will significantly enhance the reliability**  
17 **and efficiency of DP&L's system.**

18 **Q. Is DP&L's ESP consistent with and does it advance the state policies in Ohio Rev.**  
19 **Code § 4928.02(B) to "[e]nsure the availability of unbundled and comparable retail**  
20 **electric service that provides consumers with the supplier, price, terms, conditions,**  
21 **and quality options they elect to meet their respective needs"?**

1 A. Yes. Under DP&L's ESP, customers are free to select a Competitive Retail Electric  
2 Service ("CRES") Provider.

3 Q. Is DP&L's ESP consistent with and does it advance the state policies in Ohio Rev.  
4 Code § 4928.02(C) to "[e]nsure diversity of electricity supplies and suppliers, by  
5 giving consumers effective choices over the selection of those supplies and suppliers  
6 and by encouraging the development of distributed and small generation facilities"?

7 A. Yes. Under DP&L's ESP filing, customers are free to select a CRES provider. Further,  
8 as explained in Book II and in the testimony of DP&L Witness Teuscher, DP&L's Smart  
9 Grid infrastructure is expected to create an energy system that will enhance both  
10 operational performance and improve outcomes in several respects, including permitting  
11 DP&L to enable distributed energy resources to be integrated into operations. This  
12 infrastructure improvement will in turn encourage the development of distributed and  
13 small generation facilities.

14 Q. Is DP&L's ESP consistent with and does it advance the state policies in Ohio Rev.  
15 Code § 4928.02(D) to "[e]ncourage innovation and market access for cost-effective  
16 supply- and demand-side retail electric service including, but not limited to,  
17 demand-side management, time-differentiated pricing, and implementation of  
18 advanced metering infrastructure"?

19 A. Yes. As explained in Book II and in the testimony of DP&L Witnesses Teuscher and  
20 Bubp, DP&L's CCEM plan includes demand-side management programs, time-  
21 differentiated pricing, and implementation of advanced metering infrastructure.



1 Q. Is DP&L's ESP consistent with and does it advance the state policies in Ohio Rev.  
2 Code § 4928.02(E) to "[e]ncourage cost-effective and efficient access to information  
3 regarding the operation of the transmission and distribution systems of electric  
4 utilities in order to promote both effective customer choice of retail electric service  
5 and the development of performance standards and targets for service quality for  
6 all consumers, including annual achievement reports written in plain language"?

7 A. Yes. As explained in Book II and in the testimony of DP&L Witness Teuscher, DP&L's  
8 CCEM plan includes implementation of a Smart Grid system, which will significantly  
9 increase the amount of information regarding the operation of DP&L's system. That  
10 information will promote customer choice because customers will have better  
11 information regarding their energy usage patterns, and will permit enhanced reporting.

12 Q. Is DP&L's ESP consistent with and does it advance the state policies in Ohio Rev.  
13 Code § 4928.02(F) to "[e]nsure that an electric utility's transmission and  
14 distribution systems are available to a customer-generator or owner of distributed  
15 generation, so that the customer-generator or owner can market and deliver the  
16 electricity it produces"?

17 A. Yes. Again, as detailed in Book II and the testimony of DP&L Witness Teuscher, the  
18 Smart Grid infrastructure is expected to create an energy system that will permit DP&L  
19 to enable distributed energy resources to be integrated into operations.

20 Q. Is DP&L's ESP consistent with and does it advance the state policies in Ohio Rev.  
21 Code § 4928.02(G) to "[r]ecognize the continuing emergence of competitive  
22 electricity markets through the development and implementation of flexible  
23 regulatory treatment"?

1 A. Yes. Under DP&L's ESP filing, customers are free to select a CRES Provider.

2 Q. Is DP&L's ESP consistent with and does it advance the state policies in Ohio Rev.  
3 Code § 4928.02(H) to "[e]nsure effective competition in the provision of retail  
4 electric service by avoiding anticompetitive subsidies flowing from a noncompetitive  
5 retail electric service to a competitive retail electric service or to a product or service  
6 other than retail electric service, and vice versa, including by prohibiting the  
7 recovery of any generation-related costs through distribution or transmission  
8 rates"?

9 A. Yes. As explained in Book I and in the testimony of DP&L Witness Timothy Rice,  
10 DP&L is in compliance with its Corporate Separation Plan, and will implement  
11 procedures to ensure it complies with the Second Amended Corporate Separation Plan  
12 that DP&L seeks Commission approval of in this proceeding. Further, DP&L does not  
13 propose to recover generation costs in distribution rates.

14 Q. Is DP&L's ESP consistent with and does it advance the state policies in Ohio Rev.  
15 Code § 4928.02(I) to "[e]nsure retail electric service consumers protection against  
16 unreasonable sales practices, market deficiencies, and market power"?

17 A. Yes. DP&L provides services to customers only pursuant to a Commission-approved  
18 tariff, and does not discriminate in the provision of its services.

19 Q. Is DP&L's ESP consistent with and does it advance the state policies in Ohio Rev.  
20 Code § 4928.02(J) to "[p]rovide coherent, transparent means of giving appropriate  
21 incentives to technologies that can adapt successfully to potential environmental  
22 mandates"?

1 A. Yes. As explained in Book III and in the testimony of DP&L Witness Stephenson,  
2 DP&L plans to comply with the advanced energy targets in Ohio Rev. Code § 4928.64 by  
3 implementing energy efficiency programs as part of DP&L's CCEM plan. DP&L plans  
4 to comply with the renewable energy targets in Ohio Rev. Code § 4928.64 through a  
5 combination of purchasing Renewable Energy Credits, entering renewable energy supply  
6 contracts, and (if economical) constructing new generation facilities.

7 Q. Is DP&L's ESP consistent with and does it advance the state policies in Ohio Rev.  
8 Code § 4928.02(K) to "[e]ncourage implementation of distributed generation across  
9 customer classes through regular review and updating of administrative rules  
10 governing critical issues such as, but not limited to, interconnection standards,  
11 standby charges, and net metering"?

12 A. Yes. DP&L supports the review and updating of Commission rules, as appropriate.

13 Q. Is DP&L's ESP consistent with and does it advance the state policies in Ohio Rev.  
14 Code § 4928.02(L) to "[p]rotect at-risk populations, including, but not limited to,  
15 when considering the implementation of any new advanced energy or renewable  
16 energy resource"?

17 A. Yes. DP&L's ESP plan maintains the low-cost generation rates from DP&L's rate plan in  
18 Case No. 05-276-EL-AIR. Further, as explained in Book II and in the testimony of  
19 DP&L Witnesses Michaelson and Hall, DP&L's CCEM program is projected to save  
20 more in generation expenses and produce more benefits than the program costs. In  
21 addition, as explained in Book II and in the testimony of DP&L Witness Bubp, DP&L's  
22 CCEM program includes certain components targeted at low-income customers (e.g.,  
23 funding efficient lighting, new refrigerators, etc.).

1 Q. Is DP&L's ESP consistent with and does it advance the state policies in Ohio Rev.  
2 Code § 4928.02(M) to "[e]ncourage the education of small business owners in this  
3 state regarding the use of, and encourage the use of, energy efficiency programs and  
4 alternative energy resources in their businesses"?

5 A. Yes. As explained in Book II and in the testimony of DP&L Witness Bubp, DP&L's  
6 CCEM plan will include an education component that provides information to all DP&L  
7 customers, including small businesses, about how to participate in DP&L's energy  
8 efficiency programs.

9 Q. Is DP&L's ESP consistent with and does it advance the state policies in Ohio Rev.  
10 Code § 4928.02(N) to "[f]acilitate the state's effectiveness in the global economy"?

11 A. Yes. As explained in Book I and in the testimony of DP&L Witness John Wagner,  
12 DP&L's ESP includes economic development programs that will encourage new  
13 businesses to locate in DP&L's service territory and to help to retain existing businesses.  
14 Further, as explained in Book II and in the testimony of DP&L Witness Bubp, DP&L's  
15 CCEM plan includes energy efficiency programs that are designed to help businesses to  
16 save money on their electric bill.

