

FILE

OCC EXHIBIT NO. _____

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The) Case No. 08-1094-EL-SSO
Dayton Power and Light Company for)
Approval of Its Electric Security Plan.)

In the Matter of the Application of the) Case No. 08-1095-EL-ATA
Dayton Power and Light Company for)
Approval of Revised Tariffs.)

In the Matter of the Application of the)
Dayton Power and Light Company for) Case No. 08-1096-EL-AAM
Approval of Certain Accounting Authority)
Pursuant to Ohio Rev. Code § 4905.13.)

In the Matter of the Application of The) Case No. 08-1097-EL-UNC
Dayton Power and Light Company for)
Approval of Its Amended Corporate)
Separation Plan.)

**DIRECT TESTIMONY
of
AMR A. IBRAHIM**

**ON BEHALF OF THE
OFFICE OF THE OHIO CONSUMERS' COUNSEL**
*10 West Broad St., Suite 1800
Columbus, OH 43215*

January 26, 2009

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1 **I. INTRODUCTION**

2

3 **Q1. PLEASE STATE YOUR NAME, ADDRESS AND POSITION.**

4 **A1.** My name is Amr A. Ibrahim. My business address is 10 West Broad Street, Suite
5 1800, Columbus, Ohio, 43215. I am employed by the Office of the Ohio
6 Consumers' Counsel ("OCC" or "Consumers' Counsel") as a Senior Regulatory
7 Analyst.

8

9 **Q2. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
10 **PROFESSIONAL EXPERIENCE.**

11 **A2.** I received a B.A (Accounting) from Cairo University in 1975, M.A (Economics)
12 from the American University in Cairo in 1981, and a PhD (Economics) from the
13 University of Sussex, UK, in 1988. I am a member of the International
14 Association of Energy Economics ("IAEE"). Prior to joining OCC in October of
15 2008, I worked as an independent Consultant with several entities in the US and
16 overseas. Further, I have worked for several years (2002 – 2006) as a Senior
17 Analyst, Market and Regulatory Practices, for the Independent System Operator
18 of New England ("ISO-NE"). Additionally, I have been a Manager, then a
19 Director, Regulatory Affairs in Enron Corporation from 1997 to 2001. I was also
20 a Senior Rate Policy Analyst with BChydro (British Columbia, Canada) from
21 1990 to 1997 in which I performed cost of service studies, and rate design.

Q3. PLEASE DESCRIBE YOUR EXPERIENCE DIRECTLY RELATED TO THE TOPICS DISCUSSED IN YOUR TESTIMONY.

A3. I have worked for several years in rates and cost of service studies analysis during which I was involved in providing technical and analytical support regarding various rate and cost of service filings. Part of this work involved reviewing the applicability of what was commonly referenced at that time (1990 – 1995) as “innovative rate designs” like voluntary and non-voluntary curtailable load tariffs, standby and backstopping rates, wheeling rates, green rates, and economic development initiatives. I performed similar work (e.g., conducting fully allocated cost of service studies, and rate design) for systems outside North America in the course of working for Enron Corporation and as a consultant. Additionally, since joining OCC as a member of the Analytical Services department, I have provided an affidavit in the FERC Docket Nos. ER09-134-000, *et al.* which deal, in part, with the status of providing competitive electricity service and government aggregation in the state of Ohio.¹

Q4. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO?

A4. No, I have not previously submitted testimony before the Public Utilities Commission of Ohio (“Commission” or “PUCO”).

¹ *First Energy Solution Corp., et al.*, Docket Nos. ER-09-134-000, ER09-135-000, ER09-136-000, and ER09-137-000, Affidavit of Amr A. Abriham (November 14, 2008).

Q5. WHAT DOCUMENTS HAVE YOU REVIEWED IN THE PREPARATION OF YOUR TESTIMONY?

A5. I have reviewed the relevant sections on the Economic Development Plan and Government Aggregation in Book I of Dayton Power and Light's ("Company" or "DP&L") October 10, 2008 Electric Security Plan application ("ESP Application") and its supplement filed on December 5, 2008. I have also reviewed sections of the testimony of DP&L witnesses Wagner and Seger-Lawson, the relevant Company responses to OCC discovery and Commission Staff data requests; sections of Amended Substitute Senate Bill No. 221 ("SB 221"), Section 4929.20(J) of Ohio Rev. Code and OAC 4901:1-38 as adopted in the Commission's September 17, 2008 Finding and Order in Case No. 08-777-EL-ORD. I also reviewed parts of the Commission's Opinion and Orders in Cincinnati Gas & Electric Case No. 91-410-EL-AIR, Cleveland Electric Illuminating and Toledo Edison Case Nos. 95-299-EL-AIR and 95-300-EL-AIR, Ohio Edison, Cleveland Electric Illuminating and Toledo Edison Case No. 08-935-EL-SSO, and Duke Energy Ohio Case Nos. 08-920-EL-SSO et al.

II. PURPOSE OF TESTIMONY AND RECOMMENDATIONS

Q6. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A6. My testimony pertains to two issues, the Economic Development Plan and the treatment of Aggregation. I performed an analysis of the Economic Development Plan and the treatment of Governmental Aggregation proposed by DP&L.

