

**BEFORE**  
**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Application of The Dayton Power and Light Company for Approval of its Market Rate Offer	:	Case No. 12-0426-EL-SSO	PUCO
In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs	:	Case No. 12-0427-EL-ATA	
In the Matter of the Application of The Dayton Power and Light Company for Approval of Certain Accounting Authority	:	Case No. 12-0428-EL-AAM	
In the Matter of the Application of The Dayton Power and Light Company for the Waiver of Certain Commission Rules	:	Case No. 12-0429-EL-WVR	
In the Matter of the Application of The Dayton Power and Light Company to Establish Tariff Riders	:	Case No. 12-0672-EL-RDR	

**COMMENTS**  
 SUBMITTED ON BEHALF OF THE STAFF OF  
 THE PUBLIC UTILITIES COMMISSION OF OHIO

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April 27, 2012

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**INTRODUCTION**

On March 30, 2012, The Dayton Power and Light Company (DP&L) filed an application seeking approval of a market rate offer (MRO) to conduct a competitive bidding process for standard service offer (SSO) electricity generation supply and related relief. By entry dated April 2, 2012, the hearing examiner established a procedural schedule that, among other things, directed Staff to investigate the applications and submit comments containing any Staff-proposed recommendations regarding DP&L's pro-

posed SSO application or for such other types of SSO as Staff may deem appropriate, as well as DP&L's accompanying applications for approval of revised tariffs, for approval of certain accounting authority, for waiver of certain Commission rules, and to establish tariff riders. On April 18, 2012, the hearing examiner issued an entry modifying the procedural schedule. This entry required Staff to file comments by April 27, 2012.

These comments are timely submitted by the Staff for the Commission's consideration pursuant to the aforementioned April 18, 2012 entry.

## **COMMENTS**

### **I. Compliance of the Company's MRO filing with Statutory and Rule Requirements.**

#### **A. Compliance of MRO Filing with Statutory Requirements**

Ohio law provides specific requirements that are applicable to a Standard Service Offer price for retail electric generation service that is to be provided under a Market Rate Offer by an electric utility. The Company's compliance with these requirements, as delineated in R.C. 4928.142, is discussed below. Staff notes that any indication that the Company has provided the required information does not necessarily mean that Staff believes the proposals made by the Company are necessarily the optimal proposals in any specific area.

#### **1. 4928.142(A)(1)**

The market-rate offer shall be determined through a competitive bidding process that provides for all of the following:

**a. (a) Open, fair, and transparent competitive solicitation**

The Company is proposing to procure generation services by means of a descending clock auction process. The competitive bidding process (CBP) plan described by the Company is very similar to the process that was approved by the Commission in several prior cases (Case Nos. 08-0935-EL-SSO, 10-0388-EL-SSO, and 11-3549-EL-SSO) and has been used to procure generation service that is currently being used to serve the load of several of Ohio's electric distribution utility companies. However, Staff notes that the prior generation auctions have been conducted under Electric Security Plans (ESPs), which have different requirements than a Market Rate Offer (MRO). In this MRO filing, DP&L has proposed a series of auction procurements over a five year period, with product terms ranging from 12 to 36 months, building up to a level where 50% of the Company's SSO supply would be provided through auction procurements. After this initial five year period, auction product levels would increase so that 100% of the Company's SSO supply would be provided through auction procurements, while continuing to use staggered product terms.<sup>1</sup> The Company indicated that its proposed CBP plan is subject to potential modification, although it did not specify a process through which such modification could take place.<sup>2</sup> The Company also indicated that it intends to conduct its competitive bidding process without the use of a load cap.<sup>3</sup>

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<sup>1</sup> Direct Testimony of Robert J. Lee, Attachment RJJ-3.

<sup>2</sup> *Id.* at 19.

<sup>3</sup> *Id.* at 24.

Staff believes that the CBP plan proposed by the Company can result in an open, fair, and transparent competitive solicitation. However, Staff recommends that a process for approving potential modifications to the CBP should be developed prior to initial implementation of the CBP plan. Further, Staff notes that the Commission has indicated a preference for the use of load caps in other CBP plans that it has approved, and that the use of a load cap should be evaluated and considered by the Commission for this CBP plan.