17 **III. CONCLUSION**

18 Q. Does this conclude your direct testimony?

19 A. Yes, it does.

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

**THE DAYTON POWER AND LIGHT COMPANY  
CASE NO. 08-1094-EL-SSO**

**BOOK I – STANDARD SERVICE OFFER**

**DIRECT TESTIMONY  
OF TERESA F. MARRINAN**

- **MANAGEMENT POLICIES, PRACTICES, AND ORGANIZATION** □
- **OPERATING INCOME**
- **RATE BASE**
- **ALLOCATIONS**
- **RATE OF RETURN**
- **RATES AND TARIFFS**
- **OTHER**

**BEFORE THE**  
**PUBLIC UTILITIES COMMISSION OF OHIO**  
  
**DIRECT TESTIMONY OF**  
  
**TERESA F. MARRINAN**  
  
**ON BEHALF OF**  
**THE DAYTON POWER AND LIGHT COMPANY**

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1 **I. INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. My name is Teresa F. Marrinan. My business address is 1065 Woodman Drive, Dayton,  
4 Ohio 45432.

5 **Q. By whom and in what capacity are you employed?**

6 A. I am employed by The Dayton Power and Light Company ("DP&L" or "Company") as  
7 Vice President, Commercial Operations.

8 **Q. How long have you been in your present position?**

9 A. I assumed my present position in August, 2007.

10 **Q. What are your responsibilities in your current position and to whom do you report?**

11 A. In my current position, I am responsible for the dispatch of DP&L's generation fleet, its  
12 fuel procurement and delivery, fuel and wholesale power contract administration, energy  
13 and fuel trading activities, the market analytics function, DP&L's relationship with PJM  
14 and the operation of two unregulated subsidiary companies. I report to the Senior Vice  
15 President of Generation and Marketing.

16 **Q. Will you describe briefly your educational and business background?**

17 A. I received a Bachelor of Science degree in Business Administration from the University  
18 of Dayton in 1983 and an MBA from Xavier University in 1993. I joined DP&L in 1984  
19 in the Company's Regulatory Area. I held various positions in the Regulatory area until  
20 1993 when I transferred to System Operating. Since 1993, I have held various roles

1 including Energy Marketer, Risk Manager, Head Trader, Director, Managing Director  
2 and my current position.

3 **Q. What are the purposes of this testimony?**

4 **A.** The purposes of this testimony are twofold: 1) to discuss changes that have occurred  
5 since DP&L's 2005 Rate Stabilization Plan case was before this Commission and the  
6 impacts of those changes on fuel, fuel-related and purchased power costs, and 2) to  
7 explain the allocation methodology that the Company plans to use to allocate fuel, fuel-  
8 related, purchased power, and emission allowance costs to jurisdictional retail customers  
9 for the purpose of the fuel and purchased power deferrals that are requested in this case. I  
10 support a portion of Chapter 5 of the Book I – Standard Offer.

11 **II. RISING FUEL COSTS**

12 **Q. Please explain the challenges related to DP&L's fuel, fuel-related, and purchased**  
13 **power costs?**

14 **A.** DP&L's costs to procure coal and the volatility of coal prices have dramatically increased  
15 since DP&L's 2005 Rate Stabilization Surcharge (RSS) case was before this  
16 Commission. Because coal-fired power plants produce 99% of the electricity generated  
17 for DP&L's jurisdictional retail load, DP&L has experienced a substantial increase in the  
18 cost of fuel, despite significant investment in environmental equipment and operational  
19 changes that have increased flexibility with regard to the types of coal that can be  
20 consumed in DP&L's power plants.



1   **Q.     Do DP&L's current rates recover its current costs to provide standard offer**  
2       **service?**

3   **A.     No. DP&L estimates that in 2009 and 2010 the fuel, fuel-related and purchased power**  
4       **costs associated with supplying standard offer service to our customers will be**  
5       **significantly in excess of the amount recovered in rates. DP&L is seeking to defer actual**  
6       **costs that exceed the fuel-related expenses currently included in authorized rates. DP&L**  
7       **Witness Seger-Lawson provides testimony in this Book I on the amounts included in**  
8       **current rates.**

9   **Q.     What are the main reasons why DP&L's costs exceed what it is recovering in**  
10       **authorized rates?**

11   **A.     A number of factors have combined to cause DP&L's fuel costs to far exceed the levels**  
12       **built into 2005 rates: 1) production costs in the three coal basins that are the sources for**  
13       **coal to the DP&L plants have increased significantly, some of which is attributable to**  
14       **government mandates related to the Mine Improvement and New Emergency Response**  
15       **(MINER) Act of 2006, to new requirements imposed by court rulings and to increased or**  
16       **new taxes; 2) international demand for coal has pushed up prices as an increasing**  
17       **percentage of existing coal production leaves the U.S. for export; and 3) the positive**  
18       **environmental benefits from installing scrubbers and the positive benefits of being able to**  
19       **burn higher sulfur coal are offset in part by the fact that because the scrubber itself**  
20       **requires power to operate, more coal must be burned to produce the same level of net**  
21       **output. The first two factors in particular mean that the current market prices facing**  
22       **DP&L as it executes new contracts are well above the average embedded price built into**  
23       **the 2005 rates.**

1    **Q.    What actions has DP&L taken to mitigate the increase in cost?**

2    **A.    DP&L has made significant changes to reduce its coal costs, most notably switching to**  
3           lower priced, higher sulfur coals from the Illinois Basin and Northern Appalachia, which  
4           now constitute a majority of its supply. The flexibility to burn these higher sulfur coals is  
5           primarily due to the installation of scrubbers on power plants that DP&L owns, some of  
6           which it operates and some of which are operated by other utilities. The flexibility to  
7           burn higher sulfur coals, however, presents new operational challenges and increased  
8           costs, including the use of additional chemicals that help remove sulfur and reduce the  
9           potential for slagging. These new coals require significant effort to burn in facilities not  
10          originally designed for their use. High sulfur coals from the Illinois Basin and Northern  
11          Appalachia tend to have lower ash fusion temperatures creating a higher potential for  
12          slagging in the boiler. DP&L has invested significant capital and incurs ongoing  
13          increases in operation and maintenance expenses, without which DP&L could not burn  
14          these relatively less expensive fuels.

15   **Q.    Are there other factors influencing DP&L's costs of coal?**

16   **A.    Yes. The same market pressures that have caused the higher coal prices that DP&L has**  
17          experienced also affect coal purchased by other utilities that operate generating units in  
18          which DP&L owns a minority share. DP&L purchases 56% of its coal for the Stuart,  
19          Killen and Hutchings stations that DP&L operates; about 44% of its coal, however, is  
20          purchased by other entities who procure coal for generating units in which DP&L owns a  
21          share.

1    **Q.    Have there been any significant changes in other fuel or fuel-related costs?**

2    **A.    Yes. The costs associated with the entire supply chain have been increasing. Increased**  
3        **diesel fuel costs, for example, increase the costs of shipping coal by barge or truck.**  
4        **DP&L's costs for fuel oil used for start-up and flame stabilization have increased.**  
5        **Increased natural gas prices increase the costs of operating peaking plants. Increased**  
6        **natural gas prices also affect the costs of ammonia and other chemicals primarily derived**  
7        **from natural gas and which are consumed in conjunction with coal consumption.**  
8        **Further, DP&L is often a purchaser of power through PJM and the increased costs of**  
9        **coal, natural gas, and oil incurred by sellers into the PJM market are reflected in the**  
10       **market price of purchased power that DP&L incurs.**

11   **III.   RELATIONSHIP OF COSTS TO STANDARD SERVICE OFFER**  
12   **SALES**

13   **Q.    Have you identified the specific costs that are proposed for deferral and later**  
14        **recovery?**

15   **A.    Yes. Those costs and the specific FERC Accounts in which the costs are recorded are**  
16        **described in detail by DP&L witness Campbell.**

17   **Q.    For the costs identified by Mr. Campbell, please explain the basis for including**  
18        **these costs for deferral and future recovery through a tracking mechanism, while**  
19        **excluding other types of costs?**

20   **A.    For each of the costs that would be included in the deferral for later recovery, there is a**  
21        **direct relationship between the level of costs incurred and the amount of output and sales**  
22        **made to customers.**

1 Fuel, transportation costs, unloading costs, and fuel handling costs are directly related to  
2 output and sales made to customers. DP&L cannot produce electricity from a coal-fired  
3 or gas-fired plant without combusting coal or gas. The overall costs incurred to obtain  
4 and use these fuels include transportation costs, whether by barge, train, truck, or  
5 pipeline, and also include costs associated with unloading coal and handling it up to the  
6 point of entering the coal bunker or hopper. These costs vary depending on how much  
7 coal and gas is used.