1 ***Q7. WHAT ARE YOUR RECOMMENDATIONS?***

2 ***A7. For the Economic Development Plan, I make the following recommendations:***

3

4 (1) maintain the 50%/50% split of delta revenues between the consumers and
5 shareholders consistent with the previous decisions of the Commission;
6 and

7 (2) that the initial Economic Development Rider be set to zero until the
8 Commission approves any economic development application pursuant to
9 its rules.²

10

11 For the treatment of Aggregation, I recommend that: (1) DP&L's new
12 Adjustable Rate Tariff (Tariff Sheet G23) be incorporated into this proceeding,
13 (2) the Commission order DP&L to allow electric choice residential customers
14 returning to DP&L to self-select either the Standard Service Offer or the Market-
15 Based Rate if they were taking generation service from Governmental
16 Aggregators while paying DP&L's "Rate Stabilization Surcharge—G25" ("RSS-
17 G25") as contained in Tariff Sheet G9; and (3) the Commission order DP&L to
18 allow future residential customers to self select the subscription to RSS-G25 if
19 they prefer to take service from Governmental Aggregators. Finally, I
20 recommend that customer who elect not to pay RSS-G25, and then would like to
21 return to generation service from DP&L, would only be offered Market-based

² See, 4901:1-38-03(C)(1) and (2), and 4901:1-38-04(B)(1) and (2) in the Commission's Finding And Order *In The Matter of the Adoption of Rules for Standard Service Offer, Corporate Separation, Reasonable Arrangements, and Transmission Riders for Electric Utilities*, Case No. 08-777-EL-ORD. Also, see footnote 3.

1 Rates. Customers who elect to pay RSS-G25 and then would like to return to
2 service from DP&L would self-select either the Standard Service Offer or the
3 Market-based Rate.

4
5 **III. DAYTON POWER AND LIGHT'S ECONOMIC DEVELOPMENT PLAN**

6
7 ***Q8. PLEASE DESCRIBE DP&L'S ECONOMIC DEVELOPMENT PLAN.***

8 ***A8.*** DP&L plans to satisfy the requirements of OAC 4901:1-38 for economic
9 development arrangements for three different sets of customers:³ (1) new or
10 expanding customers ("New Customer"); (2) Customers likely to cease, reduce
11 operations or relocate ("Customer Retention"); (3) New or expanding energy
12 efficiency production facilities ("EE Facilities").⁴ Additionally, DP&L's
13 Economic Development Plan also encompass arrangements for those customers
14 who qualify under OAC 4901:1-38-05 for "Unique Arrangements."⁵

15
16 ***Q9. WHEN WOULD DP&L'S ECONOMIC DEVELOPMENT PLAN BECOME***
17 ***EFFECTIVE?***

³ The testimony relies on the rules as promulgated by the Commission on September 17, 2008. These rules were filed with the Joint Committee on Agency Rule Review ("JCARR") on December 23, 2008 and subsequently withdrawn by the Commission. To the extent that any changes in these rules are made, I reserve the right to supplement my testimony to reflect these changes.

⁴ "Energy Efficiency production facilities" is a defined term in OAC 4901:1-38-01. It means any customer that manufactures or assembles products that promote the more efficient use of energy (i.e., increase the ratio of energy end use services (i.e., heat, light, and drive power) derived from a device or process to energy inputs necessary to derive such end use service as compared with other devices or processes that are commonly installed to derive the same energy use service); or, any customer that manufacturers assembles or distributes products that are used in the production of clean, renewable energy.

⁵ *In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan, et. al.*, Application Book 1, Chapter 3: Economic Development Plan at 13.

1 **A9.** For the purpose of its ESP Application, DP&L assumed that the Economic
2 Development Plan would begin on April 1, 2009, with cost recovery beginning
3 that day as well.⁶ DP&L's proposed recovery of costs related to its Economic
4 Development Plan (through a rider that is discussed further below) has been
5 allocated to the various tariff classes based on the revenue recovered from each
6 tariff class in 2007.⁷ The cost recovery rider is non-bypassable by shopping
7 customers although DP&L intends to make the Economic Development Plan only
8 available to those taking the DP&L's Standard Service Offer ("SSO") for
9 generation.⁸ The cost recovery rider shall be revised twice a year, and may be
10 adjusted to cover the variance between the actual incurred costs and revenue
11 collection (in addition to anticipated costs for the next time period).⁹

12
13 **Q10. PLEASE DESCRIBE THE LEVEL OF INCENTIVES FOR EACH**
14 **ELIGIBLE CUSTOMER GROUP INCLUDED IN DP&L'S ECONOMIC**
15 **DEVELOPMENT PLAN.**

16 **A10.** DP&L highlights in its ESP Application that the incentives in the Economic
17 Development Plan shall be determined by the Commission. However, for the
18 purpose of its filing and to arrive at the economic development cost recovery
19 rider, DP&L suggested the following incentives:¹⁰

⁶ Id at 16.

⁷ Id. at 16.

⁸ Id. at 9.

⁹ Id. at 15, 16.

¹⁰ Book I – Standard Offer – Chapter 3: Economic Development Plan, Exhibit 3 at 1.

- 1 – New customers: 10% discount off all revenues.
- 2 – Expanding Customers: 20% discount off all historical revenues.
- 3 – Customer Retention: 10% discount off all revenue.
- 4 – Energy Efficiency Production Facility: 5% discount off historical revenue
- 5 level and 20% discount off additional revenue.
- 6 – Unique Arrangement: A direct estimate made by DP&L of incentives
- 7 equal to \$1,500,000.

8

9 ***Q11. DID DP&L PROVIDE ESTIMATES OF THE NUMBER OF CUSTOMERS***

10 ***WHO WILL BENEFIT FROM THE INCENTIVES IN THE ECONOMIC***

11 ***DEVELOPMENT PLAN?***

12 ***A11.*** Yes. In DP&L Workpaper WPA-1, the estimated numbers of eligible customers

13 for 2009 were as follows:

- 14 – New customers: Seventy seven customers by assuming 50% of all new
- 15 three-phase facilities would qualify for the program.¹¹
- 16 – Expanding Customers: Twelve customers by estimating that 10% of
- 17 facilities that underwent electrical upgrade projects in the last year or
- 18 approximately one customer per month would qualify.¹²
- 19 – Customer Retention: Five customers based on their estimate that very few
- 20 customers could reasonably qualify for this program.¹³

¹¹ Exhibit AAI-1, DP&L response to OCC Interrogatory (Second Set) No.18.