**b. (b) Clear product definition**

As with the auction process, the product being offered is very similar to the product that has been offered in other Ohio electric distribution utilities' auction processes. The product to be offered is a one-percent slice-of-system hourly load following full requirements segment (tranche) of DP&L's load. The product requirements, as proposed by the Company, include energy, capacity, firm transmission, and ancillary services.<sup>4</sup> Further, winning bidders would be required to provide "PUCO-certified RECs" that meet the requirements of R.C. 4928.64 for the supplier's portion of the SSO load obligation in the Company's service territory (Staff notes that the PUCO certifies renewable facilities, not RECs).<sup>5</sup> These requirements are fully described in Appendix B to the proposed Master Standard Service Offer Supply Agreement.<sup>6</sup>

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<sup>4</sup> Direct Testimony of Robert J. Lee at 16.

<sup>5</sup> Direct Testimony of Teresa F. Marrinan at 8-11.

<sup>6</sup> Direct Testimony of Robert J. Lee at Attachment RJL-2.

Staff believes that the components of the product to be offered through the proposed competitive bidding process are clearly defined. However, Staff believes that inclusion of renewable energy requirement compliance in the product being offered through the CBP plan may not be appropriate at this time. Introducing this new level of complexity into the CBP appears to be unnecessary, especially during the five year blending period, when the Company will need to continue to participate in the REC market for the balance of its renewable requirements.

**c. (c) Standardized bid evaluation criteria**

The Company proposes to evaluate the bids received through its CBP based solely on price. Staff believes that this straightforward evaluation criterion satisfies the requirement for standardized bid evaluation criteria.<sup>7</sup>

**d. (d) Oversight by an independent third party that shall design the solicitation, administer the bidding, and ensure that the criteria specified in division (A)(1)(a) to (c) of this section are met.**

The Company proposes to use the services of CRA International, Inc., to conduct its bidding process.<sup>8</sup> CRA is not affiliated with the Company. CRA's responsibilities would include the design and implementation of the CBP.<sup>9</sup> Elements of the CBP plan, as described by Company witness Lee, include development of a Master Standard Service

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<sup>7</sup> Direct Testimony of Robert J. Lee at 26.

<sup>8</sup> Application at 2-3.

<sup>9</sup> Direct Testimony of Robert J. Lee at 3.

Supply Agreement, maintaining a CBP information website, conducting bidder information sessions, developing communications protocols, administering the bidder application processes, developing the auction design, educating and training bidders, customizing and testing the bidding platform, providing starting process for the auction, conducting the auction, and submitting auction result reports to the Commission.<sup>10</sup>

Staff believes that the requirement for CBP oversight by an independent third party is satisfied. However, Staff believes that the Company's CBP plan should be modified to include a process to allow for the selection of a different auction manager from time to time. Although CRA has successfully conducted SSO auctions for other Ohio utilities, and Staff has no concerns with CRA's performance to date, the CBP plan should provide for the ability to change the auction manager, either at the request of the Company with Commission approval or by Commission order.

## **2. 4928.142(B)(1)**

The electric distribution utility or its transmission service affiliate belongs to at least one regional transmission organization that has been approved by the federal energy regulatory commission; or there otherwise is comparable and nondiscriminatory access to the electric transmission grid."

The Company has shown in its application that it has been a member of the PJM Interconnection, which is a regional transmission organization (RTO), since October

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<sup>10</sup>

Direct Testimony of Robert J. Lee at 4-5.

2004. Staff believes that the requirement for membership in at least RTO has been satisfied.<sup>11</sup>

**3. 4928.142(B)(2)**

Any such regional transmission organization has a market-monitor function and the ability to take actions to identify and mitigate market power or the electric distribution utility's market conduct; or a similar market monitoring function exists with commensurate ability to identify and monitor market conditions and mitigate conduct associated with the exercise of market power.

PJM has a FERC approved independent market monitor, with the ability to identify and mitigate market power. Monitoring Analytics, LLC, has been the FERC approved independent market monitor for PJM since 2008, when the existing market monitoring unit of PJM was spun off to form Monitoring Analytics.<sup>12</sup> Staff believes that the statutory requirement for a market monitor function is satisfied.