8 Purchased power costs are incurred when necessary to supply power to customers during  
9 periods when the amount of power generated by DP&L's units is insufficient to meet  
10 demand and when it is more economic than DP&L's own generation. Again, these are  
11 costs that are directly attributable to the kWh use of our customers.

12 Mr. Campbell also describes chemical costs that are recorded in FERC Account 502.  
13 These are chemicals that are fuel-additives that are consumed in direct proportion to the  
14 coal that is burned. Higher-sulfur fuel is substantially lower in cost than lower-sulfur  
15 coal, but require the use of chemicals such as limestone, lime, soda ash or trona to  
16 remove sulfur from the emissions stream. Again, these costs are incurred and the  
17 chemicals consumed in direct proportion to the output of the generation units and the  
18 sales made to customers. As with the coal and gas costs, the chemical costs reflected in  
19 the deferral should be recorded on an "as-delivered" basis, so transportation and handling  
20 costs are also included

21 The magnitude of gypsum disposal costs has significantly increased as a result of the  
22 operation of the scrubbers that have been recently installed. The amount of gypsum

1 produced that must be disposed of is a direct function of the amount of coal combusted  
2 and the level of sulfur in the coal. These costs have also been affected by the increased  
3 fees charged by landfills and the increased costs to transport waste to landfills. The costs  
4 to be recorded and deferred would be the net of any proceeds from the sale of gypsum.

5 For emission allowances, beginning January 1, 2009 and continuing through December  
6 31, 2010, the jurisdictional share of the costs of 2009 and 2010 emission allowances, net  
7 of the jurisdictional share of proceeds of sales of 2009 and 2010 vintages would be  
8 charged or credited to the deferral.

9 **Q. How does DP&L intend to allocate the costs to be tracked and deferred to**  
10 **jurisdictional retail load?**

11 **A. DP&L is proposing to use a “slice of system” methodology, also known as a “load ratio**  
12 **share” or an “average cost” method, that will allocate costs between jurisdictional retail**  
13 **load and term wholesale sales load. All the fuel, fuel-related, and purchased power**  
14 **expenses identified by DP&L witness Campbell will be allocated using an appropriate**  
15 **kWh allocator. Costs associated with non-jurisdictional opportunity sales would be**  
16 **removed and specifically assigned prior to the allocation.**

17 **Q. Please define the terms that you will be using to explain this proposal.**

18 **A. “Term commitments” is being used here to describe customers for whom DP&L has**  
19 **commitments to serve in excess of one day. DP&L’s jurisdictional retail customers are**  
20 **“term commitments” as are DP&L’s municipal utility customers that are currently served**  
21 **under 20-year contracts. When distinguishing between the two groups, I use**  
22 **“jurisdictional retail” and “term wholesale sales.” In contrast, “non-jurisdictional**

1 opportunity sales” as defined here will be transactions in wholesale markets that occur for  
2 periods of one day or less. An example of a non-jurisdictional opportunity sale is the  
3 hourly or daily sale to PJM resulting from the economic dispatch of generation in excess  
4 of the needs of our term commitments. Another example of a non-jurisdictional  
5 opportunity sale would be a daily or hourly sale of power into MISO markets.

6 **Q. Please describe how the proposed methodology would generally work.**

7 **A:** The fuel costs associated with starting and running the DP&L owned generation, along  
8 with any purchases made to meet term commitments would be identified. These costs  
9 would then be allocated between jurisdictional retail and term wholesale load based on  
10 kwh consumption in each hour that the costs are incurred. The costs attributed to  
11 jurisdictional retail load that are above the amount currently recovered in retail rates  
12 would be deferred. Where practical, the costs will track actual hourly cost data. For  
13 example, the energy component of PJM’s Locational Marginal Price (LMP) varies  
14 hourly. Similarly, the costs of fuel for generation will generally change hour by hour as a  
15 function of changes in output at various facilities.

16 The incremental fuel costs associated with non-jurisdictional opportunity sales would be  
17 excluded from the costs allocated to term committed load.

18 **Q. Aside from the incremental fuel cost of producing the opportunity sale MWh’s,**  
19 **what other costs would need to be identified for these sales?**

20 **A.** Start-up and “no load” costs will be specifically assigned to non-jurisdictional  
21 opportunity sales if units are brought on line that are not needed for term commitments.

1 While it is less likely that a generation unit would be started to make a non-jurisdictional  
2 opportunity sale, to the extent that occurred, the start-up costs would be specifically  
3 assigned to the non-jurisdictional opportunity sale. To the extent that there are purchased  
4 power costs or other fuel-related costs incurred in connection with the non-jurisdictional  
5 opportunity sale, those would also be excluded.

6 **Q. How will emission allowances be allocated to jurisdictional sales?**

7 A. Emission allowance costs and sales proceeds will be allocated between term committed  
8 groups based on an annual kWh allocator. The allocation is thus on a load ratio share but  
9 is not done based on the hour by hour loads

10 **Q. Please describe in greater detail the circumstances under which non-jurisdictional**  
11 **opportunity sales occur and how costs will be treated.**

12 A. DP&L is required as a participant in PJM to bid in all of its generators in the day ahead  
13 market each day. To the extent that PJM schedules more energy from these units in a  
14 given hour than is needed to meet the requirements of DP&L's term committed load, this  
15 excess is sold into PJM markets. Similarly, PJM dispatches the committed generation in  
16 real time. Real time generation in excess of term needs is liquidated at the hourly  
17 clearing price in PJM.

18 **Q. What other transactions would be excluded from the calculation of fuel costs to be**  
19 **allocated to customers with whom DP&L has term commitments?**

20 A. Also excluded would be all purchases and sales of an opportunistic nature that are made  
21 by DP&L's trading employees. These include purchases and sales made between ISO's

1 when one market may have a higher clearing price for a given period of time. The costs  
2 of these transactions would be specifically assigned to the non-jurisdictional opportunity  
3 sales or, if necessary to make term committed customers whole, credits would be  
4 provided to term committed customers.

5 **Q. For what period does DP&L propose to use the above allocation method?**

6 **A. DP&L proposes the use of the above allocation method for use between January 1, 2009**  
7 **and December 31, 2010.**

8 **IV. CONCLUSION**

9 **Q. Please summarize your testimony.**

10 **A. In summary, because of the significant increases in costs that the Company is**  
11 **experiencing, DP&L is requesting approval to defer the retail-jurisdictional share of the**  
12 **fuel and fuel-related costs described above that exceed amounts currently reflected in**  
13 **rates.**

14 **Q. Does this conclude your direct testimony?**

15 **A. Yes, it does.**



**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

**THE DAYTON POWER AND LIGHT COMPANY  
CASE NO. 08-1094-EL-SSO**

**Book I – Standard Offer**

**DIRECT TESTIMONY  
OF TIMOTHY G. RICE**

- ☐ **MANAGEMENT POLICIES, PRACTICES, AND ORGANIZATION**
- ☒ **OPERATING INCOME**
- ☒ **RATE BASE**
- ☒ **ALLOCATIONS**
- ☐ **RATE OF RETURN**
- ☒ **RATES AND TARIFFS**
- ☐ **OTHER**

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

**DIRECT TESTIMONY OF**

**TIMOTHY G. RICE**

**ON BEHALF OF  
THE DAYTON POWER & LIGHT COMPANY**

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1 **I. INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. My name is Timothy G. Rice and my business address is 1065 Woodman Drive, Dayton,  
4 Ohio, 45432

5 **Q. By whom and in what capacity are you employed?**

6 A. I am employed by The Dayton Power and Light Company (“DP&L” or the “Company”)  
7 as Vice President, Assistant General Counsel and Corporate Secretary.