¹² Exhibit AAI-2, DP&L response to OCC Interrogatory, Second Set No. 20.

¹³ Exhibit AAI-3, DP&L response to OCC Interrogatory, Second Set No. 22.

- 1 – Energy Efficiency Production Facility: Ten customers based on the
2 estimation that while there is approximately “2,500 customers that meet
3 the load requirements; however very few meet the energy efficiency
4 requirements and therefore very few customers would qualify for the
5 program.”¹⁴
- 6 – Unique Arrangement: DP&L did not provide an estimate for the number
7 of eligible customers. However, it stated that “\$1.5 million for unique
8 arrangements is a reasonable estimate for this discount. DP&L estimates
9 that the majority of qualifying customers would be of substantial size.”¹⁵

10

11 ***Q12. NOTWITHSTANDING THESE ESTIMATES, ARE THERE ANY***
12 ***CUSTOMERS CURRENTLY BENEFITING FROM THE INCENTIVES IN***
13 ***THE ECONOMIC DEVELOPMENT PLAN?***

14 ***A12.*** No. There are no customers currently benefiting from the incentives in the
15 Economic Development Plan.

16

17 ***Q13. PLEASE DESCRIBE THE COMPONENTS OF COSTS DP&L PROPOSES***
18 ***TO RECOVER THROUGH ITS ECONOMIC DEVELOPMENT COST***
19 ***RECOVERY RIDER.***

20 ***A13.*** The costs DP&L seeks to recover through the Economic Development Cost
21 Recovery Rider are: (1) Annual Delta Revenue, and (2) direct administrative

¹⁴ Exhibit AAI-4, DP&L response to OCC Interrogatory, Second Set No. 24.

¹⁵ Exhibit AAI-5, DP&L response to OCC Interrogatory, Second Set No. 26.

1 costs.¹⁶ Delta Revenue (a defined term in Chapter 4901:1-38(01)(C) which means
2 “the deviation resulting from the difference in rate levels between the otherwise
3 applicable Tariff Sheet and the result of any reasonable arrangement approved by
4 the commission”) were estimated in DP&L’s Book I Workpaper WPA-1 to be
5 \$2,698,308 for 2009.

6
7 To this annual Delta Revenue estimate of approximately \$2.7 million, DP&L
8 added their estimate of the direct administrative costs associated with the
9 program. DP&L has revised its initial estimate of the administrative costs (more
10 accurately, incremental accounting expenses associated with the program and
11 information technology related costs) to \$372,920.¹⁷ Accordingly, DP&L’s total
12 requested recovery from rate payers through the initial Economic Development
13 Cost Recovery Rider is \$3,071,228.

14
15 ***Q14. DID DP&L REFLECT COST SAVINGS IN ITS CALCULATIONS?***

16 ***A14.*** No. It is important to highlight that in determining cost to be recovered through
17 the Economic Development Cost Recovery Rider, DP&L did not include a
18 component to reflect any savings accruing to DP&L as a result of the Economic
19 Development Plan that should be an offset to the recovery of the delta revenue.

20 This is required by Commission Rules:

¹⁶ *In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan, et. al.*, Application Book 1, Chapter 3: Economic Development Plan at 15.

¹⁷ See, Exhibit AAI-6, DP&L response to OCC Interrogatory, Second Set No. 29.

1 For reasonable arrangements in which incentives are given based upon
2 cost savings the electric utility (including, but not limited to, nonfirm
3 arrangements, on/off peak pricings, seasonal rates, time-of day-rates, real-
4 time-pricing rates), the cost savings shall be an offset to the recovery of
5 the delta revenues.”¹⁸

6
7 This offset, had it been accounted for, would have reduced the delta revenue, and
8 hence, the costs included in the Cost Recovery Rider to be paid by all of DP&L's
9 customer classes.

10
11 **Q15 ARE THERE EXPECTATIONS OF ANY COST SAVINGS (AND/OR**
12 **REVENUE ENHANCEMENTS) AS A RESULT OF THE PROPOSED**
13 **ECONOMIC DEVELOPMENT PLAN THAT SHOULD BE AN OFFSET TO**
14 **THE RECOVERY OF THE DELTA REVENUE?**

15 **A15** Yes, there should be. DP&L's Economic Development Plan encompasses
16 incentives to attract new eligible customers that may not have started operations,
17 located to the service territory of the utility, or expanded /retained their
18 operations. Further, *Unique Arrangements are bound to enhance the operations*
19 *of the eligible mercantile customers.* These incentives will benefit the State of
20 Ohio through enhanced economic development and job creating/retention. The
21 same incentives shall also benefit the participating (and non-participating)
22 customers through the direct (and indirect) effects on their businesses. Further,
23 the incentives shall also benefit the utility (i.e., DP&L) from increased sales and

¹⁸ OAC 4901:1-38-08 (A)(3); Please see footnote 3.

1 additional revenues that are bound to improve the utilization of the different
2 systems/assets in place to serve the customers, and hence incrementally improve
3 its operating revenues and financial results. Examples of these benefits to an
4 electric distribution company ("EDU") include:

5 "....

- 6 a. The EDUs will receive distribution revenue directly from the
7 retained customer (no distribution revenue and the underutilization
8 of T&D [*transmission & distribution*] assets result from loss of the
9 customer).
- 10 b. If a new customer locates in an area with excess T&D capacity,
11 revenue from the customer for transmission service will exceed the
12 cost of providing that service.
- 13 c. For companies who locate in an area that requires capital
14 investments to improve the electric grid, the company will usually
15 charge those costs directly to the customer (resulting in EDU
16 benefits).
- 17 d. Indirectly, economic growth leads to more distribution sales from
18 the customer's employees and from the local suppliers of inputs to
19 the contracting customer. Second and third level multiplier impacts
20 can be important."¹⁹
- 21

¹⁹ OCC Witness Wilson Gonzales (direct pre-filed testimony), *The Cleveland Electric Illuminating Company and the Toledo Edison Company*, PUCO Case No. 08-935-EL-SSO (September 29, 2008, at 25, 26).