**4. 4928.142(B)(3)**

A published source of information is available publicly or through subscription that identifies pricing information for traded electricity on- and off-peak energy products that are contracts for delivery beginning at least two years from the date of the publication and is updated on a regular basis.

The Company, in its filing, has shown that multiple sources of electricity price information are available. The sources listed include the PJM RTO website, NYMEX

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<sup>11</sup> Direct Testimony of Teresa F. Marrinan at 4.

<sup>12</sup> *Id.* at 5; PJM website- <http://www.pjm.com/markets-and-operations.aspx>.

Web, ICE Power Settlements, as well as energy market brokers.<sup>13</sup> Staff believes that the statutory requirement for availability of electricity pricing information has been satisfied.

**5. 4928.142(C)**

Upon the completion of the competitive bidding process authorized by divisions (A) and (B) of this section, including for the purpose of division (D) of this section, the commission shall select the least-cost bid winner or winners of that process....

The Company's CBP plan calls for the independent auction manager to provide a post-bidding report to the Commission.<sup>14</sup> With information available from the independent auction manager's report, as well as from reports and observations made by the Staff and the Commission's consultant, the Commission will be able to evaluate the auction process and results to determine if the requirements of R.C. 4928.142(C)(1) through (3) have been met, and select the least cost winning bidder(s). Staff believes that this aspect of the CBP plan is in compliance with the statutory requirement for the Commission to select the least-cost winning bidder(s).

**6. 4928.142(D)**

(D) The first application filed under this section by an electric distribution utility that, as of July 31, 2008, directly owns, in whole or in part, operating electric generating facilities that had been used and useful in this state shall require that a portion of that utility's standard service offer load for the first five years of the market rate offer be competitively bid under division (A) of this section as follows: ten per cent of the load

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<sup>13</sup> Direct Testimony of Teresa F. Marrinan at 5-6.

<sup>14</sup> Direct Testimony of Robert J. Lee at 27.

in year one, not more than twenty per cent in year two, thirty per cent in year three, forty per cent in year four, and fifty per cent in year five. Consistent with those percentages, the commission shall determine the actual percentages for each year of years one through five....

As shown in the Company's application, DP&L owns, or has ownership share, in various coal, oil, or natural gas fired electric generating facilities, all of which were owned and in service as of July 31, 2008.<sup>15</sup> Thus, pursuant to R.C. 4928.142(D), the Company must provide for a standard service offer blending plan in its application.

The Company's MRO plan includes a 5 year and 5 month blending period, with the initial period consisting of 10% competitively bid SSO supply for a period of 1 year and 5 months. Four subsequent annual periods would increase the percentage of competitively bid SSO supply by 10% each period, with 50% competitively bid SSO supply in the fifth annual period. Subsequent to the fifth period, the Company's MRO plan is to increase the percentage of competitively bid SSO supply to 100%.<sup>16</sup> Staff believes that the planned phase-in of SSO supply is in compliance with the statutory blending requirements.

#### **B. Compliance of MRO Filing with PUCO Rules**

PUCO rules provides specific requirements that are applicable to a Standard Service Offer price for retail electric generation service that is to be provided under a Market Rate Offer by an electric utility. The Company's compliance with these requirements, as

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<sup>15</sup> Direct Testimony of Teresa F. Marrinan at 6; TFM-1.

<sup>16</sup> Rate Blending Plan at 2.

delineated in Chapter 4901:1-35, O.A.C., is discussed below. Staff notes that any indication that the Company has provided the required information does not necessarily mean that Staff believes the proposals made by the Company are necessarily the optimal proposals in any specific area.

**1. 4901:1-35-03(A)**

SSO applications shall be case captioned as (XX-XXX-EL-SSO). Twenty copies plus an original of the application shall be filed. The application must include a complete set of direct testimony of the electric utility personnel or other expert witnesses. This testimony shall be in question and answer format and shall be in support of the electric utility's proposed application. This testimony shall fully support all schedules and significant issues identified by the electric utility.