8 **Q. Will you describe briefly your educational and business background?**

9 A. I received a Bachelor of Arts degree in Political Science from Ohio Northern University  
10 in Ada, Ohio, in 1976. I received a Juris Doctor degree also from Ohio Northern in 1979.  
11 I am licensed to practice law in the State of Ohio and in the U.S. District Court for the  
12 Southern District of Ohio, the Sixth Circuit Court of Appeals and the United States  
13 Supreme Court. I have been employed by DP&L since 1985 in various positions within  
14 the Legal Department, including Attorney II, Senior Attorney, Associate Counsel,  
15 Assistant General Counsel, and Vice President, Assistant General Counsel and Corporate  
16 Secretary, my present position.

17 **Q. How long have you been Vice President, Assistant General Counsel and Corporate  
18 Secretary?**

19 A. I assumed my present position in February 2008.

20 **Q. What are your responsibilities in your current position and to whom do you report?**

A. I provide legal services to DP&L primarily in the financial areas, including bonding, mortgage administration, tax, ERISA, and corporate matters. I am also involved with the corporate governance and corporate compliance areas, including compliance with reporting obligations to the Securities and Exchange Commission and the New York Stock Exchange. Further, I serve as the Secretary to the Company's Board of Directors. I report directly to the Senior Vice President and General Counsel.

**Q. Have you previously provided testimony before the Public Utilities Commission of Ohio ("PUCO" or the "Commission")?**

A. Yes. I provided direct testimony in support of the Company's initial Corporate Separation Plan, in Case No. 99-1687-EL-ETP.

**II. SUBJECT OF TESTIMONY**

**Q. What is the purpose of your testimony in this proceeding?**

A. My testimony sponsors DP&L's Second Amended Corporate Separation Plan in this proceeding, which remains substantially unchanged and consistent with the Commission's Rules and prior orders. The Second Amended Corporate Separation Plan is attached as Exhibit 4 to Book I. Additionally, my testimony supports the Notice of intent to transfer selected DP&L generating assets, and further supports the amendment of services that the Company can provide to customers as a result the General Assembly's approval of S.B. 221.

**III. DP&L'S SECOND AMENDED CORPORATE SEPARATION PLAN**

**Q. Is DP&L currently in compliance with its Amended Corporate Separation Plan dated February 28, 2000?**

**A. Yes. DP&L has functionally separated its businesses of providing noncompetitive retail electric service from its businesses of providing competitive retail electric service and services other than retail electric service. DP&L has implemented and complied with the Code of Conduct that governs its financial and other relationships with its affiliates, and DP&L has maintained a Cost Allocation Manual.**

**Q. Under the Second Amended Corporate Separation Plan, will necessary separation of functions be maintained?**

**A. Yes. DP&L and its affiliates will continue to provide noncompetitive retail electric services and products or services other than retail electric service separately from either (i) a competitive retail electric service or (ii) a non-electric product or service in accordance with a Commission-approved Corporate Separation Plan, except as otherwise expressly permitted by state statute.**

**Q. Please describe DP&L's proposed Second Amended Corporate Separation Plan.**

**A. DP&L plans to maintain functional separation of its businesses of providing competitive retail electric service and non-electric products and services, from its business of providing noncompetitive retail electric service and products or services other than retail electric service, except as authorized by a Commission-approved Corporate Separation Plan and except as expressly authorized by state statute. DP&L will continue to operate**

all such businesses under a Code of Conduct and separately account for each business with a Cost Allocation Manual, to avoid any cross-subsidies. DP&L will implement a revised education plan that provides the opportunity (either on-line or in person) for each employee to receive training to better understand employee obligations under DP&L's Second Amended Corporate Separation Plan.

**IV. GENERATING ASSETS**

**Q. Does DP&L intend to transfer any rights it owns in generation facilities?**

A. Yes it does. DP&L is a 4.9% shareholder in the Ohio Valley Electric Corporation ("OVEC"), a company created in 1952 by several utilities in the region to provide power to a uranium enrichment facility near Portsmouth, Ohio for the Atomic Energy Commission ("AEC" n.k.a. the United States Department of Energy). OVEC signed a power agreement with the AEC, which provided for excess energy sales to the utilities that created OVEC that were not otherwise used by the AEC. That power agreement between OVEC and AEC was terminated in April 2003, making the entire output of OVEC available to the owner-utilities in proportion to their respective ownership interest. DP&L's investment in OVEC has not been and is not currently in DP&L's rate base. These contractual and shareholder rights are not subject to the transfer restrictions of Ohio Rev. Code § 4928.17(E). The reason is that Ohio Rev. Code § 4928.17(E) as recently amended restricts an electric utility from transferring "generating assets it wholly or partially owns" without obtaining the Commission's prior approval. DP&L does not own any of the generating assets of OVEC. Rather, it has the contractual right to receive electric power from OVEC proportionate to its shareholder interest. While DP&L does

not believe that it is required to obtain approval from the PUCO to transfer “contractual” rights as opposed to “ownership rights”, DP&L is nonetheless providing notice of its intent to transfer these contractual rights to DPLE.

**Q. Does DP&L intend to transfer any other rights it owns in generation facilities?**

A. Yes, it does. DP&L currently owns three peaking unit stations, commonly called Tait Units 1-3, that were constructed after DP&L's last formal electric rate case in 1991. These peaking facilities are currently not in rate base. These peaking units are natural gas-fired and have a nominal generating capacity in the aggregate of 240 MW, and a summer capacity in the aggregate of approximately 219 MW. Currently, Ohio law, including S.B. 221, does not address the treatment of generating assets owned by the Company but not assigned to the Company's retail load, and not included in rate base. Accordingly, the Company gives notice of its intent to transfer these assets to its unregulated affiliate DPLE.

**V. EXPANSION OF SERVICES PERFORMED BY DP&L**

**Q. Why is DP&L proposing to provide expanded services?**

A. Under Ohio Rev. Code § 4905.31 as recently amended, DP&L has the authority to enter “into any reasonable arrangements with. . . one or more of its customers, consumers or employees providing for any of the following. . . (E) Any other financial device that may be practicable or advantageous to the parties interested.” Pursuant to that section, DP&L is seeking the authority to provide “behind the meter” services that will be of value to DP&L's distribution customers.

105 Q. What types of special services does DP&L intend to provide its customers?

106 A. DP&L proposes to provide special services including, but not limited to, the following:  
107 designing and constructing customer-owned electric facilities; addressing power quality  
108 issues on customer equipment; performing customer equipment maintenance; providing  
109 entrance cable repair; disconnecting and refastening customer-owned equipment; and  
110 providing restorative temporary underground service.

111 Q. How will the customer know that someone other than DP&L can perform such  
112 special services?

113 A. DP&L's tariff will state that no approved special services can be provided to the customer  
114 until DP&L first notifies the customer that other suppliers may supply this same service.

115 Q. How will DP&L account for the rendition of any special services?

116 A. DP&L will provide such approved special services at a rate negotiated with the customer,  
117 but in no case will the negotiated rate be less than on a fully-allocated cost basis. Further,  
118 such special services will be provided only if their provision does not unduly interfere  
119 with DP&L's obligation to serve its customers.