1 Accordingly, in a fair and reasonable manner, benefits that accrue to the utility as
2 a result of the Economic Development Plan should be an offset to the recovery of
3 the delta revenue.

4
5 ***Q16. DO YOU HAVE ANY RECOMMENDATIONS REGARDING THE OFFSET***
6 ***TO THE RECOVERY OF DELTA REVENUE?***

7 ***A16.*** Yes. I recommend maintain the 50%/50% split of delta revenues between the
8 consumers and shareholders consistent with the previous decisions of the
9 Commission

10
11 ***Q17. WHAT ARE SOME OF THE PAST COMMISSION CASES UPON WHICH***
12 ***YOUR RECOMMENDATION REGARDING THE OFFSET TO THE***
13 ***RECOVERY OF DELTA REVENUE IS BASED?***

14 ***A17.*** My recommendation for economic development plan cost to be treated as a
15 50%/50% split between the customers and shareholders is based on the
16 Commission's Orders in several cases including: The Cincinnati Gas & Electric
17 Company (Case No. 91-410-EL-AIR), and The Cleveland Electric Illuminating
18 Company, the Toledo Edison Company, et al. (Case No. 95-299-EL-AIR, 95-300-
19 EL-AIR, and 94-1964-EL-CSS).

20
21 ***Q18. CAN YOU PROVIDE A SYNOPSIS OF THE COMMISSIONS ORDERS AND***
22 ***OPINIONS IN THESE CASES REGARDING THE RECOMMENDED***
23 ***OFFSET TO THE RECOVERY OF DELTA REVENUE?***

1 **A18.** Yes I can. In the May 12, 1992 Opinion and Order in Cincinnati Gas & Electric
2 ("CG&E"), Case No. 91-410-EL-AIR, the Commission decided that the delta
3 revenue associated with the economic development rate ("EDR") was to be split
4 50%/50% between the consumers and shareholders. In this CG&E case, the
5 Commission stated the following:

6
7 ...“EDR contracts attempt to attract new business, or expand or retain
8 existing business, within the company’s service territory by providing
9 reduced rates to customers for an established period. Delta revenues
10 represent the difference between revenue that would have been collected
11 under the utility’s tariff rates, and the lesser revenue that was actually
12 collected under the price concessions made to certain customers in EDR
13 contracts...”

14
15 “Staff’s position in this case follows two prior rate proceedings in which
16 the Commission has approved an equal sharing of the burden of EDR
17 contracts *by allocating the delta revenues equally between the utility’s and*
18 *its ratepayers.*”²⁰ (emphasis added)

19
20 As for Cleveland Electric Illuminating Company, and the Toledo Edison
21 Company Case (Case Nos. 95-299-EL-AIR and 95-300-EL-AIR et al), the
22 Commission’s Staff’s treatment of economic development delta revenue in (and

²⁰ See, p. 48 and 49. The Ohio Edison Co. (Case No. 89-1001-EL-AIR, dated August 16, 1990), and Cleveland Electric Illuminating Co. (Case No. 88-170-EL-AIR, dated January 31, 1989). The stated staff position was accepted by the Commission—see p. 51.

1 with the CG&E case cited above, namely a 50%/50% split between customers and
2 shareholders. To quote from the prepared testimony of D. Howard (Commission
3 Staff, Energy & Water Division—December 29, 1995, at 13):

4 “18. Q. Is the Staff recommended treatment of delta revenues in
5 this case consistent with past staff recommendation?

6
7 A. The 50%/50% treatment has been recommended and
8 adopted in numerous proceedings before the Commission. The
9 Staff's treatment of delta revenue associated with competitive
10 response arrangements was recommended by Staff and adopted by
11 this Commission in Case Nos. 91-410-EL-AIR and 94-578-EL-
12 CMR”

13 As mentioned above, the Commission in its Order in this case (dated April 11,
14 1996) has approved this treatment.²¹

15
16 ***Q19. CAN YOU PROVIDE A SYNOPSIS OF A MORE RECENT OPINION AND***
17 ***ORDER REGARDING THE RECOMMENDED OFFSET TO THE***
18 ***RECOVERY OF DELTA REVENUE?***

19 ***A19.*** Yes. In its December 19, 2008 Order and Opinion the Commission in Ohio
20 Edison Company, the Cleveland Electric Illuminating Company, and The Toledo
21 Edison Company (Case No. 08-935-EL-SSO) reiterated its past practice in
22 generally allowing recovery from consumers for only 50% of delta revenue for

²¹ See, Opinion and Order (dated July 16, 1996) at 18.

1 special contracts.²² The Commission, however, did not feel the necessity to
2 extend this past practice (i.e., 50%/50% split) to that particular case at this point
3 of time before taking into consideration the impact of both SB 3 and SB 221 and
4 because the percentage of revenue recovery will be determined by the
5 Commission on a-case-by-case basis when approving each individual
6 arrangement. The Commission has approved the requested Rider but subject to
7 that clarification.

8
9 It is important to highlight that my recommendation of allowing a 50%/50% split
10 and amending DP&L's proposed Economic Development Cost Recovery Rider
11 accordingly is likely to be closer to what the different customer classes will
12 actually pay after the Commission's review (on a case-by-case basis) for approval
13 and determination of the recovery percentage. To grant 100% cost recovery as a
14 point of embarkation for the Rider subject to the Commission's determination is
15 bound to send the different customer classes an inaccurate price signal as to the
16 costs of the Economic Development Program. Furthermore, a stable and a more
17 predictable rider out of an initial determination of a 50%/50% split are features in
18 the rate design that are bound to increase customer classes' support to the
19 Economic Development plan in the State of Ohio. This support will be very
20 valuable to all stakeholders in Ohio in case there is a need to maintain the
21 Economic Development Plan for a longer period than originally anticipated in
22 response to the current economic environment. Moreover, the suggested
23 50%/50% split—through which the utility will share some of the cost—will create

²² Case No. 08-935-EL-SSO, December 19, 2008 at 55.

