

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Joint Application of)	
The Dayton Power and Light Company and)	
Appleton Papers, Inc. for Approval of a)	Case No. 09- <u>1701</u> -EL-EEC
Reasonable Arrangement to Incorporate)	
Customer Participation in PJM's Demand)	
Response Programs into DP&L's Demand)	
Reduction Program)	

**JOINT APPLICATION OF THE DAYTON POWER AND LIGHT COMPANY
AND APPLETON PAPERS, INC. FOR APPROVAL OF A REASONABLE
ARRANGEMENT TO INCORPORATE CUSTOMER PARTICIPATION IN PJM'S
DEMAND RESPONSE PROGRAMS INTO DP&L'S DEMAND REDUCTION
PROGRAM**

The Dayton Power and Light Company ("DP&L" or "the Company") and Appleton Papers, Inc. ("Appleton") respectfully request that the Commission, pursuant to Sections 4928.66(A)(2) and 4905.31 of the Ohio Revised Code and Sections 4901:1-39-05(E) 4901:1-39-05(G), and 4901:1-39-08 of the Ohio Administrative Code, grant this joint application for a reasonable arrangement under which Appleton, a mercantile customer as defined in R.C. § 4928.01 (A)(19), agrees to commit its demand-response capabilities for integration into DP&L's demand-reduction programs. In exchange for Appleton's agreement and to encourage Appleton to so commit such demand response capabilities to DP&L, Appleton shall receive an exemption from the Energy Efficiency Rider ("EER") from its inception. Appleton's participation in the PJM Interconnection, LLC. ("PJM") demand response program results in demand reduction capabilities. Consistent with R.C. §4928.66 (A)(2)(c), Appleton may commit this demand response capability to DP&L and DP&L may count such customer-sited capability towards

compliance with the statutory demand reduction targets required by R.C.

§4928.66(A)(1)(b).

DP&L further requests an explicit finding and order by the Commission that the PJM demand response curtailment obligation of Appleton being committed for integration into DP&L's demand reduction programs will count towards DP&L's yearly statutory demand reduction targets.

In support of this Application DP&L states as follows:

1. DP&L is a public utility and electric light company as defined by sections 4905.02 and 4905.03(A)(4) of the Ohio Revised Code respectively, and an electric distribution utility as defined by R.C. §4928.01(A)(6).

2. Appleton is a mercantile customer as defined by R.C. §4928.01(A)(19).

3. R.C. §4928.66(A)(1)(b) provides, in part, as follows: "Beginning in 2009, an electric distribution utility shall implement peak demand reduction programs designed to achieve a one per cent reduction in peak demand in 2009 and an additional seventy-five hundredths of one per cent reduction each year through 2018."

4. Pursuant to R.C. 4928.66(A)(2)(c) "[c]ompliance with divisions (A)(1)(a) and (b) of this section shall be measured by including the effects of all demand-response programs for mercantile customers of the subject electric distribution utility and all such mercantile customer-sited energy efficiency and peak demand reduction programs, adjusted upward by the appropriate loss factors. Any mechanism designed to recover the cost of energy efficiency and peak demand reduction programs under divisions (A)(1)(a) and (b) of this section may exempt mercantile customers that commit their demand-response or other customer-sited capabilities, whether existing or new, for integration

into the electric distribution utility's demand-response, energy efficiency, or peak demand reduction programs, if the commission determines that that exemption reasonably encourages such customers to commit those capabilities to those programs.”

R.C. § 4905.31(E) permits a public utility to enter into a reasonable arrangement with a mercantile customer providing for: “[a]ny other financial device that may be practicable or advantageous to the parties interested. In the case of a schedule or arrangement concerning a public utility electric light company, such other financial device may include a device to recover costs incurred in conjunction with any . . . development and implementation of peak demand reduction and energy efficiency programs under section 4928.66 of the Revised Code . . . No such schedule or arrangement is lawful unless it is filed with and approved by the commission pursuant to an application that is submitted by the public utility or the mercantile customer . . . and is posted on the commission’s docketing information system and is accessible through the internet.”

APPROVAL OF REASONABLE ARRANGEMENT: EXHIBIT A

5. DP&L and Appleton respectfully request, pursuant to the above provisions, that the Commission approve Exhibit A and Appleton’s commitment of its PJM demand response curtailment obligation for integration into DP&L’s demand reduction programs.