120 VI. **CONCLUSION**

121 Q. Does this conclude your pre-filed direct testimony?

122 A. Yes it does.



**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

**THE DAYTON POWER AND LIGHT COMPANY  
CASE NO. 08-1094-EL-SSO**

**Book I – Standard Offer**

**DIRECT TESTIMONY  
OF DONA R. SEGER-LAWSON**

- **MANAGEMENT POLICIES, PRACTICES, AND ORGANIZATION**
- **OPERATING INCOME**
- **RATE BASE**
- **ALLOCATIONS**
- **RATE OF RETURN**
- **RATES AND TARIFFS**
- **OTHER**

**BEFORE THE**  
**PUBLIC UTILITIES COMMISSION OF OHIO**  
**DIRECT TESTIMONY OF**  
**DONA R. SEGER-LAWSON**  
**ON BEHALF OF**  
**THE DAYTON POWER & LIGHT COMPANY**

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1    **I.                    INTRODUCTION**

2    **Q.        Please state your name and business address.**

3    **A.        My name is Dona R. Seger-Lawson. My business address is 1065 Woodman Drive,**  
4                **Dayton, Ohio 45432.**

5    **Q.        By whom and in what capacity are you employed?**

6    **A.        I am employed by The Dayton Power and Light Company ("DP&L" or "Dayton" or the**  
7                **"Company") as Director, Regulatory Operations.**

8    **Q.        Will you describe briefly your educational and business background?**

9    **A.        I received a Bachelor of Science degree in Business Administration with majors in**  
10               **Finance and Management from Wright State University in Dayton, Ohio in 1992. I**  
11               **achieved a Master in Business Administration with a Finance Administration**  
12               **concentration also from Wright State University in August of 1997. I have been**  
13               **employed by DP&L in the Regulatory Operations division since 1992.**

14   **Q.        How long have you been Director of Regulatory Operations?**

15   **A.        I assumed my present position on August 25, 2002. Prior to that time, I held various**  
16               **positions in the Rates/Pricing Services/Regulatory Operations division, my most recent**  
17               **prior position being that of Manager, Regulatory Operations, beginning in February 2001.**

18   **Q.        What are your responsibilities in your current position?**

19   **A.        I have overall responsibility for all base rate development, for both retail and wholesale**  
20               **electric rates. I am responsible for evaluating regulatory and legislative initiatives, and**

regulatory commission orders that impact the Company's retail and wholesale rates and overall regulatory operations.

**Q. Have you previously provided testimony before the Public Utilities Commission of Ohio ("PUCO" or the "Commission")?**

**A. Yes. I have sponsored testimony in Case No. 99-220-GA-GCR; Case No. 00-220-GA-GCR; DP&L's Electric Transition Plan, Case No. 99-1687-EL-ETP; DP&L's Extension of the Market Development Period Case No. 02-2779-EL-ATA; in Opposition to the Complaints in Cases Nos. 03-2405-EL-CSS, and 04-85-EL-CSS; and in the Company's Rate Stabilization Period Case No. 05-276-EL-AIR.**

**II. PURPOSE OF TESTIMONY**

**Q. What are the purposes of your testimony in this proceeding?**

**A. The purposes of my testimony are to support the Chapters 1 and 2 of DP&L's Book I - Standard Offer, as well as the rate-related portions of Chapter 5 related to Fuel. Further, I support the changes to Tariff Sheet No. G9, Competitive Retail Generation Service, which contains the proposed changes relating to Government Aggregation as discussed below.**

**III. STANDARD SERVICE OFFER**

**Q. Under what provisions of the Ohio Revised Code ("ORC") is DP&L providing its standard service offer ("SSO")?**

**A. DP&L proposes through this filing to comply with ORC §§ 4928.141(A) and 4928.143(D). Accordingly, DP&L's SSO will reflect the terms, conditions, and rates**

42 consistent with the Company's current rate plan that runs through December 31, 2010,  
43 the Rate Stabilization Plan ("RSP") Stipulation in case No. 05-276-EL-AIR, adjusted for  
44 costs that are not being recovered under the current rate plan. Specifically, the Company  
45 is seeking incremental recovery of costs related to compliance with ORC 4928.64  
46 (Alternative energy requirements), and compliance with ORC 4928.66 (Energy efficiency  
47 requirements), and deferral of costs associated with compliance with ORC 4928.141  
48 (standard service offer/default service) for the continuation period of the Rate  
49 Stabilization Plan.

50 **Q. Can you describe where in this filing the incremental recovery or deferral of costs**  
51 **DP&L is seeking?**

52 **A. Yes. Consistent with ORC § 4928.143(D), DP&L is proposing incremental adjustments**  
53 **that are not currently being recovered under the rate plan: 1) alternative energy**  
54 **compliance costs for the Company's efforts to comply with ORC § 4928.64 (see Book III**  
55 **of this filing), 2) energy efficiency and infrastructure modernization costs in an effort to**  
56 **comply with ORC § 4928.66 (see Book II of this filing), 3) costs to comply with SB 221**  
57 **SSO and default service related to fuel costs that exceed the amount currently being**  
58 **recovered in rates (see Chapter 5 of Book I of this filing), and 4) costs related to**  
59 **implementing the economic development tariffs and programs to comply with proposed**  
60 **OAC § 4901:1-38 (see Chapter 3 of Book I of this filing and supporting Testimony of**  
61 **DP&L Witness Wagner).**

62 **Q. How does this proposal comply with ORC § 4928.143(D)?**

63     **A.**     For reference, that section of the Code states in pertinent part:

64             “the utility may include in its electric security plan under this section, and the  
65             commission may approve, modify and approve, or disapprove . . .provisions for the  
66             incremental recovery or the deferral of any costs that are not being recovered under the  
67             rate plan and that the utility incurs during that continuation period to comply with section  
68             4928.141, division (B) of section 4928.64, or division (A) of section 4928.66 of the  
69             Revised Code.”

70             The above-listed costs are all incremental adjustments and are not being recovered under  
71             the Company’s current rate plan (the RSS Stipulation).

72     **Q.**     **Are the components of DP&L’s existing rate plan it seeks to continue publicly**  
73             **available?**

74     **A.**     Yes. DP&L’s existing RSP was approved by the Commission in its Opinion and Order  
75             dated December 28, 2005, in Case No. 05-276-EL-AIR. The November 3, 2005  
76             Stipulation and Recommendation filed in that same case number and adopted as modified  
77             by the Commission in the December 28, 2005 Opinion and Order is likewise publicly  
78             available and provides additional detail as to DP&L’s SSO.

79     **IV.             GOVERNMENT AGGREGATION**

80     **Q.**     **Is the Company planning to change the way that it addresses government**  
81             **aggregation in its terms and conditions of standard offer service?**

82     **A.**     Yes. DP&L proposes a revision of the terms and conditions contained in Tariff Sheet  
83             No. G9, Competitive Retail Generation Service, to require customers that return to

utility-supplied retail generation service, to do so at market-based rates. Those proposed changes are contained in a redlined version of DP&L's Tariff Sheet No. G9 as contained in Chapter 6 of this Book I - Standard Offer.

**Q. Why is the Company proposing to make this change at this time?**

**A.** ORC § 4928.20(I) and (J), as well as all elements of Ohio Electric Choice, are inconsistent with traditional, stable, cost-of-service based utility service. When large groups of customers leave SSO, whether through government aggregation programs or other types of aggregation, the Company and remaining native load SSO customers face financial risk as the Company is no longer serving those customers through traditional rates. Further, if and when the customers return to SSO at the end of the program term, the Company faces financial and operational risks if the Company is expected to procure power from the market to serve those returning customers at its existing fixed, average, SSO-tariffed rates.

The Commission has the authority pursuant to ORC §4928.143(B)(2)(d) to approve "terms, conditions, or charges relating to limitations on customer shopping for retail electric generation service . . . that would have the effect of stabilizing or providing certainty regarding retail electric service." In light of the risks described above, DP&L believes the Commission should approve terms and conditions of service that provide for stability for native load customers. DP&L's ability to offer traditional, stable, electric service to its native load customers is diminished by the risk associated with switching customers.