1 the incentive to the utility to seek a balance between the benefits of economic
2 development programs from a policy standpoint and the programs associated
3 costs to it and to its customers.
4

5 ***Q20. WHAT IS THE IMPACT OF YOUR RECOMMENDATION OF 50%/50%***
6 ***SPLIT ON THE ECONOMIC DEVELOPMENT COST RECOVERY RIDER?***

7 ***A20.*** My suggested 50%/50% split of costs between the consumers and the
8 shareholders will reduce the initial Economic Development Cost Recovery Rider
9 from \$3,071,228 to \$1,535,614. It follows that the riders calculated for the
10 different rate groups in DP&L's Schedule A-2 (Book I – Standard Service Offer-
11 Economic Development Cost Recovery Rider) will be reduced proportionally
12 (i.e., by 50%). For example, Economic Development Cost Recovery Rider for the
13 residential customers shall be \$0.00014655 per kWh rather than 0.0002931 per
14 kWh.²³
15

16 ***Q21. WHY ARE YOU RECOMMENDING THAT THE COMMISSION SET THE***
17 ***INITIAL ECONOMIC DEVELOPMENT COST RECOVERY RIDER FOR***
18 ***THE RESIDENTIAL CUSTOMERS AT ZERO?***

19 ***A21.*** This recommendation is explained by the fact that there are no customers
20 currently benefiting from the incentives in the Economic Development Plan.
21 Further, and to the best of my knowledge and as of date of this testimony, there

²³ In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan, et. al., Application Book 1, Chapter 3: Economic Development Plan, Summary, Schedule A-2, page 1 of 1.

1 are no economic development applications in front of the Commission on the
2 service territory of DP&L. The Economic Development Rider should start on the
3 date in which the Commission approve an economic development arrangement
4 application pursuant to 4901:1-38-03(C)(1) and (2), and 4901:1-38-04(B)(1) and
5 (2).²⁴

6
7 **III. DAYTON POWER AND LIGHT'S TREATMENT OF GOVERNMENTAL**
8 **AGGREGATION**

9
10 ***Q22. PLEASE DESCRIBE DP&L'S PROPOSED CHANGES RELATED TO***
11 ***GOVERNMENTAL AGGREGATION.***

12 ***A22.*** DP&L is proposing to mandate market-based rates to returning customers who
13 were previously taking generation service from governmental aggregation
14 programs. DP&L is proposing changes in the terms and conditions contained in
15 Tariff Sheet No. G9, Competitive Retail Generation Service, to require customers
16 that return to utility-supplied retail generation service to do so at market-based
17 rates. Further, DP&L is proposing that it shall, in a different future filing, submit
18 a new "Adjustable Rate Tariff Sheet No. G23" for review and approval by the
19 Commission.

²⁴ See, *In The Matter of the Adoption of Rules for Standard Service Offer, Corporate Separation, Reasonable Arrangements, and Transmission Riders for Electric Utilities*, Case No. 08-777-EL-ORD, Opinion and Order (September 17, 2008).

1 It is important to highlight that although the title of this Section in the DP&L
2 filing (Book I – Standard Offer, Chapter 2, p. 5) is “Government Aggregation,”
3 DP&L intends to apply the same rules and conditions to any returning customer
4 who was taking generation service from either Governmental Aggregators or from
5 a Competitive Retail Electric Service (“CRES”) provider.²⁵

6
7 ***Q23. PLEASE DESCRIBE DP&L’S RATIONALE FOR ITS PROPOSED***
8 ***CHANGES TO THE TREATMENT OF CUSTOMERS RETURNING TO***
9 ***DP&L FOR GENERATION SERVICE***

10 ***A23.*** DP&L’s rationale for the proposed changes is related to the financial risks the
11 Company sees when large groups of customers leave the Standard Service Offer
12 (“SSO”), and then return to it. DP&L’s Application states:

13 When large groups of customers leave SSO, whether through government
14 aggregation programs or other types of aggregation, the Company faces
15 financial risks as it is no longer serving those customers through
16 traditional rates. Further, if and when the customers return to SSO, at the
17 end of the program term, the Company faces significant financial and
18 operational risks if the Company is expected to procure power from the
19 market to serve those returning customers at its existing fixed, average
20 SSO-tariffed rates.²⁶

²⁵ See, Exhibit AAI-7, DP&L response to OCC Interrogatory, Sixth Set No.284.

²⁶ *In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan, et. al.*, Application Book 1, Chapter 3: Economic Development Plan Chapter 2 at 5.

1 DP&L suggested treatment of customers returning from governmental
2 aggregators (and from other CRES providers) to a market-based rate, places "the
3 risk of market prices squarely with the customer that makes a choice to participate
4 in such programs."²⁷ By transferring market price risk directly to such customers
5 (who have chosen to accept that risk), DP&L believes that it has treated fairly the
6 remaining SSO customers such that they "are not adversely affected by a
7 customer's election to choose to take generation service from a CRES provider"²⁸

8
9 ***Q24. PLEASE DESCRIBE THE SALIENT FEATURES OF DP&L'S SUGGESTED***
10 ***CHANGES IN TARIFF SHEET NO. G9, COMPETITIVE RETAIL***
11 ***GENERATION SERVICE.***

12 ***A24.*** From the perspective of the residential customer class, the salient features of the
13 redlined version of DP&L's proposed Tariff Sheet No. G9, Competitive Retail
14 Generation Service (G9), encompass the following:²⁹

- 15 – Changes in "Term of Service" to indicate that a customer who chooses to
16 return to DP&L retail generation service shall take service under DP&L's
17 Adjustable Rate Tariff Sheet No. G.23.
18
19 – Required Services language remained the same - customers receiving
20 Generation service under G9 (i.e., from an alternate source of supply

²⁷ Testimony of Seger-Lawson, Book I page 6.