6. Rule 4901:1-39-05(E)(2)(A) of the Ohio Administrative Code provides:

An electric utility may satisfy its peak-demand reduction benchmarks through a combination of energy efficiency and peak-demand response programs implemented by electric utilities and/or programs implemented on mercantile customer sites where the mercantile program is committed to the electric utility.

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For demand response programs, an electric utility may count demand reductions towards satisfying some or all of the peak-demand reduction benchmarks by demonstrating that either the electric utility has reduced its actual peak demand, or has the capability to reduce its peak demand and such capability is created under either of the following circumstances:

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A peak-demand reduction program meets the requirements to be counted as a capacity resource under the tariff of a regional transmission organization approved by the Federal Energy Regulatory Commission.

7. Pursuant to Ohio Administrative Code §4901:1-39-05(E)(2), Appleton demand response participation demonstrates its capability to reduce peak demand and such participation is through PJM, a regional transmission organization approved by the Federal Energy Regulatory Commission.

8. Ohio Administrative Code §4901:1-39-05(G) provides: “A mercantile customer may file, either individually or jointly with an electric utility, an application to commit the customer's demand reduction, demand response, or energy efficiency programs for integration with the electric utility's demand reduction, demand response, and energy efficiency programs, pursuant to division (A)(2)(d) of section 4928.66 of the Revised Code. Such application shall:

(1) Address coordination requirements between the electric utility and the mercantile customer with regard to voluntary reductions in load by the mercantile customer, which are not part of an electric utility program, including specific communication procedures.

(2) Grant permission to the electric utility and staff to measure and verify energy savings and/or peak-demand reductions resulting from customer-sited projects and resources.

(3) Identify all consequences of noncompliance by the customer with the terms of the commitment.

(4) Include a copy of the formal declaration or agreement that commits the mercantile customer's programs for integration, including any requirement that the electric utility will treat the customer's information as confidential and will not disclose such information except under an appropriate protective agreement or a protective order issued by the commission pursuant to rule 4901-1-24 of the Administrative Code.

(5) Include a description of all methodologies, protocols, and practices used or proposed to be used in measuring and verifying program results, and identify and explain all deviations from any program measurement and verification guidelines that may be published by the commission.

9. The reasonable arrangement authorized by R.C. 4905.31 attached as Exhibit A satisfies each of the requirements of Ohio Administrative Code §4901:1-39-05(G).

10. With respect to Ohio Administrative Code §4901:1-39-05(G)(1), Appleton agrees that it will contact DP&L within 24 hours when called upon by PJM to voluntarily reduce load, and will notify DP&L of its actual load reduction performed in response to PJM's directive. (Exhibit A at ¶1)

11. Appleton will, pursuant to Ohio Administrative Code §4901:1-39-05(G)(2), grant permission to DP&L and Commission staff to measure and verify energy savings and/or peak-demand reductions resulting from customer-sited projects and resources. (Exhibit A at ¶5)

12. Pursuant to Ohio Administrative Code §4901:1-39-05(G)(3), consequences of noncompliance by Appleton with the terms of its demand response commitment are governed by a contract, under which Appleton will be subject to financial penalties for failure to comply with its curtailment obligations when called upon by PJM to curtail load. In addition, Appleton will be subject to separate penalties

assessed by DP&L as described in Exhibit A if Appleton does not curtail.(Exhibit A at ¶8)

13. Pursuant to Ohio Administrative Code §4901:1-39-05(G)(4), the contract between Appleton and DP&L is attached at Exhibit A.