105 **Q. What are the terms and conditions under which returning customers will take**  
106 **service?**

107 **A. DP&L will file with the Commission in a separate tariff filing a new Tariff Sheet No.**  
108 **G23 to implement a new Adjustable Rate Tariff. By way of history, DP&L's proposed**  
109 **Adjustable Rate Tariff was originally filed in Case No. 01-1938-EL-ATA. The parties to**  
110 **that case never resolved the terms and conditions of service and the case was ultimately**  
111 **closed without approval of the proposed Tariff. DP&L's new Tariff Sheet No. G23 will**  
112 **reflect the fact that the Company is now a member of the PJM RTO and is subject to**  
113 **terms, conditions, and prices different from those previously established in the initial**  
114 **application for approval.**

115 **Q. Does this change affect the unavoidable generation charges assessed to DP&L's**  
116 **Customers that take service from a CRES Provider?**

117 **A. No. This does not affect the unavoidable generation charges assessed to DP&L's**  
118 **customers that take service from a CRES Provider pursuant to a large-scale government**  
119 **aggregation program, but does place the risk of market prices squarely with the customer**  
120 **that makes a choice to participate in such a program. By transferring market price risk**  
121 **directly to the customer that chooses to accept that risk, the Company has treated fairly its**  
122 **remaining SSO customers such that they are not adversely affected by a customer's**  
123 **election to choose to take generation service from a CRES Provider. Thus, the Company**  
124 **is proposing terms and conditions that have the effect of stabilizing prices to SSO**  
125 **customers while placing the risk on the customer that causes it.**



**V. FUEL**

**Q. Does DP&L currently have an Electric Fuel Clause in effect?**

**A. No. DP&L's last fuel clause case was in Case No. 99-0105-EL-EFC in 1999. Through that case, the Electric Fuel Component ("EFC") was fixed at 1.3 cents per kWh.**

**Q. What has happened since 1999?**

**A. When Senate Bill 3 was passed, EFC rates that were in effect at the time were frozen and combined with base rates to establish the generation rates at that time. In March of 2005, DP&L filed Case No. 05-276-EL-AIR to seek implementation of its Rate Stabilization Surcharge ("RSS"), to recover growing fuel, environmental, taxes, security, and cyber security costs. Through that case, DP&L justified jurisdictional retail fuel and purchased power cost of over \$88 million, in addition to other related expenses that in total exceeded \$117 million in the test period. The Stipulation in that case resulted in DP&L being authorized to recover approximately \$76 million of these expenses, or 0.5 cents per kWh, through the RSS rider and additional recovery for environmental expense through an Environmental Investment Rider ("EIR").**

**Q. What is the amount that is currently being recovered via rates for fuel?**

**A. When the Commission approved the RSS Stipulation it was clear to all parties that the RSS rate was a charge designed to compensate DP&L for being the provider of last resort. However, because the costs that were used to justify the RSS rider were fuel, fuel-related, taxes, security and cyber-security costs, one could conclude that a portion of the RSS charge was fuel and fuel-related. Because fuel and purchased power reflected**

approximately 75% of the costs that justified the RSS rider, one could argue that 75% of the RSS rider is related to fuel. However, through this filing, DP&L treats the RSS rate as reflective of fuel and fuel-related costs. Based on this proposition, which is favorable to customers, the total amount of fuel and purchased power costs currently being recovered in DP&L's jurisdictional retail rates, since January 1, 2006, is 1.8 cents per kWh (EFC of 1.3 cents, plus RSS of 0.5 cents).

**Q. Why is DP&L seeking to defer fuel costs instead of seeking to recover them contemporaneously?**

**A.** In an effort to maintain and abide by DP&L's current rate plan, approved in the 2005 Case No. 05-276-EL-AIR, and to maintain current rates through the end of 2010, DP&L is seeking Commission approval to defer incremental costs associated with fuel, fuel-related, and purchased power that exceed the amount currently being recovered in rates, for the period January 1, 2009 through December 31, 2010.

**Q. When does the Company propose to recover these costs?**

**A.** DP&L proposes to recover these deferred costs over a ten-year period via a fuel recovery mechanism beginning January 1, 2011.

**VI. CONCLUSION**

**Q. Does this conclude your testimony?**

**A.** Yes, at this time.

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

**THE DAYTON POWER AND LIGHT COMPANY  
CASE NO. 08-1094-EL-SSO**

**BOOK I – Standard Offer**

**DIRECT TESTIMONY  
OF JOHN B. WAGNER, JR.**

- **MANAGEMENT POLICIES, PRACTICES, AND ORGANIZATION**
- **OPERATING INCOME**
- **RATE BASE**
- **ALLOCATIONS**
- **RATE OF RETURN**
- **RATES AND TARIFFS**
- **OTHER**

**BEFORE THE**  
**PUBLIC UTILITIES COMMISSION OF OHIO**  
  
**DIRECT TESTIMONY OF**  
  
**JOHN B. WAGNER, JR.**  
  
**ON BEHALF OF**  
**THE DAYTON POWER AND LIGHT COMPANY**

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**I. INTRODUCTION**

**Q. Please state your name and business address.**

A. My name is John B. Wagner, Jr. My business address is 1065 Woodman Drive, Dayton, Ohio 45432

**Q. By whom and in what capacity are you employed?**

A. I am employed by The Dayton Power and Light Company ("DP&L" or "Company") as the Manager, Retail Pricing.

**Q. How long have you been in your present position?**

A. I assumed my present position in March of 2008. Prior to that, I held various positions as a rate/regulatory consultant and as a Director of Regulatory Services for Southern Maryland Electric Cooperative.

**Q. What are your responsibilities in your current position and to whom do you report?**

A. In my current position, I am responsible for the administration of rates, the development of new retail rates and for providing regulatory support. I report to the Director of Regulatory Operations of DP&L.

**Q. Will you describe briefly your educational and business background?**

A. Yes. I received a BS degree in Business Administration from The University of South Carolina in 1976. I have worked exclusively as a utility rate specialist for the past 32 years, most of that time as a Vice President of a major consulting firm. I have also worked as an independent rate/regulatory consultant and as Director of Regulatory Services for an electric utility. Please see my Exhibit JBW - 1 for a more complete summary of my professional experience.

1   **Q.    Have you previously provided testimony before the Public Utilities Commission of**  
2           **Ohio ("PUCO" or the "Commission"), or any other federal, state or local**  
3           **regulatory authority?**

4   **A.    Yes. I have sponsored testimony before numerous regulatory authorities. Please see my**  
5           **Exhibit JBW – 1 for a complete list of my appearances as an expert witness. I am also**  
6           **testifying in Book II, the Customer Conservation and Energy Management component of**  
7           **the case.**

8   **Q.    What is the purpose of this testimony?**

9   **A.    The purpose of this testimony is to support and explain DP&L's application for approval**  
10          **of its Economic Development Arrangements.**

11   **Q.    What Chapter and Schedules are you supporting?**

12   **A.    I am supporting Chapter 3, the Economic Development Plan in this case and Schedule A-**  
13          **1 which is the economic development cost summary, Schedule A-2 which is the**  
14          **calculation of the Economic Development Cost Recovery Rider, Schedule E-5 which is**  
15          **the typical bill comparison between 2009 rates and 2009 rates adjusted for the Economic**  
16          **Development Cost Recovery Rider, and Workpaper WPA-1 which is the initial estimate**  
17          **of customer discounts. I am also supporting Tariff Sheet No. D41 which is the Economic**  
18          **Development Cost Recovery Rider and Exhibit 3, which is the Economic Development**  
19          **Application. Finally, I support the Company's Operational Support Plan.**

20   **II.    DP&L'S ECONOMIC DEVELOPMENT ARRANGEMENT POLICY**

21   **Q.    Can you please describe the purpose of DP&L's Economic Development**  
22          **Arrangements and describe how process for PUCO approval would work?**

A. Yes. The General Assembly recently enacted Amended Substitute Senate Bill 221. That law included a requirement that all effected utilities make available economic development arrangements. In each case, an applicant would have to provide data to the PUCO for consideration and the PUCO would determine if the applicant qualifies for an economic development arrangement and the level of discount awarded. DP&L would act in support of the process providing data and accompanying the applicant to the PUCO to present their information. Based on the PUCO's rules, each application for economic development, energy efficient manufacturing and special arrangements will have to be approved by the PUCO, DP&L will act only in support of the process. The PUCO's rules provide guidelines that will help the applicants develop their case with the PUCO.