²⁸ Id. at 6.

²⁹ *In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan, et. al.*, Application Book 1, Standard Offer, Tariffs, Tariff No. G9.

whether governmental aggregator or CRES) must also: i) take transmission and associated Ancillary Services from DP&L under Tariff Sheet No. 8, ii) pay the Rate Stabilization Surcharge, Tariff Sheet No. G25, and iii) pay for Electric Distribution Service under the Tariff Sheet No. D17 through D25.

- Notice period required to return to DP&L Standard Service Offer for generation is not applicable for the residential customer class; it is applicable only for Large Commercial Customers and all industrial customers. Accordingly, the penalty charge of \$10/kW (based on the highest single month peak kW demand during the 3 billing periods subsequent to their return), is not applicable to residential customers.

Q25. PLEASE DESCRIBE THE NATURE OF DP&L'S RATE STABILIZATION SURCHARGE—G25.

A25. The Rate Stabilization Surcharge ("RSS") is one of the non-bypassable schedules and riders that apply to all customers - whether they take generation from DP&L or take competitive generation service from a governmental aggregator or CRES provider. For those taking competitive generation service, the applicable Tariff Sheet No. G9 (discussed above), requires customers to pay the RSS. According to DP&L's tariff, the RSS is defined as:

1 The Rate Stabilization Surcharge (RSS) rider is intended to compensate
2 DP&L for providing stabilized rates for customers and Provider of Last
3 Resort Service.³⁰

4
5 As explained by the Supreme Court of Ohio,³¹ DP&L's "rate-stabilization
6 surcharge would act as a mechanism for the recovery of "provider-of-last-resort"
7 ("POLR") costs" The Supreme Court went further to explain that POLR costs
8 "...represent charges incurred by an incumbent electric-distribution utility for risks
9 associated with its statutory obligation under R.C 4928.14(C) as the default
10 provider, or provider of last resource, for customers who opt for another provider
11 who then fails to provide service."³² In part, and as discussed further below,
12 therefore the RSS is to compensate DP&L for the provision of standby service, to
13 keep the incumbent utility whole (i.e., DP&L) from the impact of customers who
14 have elected to take service from an alternate source of supply (CRES or
15 government aggregator) and decided to exercise their option to come back to the
16 utility's SSO upon failure of the alternate source to provide service.

17
18 ***Q26. PLEASE LIST AND EXPLAIN YOUR RECOMMENDATIONS REGARDING***
19 ***DP&L'S PROPOSED CHANGES FOR GOVERNMENT AGGREGATION.***

20 ***A26.*** I recommend that:

³⁰ DP&L Electric Distribution Tariff, Original Sheet No. G25, p. 1. (April 30, 2008).

³¹ *Ohio Consumers' Counsel v. Publ. Util Comm*, 114 Ohio St.3d 340, 2007-Ohio-4276 at 2.

³² *Id.* at (footnote 2).

- 1 (1) The Commission should order DP&L to file its new Adjustable Rate
2 Tariff (Tariff Sheet G23) in this current ESP proceeding; and not at a
3 future date in another proceeding or as a separate tariff filing,
- 4 (2) The Commission should allow customers who are taking service from
5 Governmental Aggregators and paying the "Rate Stabilization Surcharge -
6 - G25" (as required in Tariff Sheet No. G9) -- and wish to return to
7 generation service from DP&L to self select either of the Standard Service
8 Offer or the Market-based Rate; and
- 9 (3) The Commission should allow residential customers in the future who
10 may prefer to take service from Governmental Aggregators to self-select
11 the subscription to Tariff Sheet G25 (RSS). Customers should have the
12 option not to pay the RSS. In that case should they return to service from
13 DP&L, they would only be offered power at Market-based Rates, while
14 customers who elected to pay the RSS and would like to return to DP&L
15 generation service would self-select either the Standard Service Offer or
16 the Market-based Rate.

17

18 In reference to the first recommendation (the inclusion of the new Adjustable Rate
19 Tariff (Tariff Sheet No. G23) to be part of this proceeding), DP&L is seeking the
20 Commission's approval to mandate Market-based rates to all returning customers
21 from the date of the Commission's approval in this proceeding of the changes in
22 the Tariff Sheet for Competitive Retail Generation Service (G9). If these changes
23 are approved, any group of customers contemplating taking service from an
24 alternate source of supply (government aggregation or CRES) would need to

1 account for the cost-differential between the standard service offer ("SSO"), and
2 their obligations under: a) the approved G9, b) the proposed Tariff Sheet G23 (if
3 and when filed, and approved), and c) the offers received from the different
4 competitive suppliers. Without knowing, precisely, the terms and conditions of
5 Market-based generation rate (Tariff Sheet G23) the decision process to take
6 service from an alternate source of supply (government aggregation or CRES)
7 would be incomplete.

8
9 The absence of the necessary information embedded in the Market-base
10 generation rate (G23) to help the customers make the decision to take, or not to
11 take, service from an alternate source of supply could very well stop retail
12 competition in DP&L's service territory in its tracks. Therefore, the inclusion of
13 Tariff Sheet G23 in this proceeding is necessary to provide the opportunity to all
14 customer classes to know, and comment on, the Market-based generation rate's
15 terms and conditions in order for an economically rationale decision making
16 process.