14. Pursuant to Ohio Administrative Code §4901:1-39-05(G)(5), measurement of demand reductions shall be completed in accordance with the Commission's protocols, rules and/or technical reference manual for measurement and verification. If such protocols are not established, Appleton will rely on existing measurement and verification protocols as may be required through the PJM demand response program. (Exhibit A at ¶5)

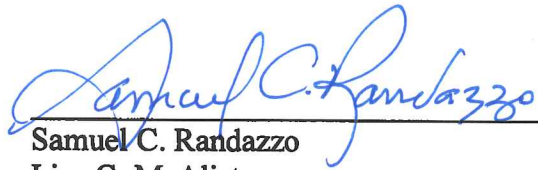
CONCLUSION

For the reasons stated above, this application and the reasonable arrangement embodied in Exhibit A are just and reasonable and should be approved. Consequently, DP&L and Appleton jointly request an Order from the Commission which:

- a) Approves the reasonable arrangement between DP&L and Appleton; and
- b) Approves this application to commit Appleton's demand response results through PJM's demand response programs for integration with DP&L's demand reduction programs; and
- c) Explicitly finds that the PJM demand response curtailment obligation of Appleton being committed for integration into DP&L's demand reduction programs will count towards DP&L's statutory demand reduction targets; and

- d) Makes the above findings and approvals based on the information submitted herewith and, to the extent necessary, waives any other filing requirement that might otherwise be applicable with respect to DP&L or Appleton.

Respectfully submitted,



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Attorneys for The Dayton Power and Light
Company

PJM DEMAND RESPONSE INTEGRATION AGREEMENT

This PJM Demand Response Integration Agreement ("Agreement") is entered into by and between The Dayton Power and Light Company, an Ohio Corporation, ("DP&L") and the undersigned customer ("Customer"). In consideration of the mutual covenants, terms and conditions set forth herein, the parties hereto agree as follows:

1. **CUSTOMER COMMITMENT.** Customer is a Mercantile Customer as defined in R.C. § 4928.01 (A)(19), a participant in the PJM Interconnection ("PJM") Emergency Load Response Program and/or Economic Load Response Program ("Programs"), and has an existing contract with a PJM-certified Curtailment Service Provider ("CSP Contract") within DP&L's service territory. Customer agrees to commit its actual PJM demand-response results to DP&L in order to allow DP&L to integrate this demand reduction with any other demand reduction initiatives and thus count this demand reduction towards compliance with yearly statutory demand reduction targets for the 2009 and 2010 calendar years as required by R.C. §4928.66(A)(2). Customer further agrees to permit DP&L to file this curtailment commitment with the Public Utilities Commission of Ohio ("PUCO") and otherwise report Customer's curtailment commitment as DP&L deems necessary for the purposes specified herein. Customer further agrees to contact DP&L within 24 hours when called upon by PJM to reduce load, and will notify DP&L of its actual load reduction performed in response to PJM's directive. Customer also grants permission to DP&L and the Staff of the PUCO to measure and verify energy savings and/or peak-demand reductions resulting from customer-sited projects and resources. As its curtailment commitment through its CSP Contract, Customer has agreed to curtail a minimum of 30% of its 2009 total peak load upon request by PJM. Customer's current contract is set to expire on May 31, 2010 and the Customer hereby commits to continue its demand response at a minimum level of 30%, or 8 megawatts, whichever is less, of the Customer's peak demand.

2. **INCENTIVE.** In exchange for Customer's agreements set forth herein, Customer shall receive waiver of the EER charge from its inception or any successor charge that may be established to provide recovery for energy efficiency programs during the term of this Agreement.

3. **FILING OF AGREEMENT AND APPROVAL.** Customer understands and agrees that this Agreement is subject to PUCO approval. DP&L shall file this Agreement with the PUCO, the Agreement will be posted on the PUCO's docketing information system and will be accessible through the internet. Upon PUCO approval, the waiver specified in paragraph 2 above shall become effective as specified in said paragraph 2.

4. **TERM OF CONTRACT AND CANCELLATION.** This agreement shall be in effect through December 31, 2010 at which time it shall automatically renew for successive one year terms unless otherwise canceled by either party providing 30 days notice prior to the end of the initial term or successive one year terms. In the event that Customer does not continue its participation in the PJM demand response program at the

minimum level specified in paragraph 1 above and beyond May 31, 2010, Customer's exemption from the EER and any further obligation pursuant to this Agreement shall cease effective May 31, 2010. Nothing in this Agreement shall preclude Customer from requesting and receiving an exemption from the EER to be effective subsequent to May 31, 2010 in conjunction with Customer's commitment of its customer-sited capabilities, including its current demand response capability, for integration into DP&L's portfolio. This Agreement shall terminate immediately if not approved, in whole and without modification, by the PUCO unless DP&L and Customer otherwise agree.