Q. Can you summarize the components of the legislation that address economic development?

A. Yes. The law is specific that the purposes of its economic development program are to "facilitate the state's effectiveness in the global economy, to promote job growth and retention in the state, to ensure the availability of reasonably priced electric service, to promote energy efficiency and to provide means of giving appropriate incentives to technologies that can adapt successfully to environmental mandates in furtherance of the policy of the state of Ohio embodied in section 4928.02 of the Revised Code."

Q. Do DP&L's proposed Arrangements satisfy legislative requirements?

A. Yes. Our proposed arrangements are reflective of the Commission's proposed rules as delineated in case No. 08-777-EL-ORD.

Q. How has DP&L structured the components of its economic development plan?

A. DP&L's program is a package of different incentive plans. Specifically there are three different arrangement programs, two for Economic Development and an Energy

Efficiency manufacturing program. DP&L has also included a Recovery Rider as allowed by OAC 4901:1-38-08.

**Q. Please describe each section or schedule in detail.**

**A.** I will begin by addressing the programs which meet the Economic Development requirements set forth in OAC 4901:1-38-03, and work through the others in order.

### **III. DP&L's ECONOMIC DEVELOPMENT ARRANGEMENTS**

**Q. What is DP&L's plan for addressing the requirement for an Economic Development Arrangement?**

**A.** In response to the recently enacted state law and corresponding PUCO proposed rules, DP&L proposes to provide incentives to business concerns to spur economic development in its service territory, thereby benefiting all segments of its customer base and the state as a whole. There are two sub-categories to the economic development arrangement: one for new or expanding customers and one aimed at retaining existing customers that are likely to cease or to reduce operations. The "Unique Arrangement" category is broader and allows the PUCO more discretion in granting discounts to customers.

**Q. As to the first arrangement program, the one aimed at new or expanding businesses, what customers will qualify for a discount on electric rates under this arrangement?**

**A.** In order to qualify under the terms of this program the customer must fit into the parameters in the PUCO rules. The customer must submit an application along with verifiable information detailing how the criteria are met, and must provide an affidavit from a company official as to the veracity of the information provided.



**Q. What are the specific qualifications that must be demonstrated?**

**A. The specific qualifications are as follows:**

(1) Eligible projects must be for non-retail purposes. (2) At least twenty-five new, full-time jobs must be created within three years of initial operations. (3) The average hourly base wage rate of the new, full-time jobs must be at least one hundred fifty percent of the federal minimum wage. (4) The applicant must demonstrate financial viability. (5) The applicant must identify local (city, county), state, or federal support in the form of tax abatements or credits, jobs programs, or other incentives. (6) The applicant must identify potential secondary and tertiary benefits resulting from its project including, but not limited to, local/state tax dollars and related employment or business opportunities resulting from the location of the facility. (7) The applicant must agree to maintain operations at the project site for the term of the incentives.

**Q. If an applicant meets all of the stated requirements to qualify as a new or expanding business, what discount are they given?**

**A. Discounts will be determined by the PUCO after the applicant and DP&L have presented the relevant information to the PUCO for consideration.**

**Q. As to the second proposed Economic Development Arrangement, the one aimed at retaining existing businesses in danger of leaving the State, what customers will qualify for a discount on electric rates under this arrangement?**

**A. The goal of this Arrangement is to provide an incentive to Ohio-based businesses that are in danger of ceasing, reducing operations, or relocating their operations out-of-state. Under this Arrangement, eligible projects must be for non-retail purposes, the number of full-time jobs to be retained must be at least twenty-five, the average billing load (in kilowatts to be retained) must be at least two hundred fifty kilowatts, the customer must**

demonstrate that the cost of electricity is a “major factor” in its decision to cease, reduce, or relocate its facilities to an out-of-state site, the customer must identify any other local, state, or federal assistance sought and/or received in order to maintain its current operations, and the customer must agree to maintain its current operations for the term of the incentives.

Q. If an applicant meets all of the stated requirements to qualify as a business in danger of leaving the state, what discount are they given?

A. Like the New Customer Arrangement, the level of discount will be determined by the PUCO based on the data presented by the applicant and DP&L.

Q. One of the requirements of both of these programs is that an official from the customer’s company has to submit an affidavit. Why?

A. The law, and accordingly our proposed Arrangement, requires an applicant company to submit verifiable information detailing how the required criteria are met, and must provide an affidavit from a company official as to the veracity of the information provided. The affidavit helps to assure that the benefits of the law are provided only to customers that meet the requirements of the statute and will help determine the Commission’s ruling on each application.

#### IV. DP&L’S ENERGY EFFICIENCY MANUFACTURING ARRANGEMENT

Q. Please describe DP&L’s Energy Efficiency Manufacturing Arrangement.

A. DP&L proposes to support incentives to business customers that manufacture-energy-efficiency related equipment or components as described in the PUCO’s rules.

1 Q. What groups will qualify for a discount on electric rates under this Arrangement  
2 and what qualifications must be demonstrated?

3 A. The PUCO rules for this program require the customer to fit into certain parameters. The  
4 customer must submit an application along with verifiable information detailing how the  
5 criteria are met, and must provide an affidavit from a company official as to the veracity  
6 of the information provided.

7 Q. What are the specific qualifications that must be demonstrated?

8 A. The customer must be an energy-efficiency production facility as defined in Chapter  
9 4901:1-38-04 of the O.A.C. The customer must create at least ten new full-time or the  
10 equivalent of full-time jobs within three years of initial operations. The average hourly  
11 base wage rate of the new, full-time or full-time-equivalent jobs must be at least one  
12 hundred fifty percent of the federal minimum wage at the time of the application. The  
13 customer must demonstrate financial viability, and finally, the customer must agree to  
14 maintain operations at the site for the term of the incentives.

15 Q. What benefit will a qualifying customer receive under this Arrangement?

16 A. Discounts will be determined by the PUCO based on the data presented to the PUCO by  
17 the applicant and DP&L.

18 V. **DP&L'S COST RECOVERY TARIFF**

19 Q. Is DP&L seeking cost recovery for these programs?

20 A. Yes. According to O.A.C. 4901:1-38-08 each electric utility may apply for a rider for  
21 recovery of certain costs associated with its delta revenue related to these programs, and  
22 DP&L has included such a rider. As permitted by law, DP&L is requesting recovery of  
23 administrative costs related to the programs as part of the rider. Also, according to the

new law, the rider shall be spread among all customers in proportion to the current revenue distribution between and among classes, subject to change, alteration, or modification by the Commission.

**Q. How does DP&L propose to charge the Economic Development Cost Recovery Rider?**

**A. The Economic Development Cost Recovery Rider will be assessed on all kilowatt-hours (kWh) of electricity distributed by the Company at the rates stated below.**

Line	Tariff Class	Rider
1	Residential	0.0002931
2	Residential Heat	0.0002534
3	Secondary	0.0002333
4	Primary	0.0001151
5	Primary Substation	0.0000215
6	High Voltage	0.0000280
7	Street Lighting	0.0001489
8	Schools	0.0002676
9	Private Outdoor Lighting	0.0003638

Rates will be effective on a bills-rendered basis beginning with the Company's first cycle billing unit for the month of April 2009. The Cost Recovery Tariff will be assessed until the Company's expenses are fully recovered and the Company is proposing that it will be revised twice a year.

**Q. How did you calculate the initial recovery rate?**

**A. The initial Economic Development recovery rider amount is calculated on Schedule A-1, Schedule A-2 and Workpaper WPA-1. These amounts are based on estimated levels of**

program participation as well as DP&L's estimated additional billing costs and  
administration costs for the program.