17
18 For the second recommendation, customers who are currently taking service from
19 an alternate source of supply (government aggregation or CRES) are paying the
20 non-bypassable RSS (G25). As this RSS is acting as a mechanism for the
21 recovery of "provider-of-last-resort" ("POLR") costs, it is fair, just and reasonable
22 to allow those customers who are paying this cost to be granted the option to self-
23 select returning to DP&L at either the SSO or the market-based rate. Of course,
24 such selection to take the market-base rate is premised on the assumption that

1 Tariff Sheet G23 is filed and approved by the Commission hence, the importance
2 of including its terms and conditions in the current proceeding.

3
4 For the third recommendation, for customers who are currently taking service at
5 the standard service offer but contemplate taking service from an alternate source
6 of supply (government aggregation, or CRES), it is reasonable to allow them to
7 self-select the subscription to the RSS (G25). Customers, who elect not to pay the
8 RSS, are effectively not paying DP&L the POLR costs. Subsequently if they
9 prefer to return to service from DP&L, they should only be offered Market-based
10 Rates (at the filed and approved G23). However, for customer who elected to pay
11 the RSS but would like to return to service from DP&L at a later date, it is
12 reasonable to offer them self-selecting either the Standard Service Offer or the
13 Market-based Rate.

14
15 It is noteworthy that the second and third recommendations are consistent with the
16 language in SB 221, specifically, R.C. Section 4928.20(J) which allows
17 governmental aggregators to elect not to receive standby service from the electric
18 utility. The recommendations are also consistent with the Commission's recent
19 Opinion and Order in Duke Energy Ohio's ESP case.³³ The relevant Ohio Rev.
20 Code Section (i.e., 4928.20(J) that the PUCO relied upon to reach its decision is
21 as follows:³⁴

³³ *In the Matter of the Application of Duke Energy Ohio for Approval of an Electric Security Plan.*
Docket No. 08-920-EL-SSO, et. al., Order ((December 12, 2008).

³⁴ *Id.*, at 24.

1 On behalf of the customers that are part of governmental aggregation
2 under this section and by filing written notice with the public utilities
3 commission, the legislated authority that formed or is forming that
4 governmental aggregation may elect not to receive standby service within
5 the meaning of division (B)(2)(d) of section 4928.143 of the Revised Code
6 from an electric distribution utility in whose certified territory the
7 governmental aggregation is located and that operates under an approved
8 electric security plan under that section. Upon the filing of that notice, the
9 electric distribution utility shall not charge any such customer to whom
10 electricity is delivered under the governmental aggregation for the standby
11 service. Any such consumer that returns to the utility for competitive
12 retail service shall pay the market price of power incurred by the utility to
13 serve that consumer plus any amount attributable to the utility's cost of
14 compliance with the alternative energy resource provisions of section
15 4928.64 of the Revised Code to serve the consumer.

16
17 The suggested second and third recommendations are consistent with the
18 Commission's position in the Duke Energy Ohio Opinion and Order. First, the
19 Commission agreed that the "...Revised Code, allows the Commission no
20 discretion with regard to the right of the governmental aggregations to elect not to
21 receive standby service, and therefore, to avoid charges for that service."³⁵ This is
22 consistent with my recommendation in this DP&L case that customers may elect

³⁵ Id., at 26.

1 to subscribe to, or not to subscribe to, the RSS (G25) as they deem necessary
2 upon their determination concerning taking service from an alternate source of
3 supply. Second, in reference to the intent of the legislature regarding the
4 statutory interpretation of "standby service," the Commission's opinion was,
5 *"Clearly, the legislature's intent was that the service of which the customers were*
6 *not being charged was the electric utility's standing ready to serve those*
7 *customers at the SSO price if they were choose to return. This statutory*
8 *provision, then, must mean that governmental aggregations may elect not to*
9 *receive that service and not to pay for it."*³⁶ This is consistent with the
10 recommendation that customers who are paying G25 in the context of taking
11 service from an alternate source of supply do have the option to return to the SSO
12 if they so wish.

13
14 **IV. CONCLUSION**

15
16 ***Q27. DOES THIS CONCLUDE YOUR TESTIMONY?***

17 ***A27.*** Yes, for the time being. However, I reserve the right to incorporate new
18 information that may subsequently become available. I also reserve the right to
19 supplement my testimony in response to positions taken by the PUCO Staff.

³⁶ Id., at 27.

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing the *Direct Testimony of Amr A. Ibrahim on Behalf of the Office of the Ohio Consumers' Counsel* has been served via electronic transmission this 26th day of January, 2009.



Jacqueline Lake Roberts,
Assistant Consumers' Counsel

PERSONS SERVED

cfaruki@ficlaw.com
jsharkey@ficlaw.com
jclark@mwncmh.com
lmcalister@mwncmh.com
sam@mwncmh.com
drinebolt@aol.com
cmooney2@columbus.rr.com
Ned.Ford@fuse.net
ricks@ohanet.org
wis29@yahoo.com
tobrien@bricker.com
smhoward@vssp.com
mjsettineri@vorys.com
BarthRoyer@aol.com
Gary.A.Jeffries@dom.com
Thomas.Lindgren@puc.state.oh.us
thomas.mcnamee@puc.state.oh.us

judi.sobecki@dplinc.com
jbentine@cwslaw.com
mwhite@cwslaw.com
myurick@cwslaw.com
henryeckhart@aol.com
rukeiley@igc.org
dboehm@bkllawfirm.com
mkurtz@bkllawfirm.com
Cynthia.A.Fonner@constellation.com
mhpetricoff@vssp.com
LGearhardt@ofbf.org
cmiller@szd.com
gdunn@szd.com
aporter@szd.com
nmoser@theOEC.org
trent@theOEC.org
Williams.toddm@gmail.com
ejacobs@ablelaw.org

INT-18. Referring to Book I, Workpaper WPA-1, please identify all documents or information and describe in detail all information and/or evidence that supports, refers to, or is related to the Company's estimate for the number of eligible customers for economic development option D38 (Customer Attraction – New Customers) to be 77 customers.