5. **ANNUAL REPORTING.** The Customer agrees to prepare an annual report which shall demonstrate the Customer's continued eligibility for the EER waiver specified in paragraph 2 of this Agreement. The report shall include, at a minimum, all information as required by Ohio Administrative Code §4901:1-39-08 as modified from time to time. Subject to such confidentiality requirements as Customer may reasonably require, Customer shall provide such report to DP&L and make available such report to the PUCO's Staff no later than February 15 of each year during the term of this Agreement. Customer agrees that information in this report shall be subject to PUCO review and that, unless otherwise approved by Customer in writing, any information provided by Customer pursuant to this Agreement shall be deemed Confidential information pursuant to paragraph 7. Customer hereby grants permission to DP&L and Commission's Staff to measure and verify peak demand reductions resulting from the customer-sited projects and resources identified herein. Measurement of demand reductions shall be completed in accordance with the Commission's protocols, rules and/or Technical Reference Manual for measurement and verification for similar facilities. If such protocols are not available, Customer shall rely on existing measurement and verifications protocols as may be required through the PJM demand response program.

6. **COORDINATION REQUIREMENTS.** During the term of this Agreement, DP&L and Customer agree to take all reasonable steps necessary to coordinate the integration of Customer's demand response programs with the Company's demand reduction, demand response and energy efficiency programs.

7. **CONFIDENTIALITY.** The Parties understand that all documentation and verification relating to this Agreement is subject to strict confidentiality. Except as otherwise described herein, DP&L will not disclose such information except under an appropriate protective agreement or a protective order issued by the PUCO pursuant to §4901-1-24 of the Ohio Administrative Code. By executing this Agreement, Customer acknowledges and agrees that DP&L may disclose to the PUCO or its staff any and all confidential documentation and verification information provided by Customer provided that DP&L uses reasonable efforts to protect the confidentiality of such information as described in this paragraph or by filing such information under seal.

8. **PENALTY.** In the event a curtailment event is called by PJM and Customer does not curtail load by the curtailable amount of 30% of its total peak or 8 megawatts, whichever is less, set forth in paragraph 1 above, Customer shall be

responsible for payment of any penalty assessed against DP&L due to DP&L's failure to comply with its yearly statutory demand reduction target as a result of Customer's failure to curtail, but not to exceed the incentive payment set forth in paragraph 2, above. The penalty provision set forth herein applies even if Customer would not face a penalty under Customer's CSP Contract for failing to curtail load when called upon by PJM to do so.

9. **NOTICE.** All Notices relating to this contract must be effectuated in writing and sent by ordinary US mail, postage prepaid, to:

The Dayton Power and Light Company
1900 Dryden Rd.
Dayton, OH 45439
Attention: Tom Tatham

Customer: Appleton Papers Inc.
Address: 825 E. Wisconsin Avenue, PO Box 359
City, State, Zip: Appleton, WI 54912
Attention: Mark Smukowski

Customer: Appleton Papers Inc. – West Carrollton Mill
Address: 1030 West Alex-Bell Road
City, State, Zip: West Carrollton, OH 45449
Attention: John McCollum

10. **MODIFICATION.** No modification of this Agreement is effective unless reduced to writing, signed by both parties, and approved by the PUCO.

11. **SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and/or assigns, but Customer shall not transfer or assign any of the rights hereby granted to any non-affiliated third-party without the prior written consent of DP&L and DP&L shall not unreasonably withhold such consent.

**THE DAYTON POWER AND LIGHT
COMPANY**

By: 

Name: Scott Kelly

Title: SR. VP. T&D

Date: 12-16-09

**CUSTOMER: APLETON PAPERS
INC.**

By: 

Name: Mark Smukowski

Title: Procurement Manager

Date: December 16, 2009

This foregoing document was electronically filed with the Public Utilities

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Case No(s). 09-1701-EL-EEC

Summary: Application Joint Application of the Dayton Power and Light Company and Appleton Papers, Inc. for Approval of a Reasonable Arrangement to Incorporate Customer Participation in pJM's Demand Response Programs into DP&L's Demand Reduction Program electronically filed by Mr. Samuel C. Randazzo on behalf of Appleton Papers Inc. and Dayton Power & Light Company and Samuel C. Randazzo and Judi Sobecki