**Q. Does DP&L have another pending application that relates to economic development?**

**A. Yes. DP&L currently has one application for a Building Redevelopment program pending before the PUCO in Case No. 07-1079-EL-ATA. This program's tariff is designed to encourage customers to redevelop existing facilities.**

**Q. How did DP&L propose recovery for the discounts provided through its Building Redevelopment program?**

**A. In Case No. 07-1079-EL-ATA, DP&L proposed deferral of all discounts provided for future recovery. The application in Case No. 07-1079-EL-ATA should be approved, and upon approval, DP&L requests that any such discounts provided in that program also be recoverable through the proposed Economic Development Recovery Rider.**

**Q. Have you developed a typical bill comparison for the Economic Development Cost Recovery Rider?**

**A. Yes. Schedule E-5 is a typical bill comparison between 2009 rates and 2009 rates adjusted for the economic development cost recovery rider.**

## **VI. PENALTY**

**Q. What if a customer applies and receives a benefit under this incentive structure but later fails to live up to the stated requirements?**

**A. If the customer fails to substantially comply with any of the criteria for eligibility, after reasonable notice, DP&L will terminate the arrangement. In conjunction with such**

termination DP&L may charge the customer for all or part of the incentives previously provided.

## **VII. OPERATIONAL SUPPORT PLAN**

**Q. What is the background of the Company's Operational Support Plan?**

**A.** DP&L proposed an Operational Support plan as part of its filing in Case No. 99-1687-EL-ETP. Through settlement negotiations the Company agreed to certain elements that were covered by the Operational Support Plan, and agreed to continue to work with interested parties in Case No. 00-813-EL-EDI to address other terms and conditions that govern the relationship between the utility and CRES providers that registered to serve retail customers within DP&L's service territory. The net effect of those cases is that the Company's Operational Support Plan is now embodied in DP&L Tariff Sheet No. G8, Alternate Generation Supplier Coordination Tariff. That tariff has since been modified, but remains in effect today and constitutes the Company's existing Operational Support Plan.

**Q. Has the Operational Support Plan been implemented and are there any outstanding problems with the implementation?**

**A.** The Company's Operational Support Plan has been implemented and it is not aware of any problems or issues with its implementation. The Company has upheld its obligations and requirements under its Operational Support Plan and is not aware of any unresolved or outstanding CRES Provider issues or complaints. DP&L would note, however, that when the Company's Operational Support Plan was developed, CRES Providers which are certified by the Commission were the only competitive service providers that existed. Since DP&L became a member of PJM, other competitive service providers have been

created. These newly-created entities market and coordinate curtailment services among customers and receive payments under various PJM Demand Reduction (DR) programs. The PUCO needs to consider certifying these entities just as it certifies CRES Providers to operate in Ohio. At the least, the Company will monitor developments at PJM regarding the operations and the business rules for these new market entrants and will modify its Operational Support Plan, if necessary, to accommodate the interaction with and data requirements of Curtailment Service Providers. It may become necessary to develop tariffs to recover the cost of serving Curtailment Service Providers, depending upon their activities in the Company's service territory and upon mandates placed on EDUs by PJM to serve their settlement needs and data requirements.

## **VIII. CONCLUSION**

**Q. Is there anything that you would like to say in conclusion?**

**A. Yes. In conclusion, I believe that The Company's proposed Arrangements fully comply with the mandates in, and the spirit of, the new law. I believe that it fully satisfies the PUCO rules and will in the end serve to benefit all residents of the State.**

**Q. Does this conclude your direct testimony?**

**A. Yes, it does.**

Please state your name, address and occupation.

My name is John B. Wagner, Jr. I am the Manager, Retail Pricing for the Dayton Power & Light Company (DP&L), 1065 Woodman drive, Dayton, OH. I am responsible for the administration and design of the Company's retail rates. I have been providing rate design, pricing, costing, energy efficiency and load research services for the past thirty years. I have appeared in several jurisdictions throughout the country. Page three of this exhibit lists my expert witness appearances.

I have served as an instructor for pricing and costing courses sponsored by the Electric Council of New England (ECNE), the American Public Gas Association (APGA) and INFOCAST.

Working with clients throughout the country, I have assisted in the establishment of energy efficiency programs and load research programs, developing methods for applying out of period and borrowed data for program evaluation and rate design. I have also worked with energy suppliers, local governments and community groups to retain key accounts as utility customers and local employers.

In 1976, I received my B.S. degree in Business Administration (concentrating in Accounting & Economics) from the University of South Carolina. That same year, I joined the firm of Gilbert Associates in the Cost and Load Analysis department as a Management Consultant. For the next eight years, I worked on accounting cost allocation projects, marginal cost studies, load research assignments and load management programs. During that period, I advanced to the level of Senior Consultant and Project Manager. In July of 1984, I left Gilbert to join the firm of Management Applications Consulting, Inc. (MAC) as a Principal and corporate Vice President. At MAC for the next 20 years I engaged in various regulatory projects supporting pricing and costing assignments with direct testimony. Prior to leaving MAC in 2005 I assumed the position of Chief Financial Officer of the Corporation.



I left MAC in 2005 to take the position of Director, Regulatory Services for the Southern Maryland Electric Cooperative (SMECO). While at SMECO I was responsible for developing and delivering the Company's regulatory strategy.

In 2006, I left SMECO to become an independent regulatory consultant providing expert testimony on a variety of rate and regulatory issues for both utility organizations and consumers.

I joined DP&L as Manager, Retail Pricing in March of this year. Since joining DP&L I have been involved with the Company's Customer Conservation and Energy Management project as well as rate administration and rate design.

## EXHIBIT JBW-1

### APPEARANCES AS EXPERT WITNESS JOHN B. WAGNER, JR.

<u>Jurisdiction</u>	<u>Docket</u>	<u>Company</u>	<u>Year</u>	<u>Description</u>
Maine PUC	2005-534	Bangor Hydro-Electric Company	2005	Redesign of Demand Rates
Maine PUC	01-245	Bangor Hydro-electric Company	2002	Stranded Cost Recovery in Fixed and Variable Charges and Rate Design
Maine PUC	01-245	Maine Public Service Company	2002	Stranded Cost Recovery in Fixed and Variable Charges and Rate Design
City of South River, NJ City Counsel	-----	South River Municipal Utility	1999	Strategic Utility Plan
Maine PUC	98-577	Maine Public Service company	1999	Restructuring and Rate Unbundling, Marginal Cost, Embedded Cost and Rate Design
Maine PUC	97-596	Bangor Hydro-Electric	1998	Restructuring and Rate Unbundling, Marginal Cost, Embedded Cost and Rate Design
City of Vineland, NJ City Counsel	-----	Vineland Municipal Utility	1996	Large Customer Retention
City of Vineland, NJ City Counsel	-----	Vineland Municipal Utility	1994	Economic Development
City of Vineland, NJ City Counsel	-----	Vineland Municipal Utility	1993	Revenue Requirements, Cost of Service, Marginal Cost, Rate Design, POD
City of Norwich, CT Board of Public Utilities	-----	Norwich Public Utilities	1993	Revenue Requirements, Cost Allocation, Marginal Cost, Rates
Maine PUC	91-168	Bangor Hydro-Electric Company	1991	Probability of Dispatch, Marginal Cost and Embedded Cost, Backup and Maintenance Rates
Maine PUC	89-68	Central Maine Power	1990	Probability of Dispatch
City of Vineland, NJ City Council	-----	Vineland Municipal Utility	1989	Revenue Requirements, Cost of Service, Marginal Cost, Rate Design, POD
City of Vineland, NJ City Council	-----	Vineland Municipal Utility	1988	Time of Day and Interruptible Rates
City of Denton, TX Utility Board, City Council	-----	Denton Public Utilities	1986	Water & Electric Revenue Requirements, Cost of Service, Rate Design, POD
Maine PUC	85-209	Bangor Hydro-Electric	1986	Marginal Cost
Ingahm County, Michigan Circuit Court	79-22776-CZ	Lansing Board of Water & Light	1983	Electric Rate Design and Customer Classification
City of Denton, TX Utility Board, City Council	-----	Denton Public Utilities	1983	Revenue Requirements, Cost of Service, Rate Design
City of Vineland, NJ City Council	-----	Municipal Electric Utility	1981	Revenue Requirements, Cost of Service, Rate Design, POD
Borough of Wyomissing, PA, Borough Council	-----	Water Department	1980	Revenue Requirements and Rate Design