RESPONSE: General Objections Nos. 2, 6, 7. This interrogatory is overly broad and unduly burdensome. In addition, the request seeks information available in pre-filed testimony, schedules, and/or workpapers filed by DP&L with the Commission in its Application in these proceedings. Without waiving these objections, DP&L states that it calculated that 77 customers would be eligible for a new customer incentive by assuming 50% of all new three phase facilities would qualify for the program. DP&L had 154 new three phase customers in 2007.

Witness Responsible: John Wagner

INT-20. Referring to Book I, Workpaper WPA-1, please identify all documents or information and describe in detail all information and/or evidence that supports, refers to, or is related to the Company's estimate for the number of eligible customers for economic development option D39 (Customer Attraction – Expanding Customers) to be 12 customers.

RESPONSE: General Objections Nos. 2, 6, 7. This interrogatory is overly broad and unduly burdensome. In addition, the request seeks information available in pre-filed testimony, schedules, and/or workpapers filed by DP&L with the Commission in its Application in these proceedings. Without waiving these objections, DP&L states that 12 expanding customers is a reasonable estimate of the number of customers that would qualify annually under the expanding customer program. DP&L estimates that 10% of facilities that underwent electrical upgrade projects in the last year or approximately one customer per month would qualify for the program.

Witness Responsible: John Wagner

INT-22. Referring to Book 1, Workpaper WPA-1, please identify all documents or information and describe in detail all information and/or evidence that supports, refers to, or is related to the Company's estimate for the number of eligible customers for economic development option D39 (Customer Retention) to be 5 customers.

RESPONSE: General Objections Nos. 2, 6, 7. This interrogatory is overly broad and unduly burdensome. In addition, the request seeks information available in pre-filed testimony, schedules, and/or workpapers filed by DP&L with the Commission in its Application in these proceedings. Without waiving these objections, DP&L states that it estimated that 5 customers would be eligible for a customer retention economic development incentive based on the fact that very few customers could reasonably qualify for this program.

Witness Responsible: John Wagner

INT-24. Referring to Book I, Workpaper WPA-1, please identify all documents or information and describe in detail all information and/or evidence that supports, refers to, or is related to the Company's estimate for the number of eligible customers for economic development option D40 (Energy Efficiency) to be 10 customers.

RESPONSE: General Objections Nos. 2, 6, 7. This interrogatory is overly broad and unduly burdensome. In addition, the request seeks information available in pre-filed testimony, schedules, and/or workpapers filed by DP&L with the Commission in its Application in these proceedings. Without waiving these objections, DP&L states that 10 energy efficiency production facility customers is a reasonable estimate of the number of customers that would qualify annually under this customer program. DP&L estimates that approximately 2,500 customers meet the load requirements; however very few meet the energy efficiency requirements and therefore very few customers would qualify for the program.

Witness Responsible: John Wagner

INT-26. Referring to Book I, Workpaper WPA-1, please explain how the Company calculated the \$1.5 million 2009 discount for “Unique Arrangements.”

RESPONSE: General Objections Nos. 2, 6, 7. This interrogatory is overly broad and unduly burdensome. In addition, the request seeks information available in pre-filed testimony, schedules, and/or workpapers filed by DP&L with the Commission in its Application in these proceedings. Without waiving these objections, DP&L states that \$1.5 million for unique arrangements is a reasonable estimate for this discount. DP&L estimates that the majority of qualifying customers would be of substantial size.

Witness Responsible: John Wagner

INT-29. In Book I, Chapter 3, page 15, and in Workpaper WPA-1, identify all documents or information and describe in detail all information and/or evidence that supports, refers to, or is related to the Company's statement that "DP&L estimates that these modifications will cost approximately \$750 thousand." The description should include identification of the different components of this cost.

RESPONSE: General Objections Nos. 2, 6, 7, 10. This interrogatory is vague, overly broad, unduly burdensome, and seeks information available in pre-filed testimony, schedules, and/or workpapers filed by DP&L with the Commission in its Application in these proceedings. Without waiving these objections, DP&L states DP&L used a preliminary estimate referring to the cost of the billing system enhancements. As stated on Schedule A-1, DP&L proposed to recover this amount over a two year period, and therefore assumed \$372,920 would be recovered each year. In finalizing the estimate the amount to make the billing enhancements was reduced to \$372,920. As a result, DP&L would recover the full cost of the billing system enhancements in one year.

Witness Responsible: John Wagner

INT-284. Referring to Book 1, Chapter 1, pages 1 & 2, as well as the direct testimony of Ms. Dona Seger-Lawson in Section IV (Government Aggregation):

- a. Will DP&L treat Government Aggregation customers differently than individual customers taking service from other Competitive Retail Energy Services ("CRES") providers, particularly for the purpose of customers returning to the Standard Service Offer?

RESPONSE: General Objections Nos. 2, 6, 7. This interrogatory is overly broad, unduly burdensome, and seeks information available in pre-filed testimony, schedules, and/or workpapers filed by DP&L with the Commission in its Application in these proceedings. Without waiving these objections, DP&L states that no DP&L will not treat Government Aggregation customers differently.

- b. If the Company's response is to part (a) is affirmative, what are the differences in treatment and the reasons for different treatment?

RESPONSE: General Objections Nos. 2, 6, 7. Without waiving these objections, DP&L states that please see INT-284 a.

- c. Please identify and describe (in detail) all documents, communications and information DP&L reviewed to support this change (i.e., difference in treatment between Government Aggregation customers and individual customers taking service from other CRES).

RESPONSE: General Objections Nos. 2, 6, 7. Without waiving these objections, DP&L states that please see INT-284 a.

WITNESS RESPONSIBLE: Dona Seger-Lawson