The application was properly filed and includes the requisite testimony in the proper format. As to whether or not the testimony *fully* supports all schedules, Staff believes that this is an issue that would need to be addressed through the processing of the case.

**2. 4901:1-35-03(B)(1)(a)**

The electric utility shall establish one of the following: that it, or its transmission affiliate, belongs to at least one regional transmission organization (RTO) that has been approved by the federal energy regulatory commission; or, if the electric utility or its transmission affiliate does not belong to an RTO, then the electric utility shall demonstrate that alternative conditions exist with regard to the transmission system, which include non-pancaked rates, open access by generation suppliers, and full interconnection with the distribution grid.

As has been discussed previously, the Staff believes that the requirement to belong to at least one RTO has been demonstrated by the Company.

**3. 4901:1-35-03(B)(1)(b)**

The electric utility shall establish one of the following: its RTO retains an independent market-monitor function and has the ability to identify any potential for a market participant or the electric utility to exercise market power in any energy, capacity, and/or ancillary service markets by virtue of access to the RTO and the market participant's data and personnel and has the ability to effectively mitigate the conduct of the market participants so as to prevent or preclude the exercise of such market power by any market participant or the electric utility; or the electric utility shall demonstrate that an equivalent function exists which can monitor, identify, and mitigate conduct associated with the exercise of such market power.

As has been discussed previously, the Staff believes that the requirement of the Company's RTO to retain an independent market monitor function has been satisfied.

**4. 4901:1-35-03(B)(1)(c)**

The electric utility shall demonstrate that an independent and reliable source of electricity pricing information for any energy product or service necessary for a winning bidder to fulfill the contractual obligations resulting from the competitive bidding process (CBP) is publicly available. The information may be offered through a pay subscription service, but the pay subscription service shall be available under standard pricing, terms, and conditions to any person requesting a subscription. The published information shall be representative of prices and changes in prices in the electric utility's *electricity market, and shall identify pricing of on-peak and off-peak energy products that represent contracts for delivery, encompassing a time frame beginning at least two years from the date of the publication.* The published information shall be updated on at least a monthly basis.

As has been discussed previously, the Staff believes that the requirement of the availability of electricity pricing information has been demonstrated by the Company in its application.

**5. 4901:1-35-03(B)(2)(a)**

A complete description of the CBP plan and testimony explaining and supporting each aspect of the CBP plan. The description shall include a discussion of any relationship between the wholesale procurement process and the retail rate design that may be proposed in the CBP plan. The description shall include a discussion of alternative methods of procurement that were considered and the rationale for selection of the CBP plan being presented. The description shall also include an explanation of every proposed non-avoidable charge, if any, and why the charge is proposed to be non-avoidable.

The Company's filing provides a reasonably thorough description of its CBP plan, as well as testimony on the key components of the plan.<sup>17</sup> The Rate Blending Plan section of the filing discusses the retail rate design intended to be used by the Company under its plan. Schedule 5 of the Rate Blending Plan section describes the process for converting the CBP results to rates for blending purposes.<sup>18</sup> Company witness Lee describes several alternatives to the proposed CBP plan that were considered by the Company.<sup>19</sup> Non-avoidable riders ESSC (electric service stability charge), TCRR-N (transmission cost recovery rider – non-bypassable), and RR (reconciliation rider), are

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<sup>17</sup> Direct Testimony of Robert J. Lee.

<sup>18</sup> Direct Testimony of Dona R. Seger-Lawson at 6.

<sup>19</sup> Direct Testimony of Robert J. Lee at 19-22.

discussed in the filing.<sup>20</sup> Additionally, the Company is requesting that rider CBT (competitive bidding true-up) become non-avoidable if its deferral balance becomes greater than \$5 million.<sup>21</sup> The Company intends for its distribution base rates, energy efficiency rider, economic development rider, universal service fund rider, and excise tax rider not to be impacted by the MRO filing.<sup>22</sup> Staff believes that the information presented by the Company addresses the requirements of this section of the Rule.

The Company proposes to recover a variety of CBP related costs through its RR (reconciliation rider). In its Rate Blending Plan, the Company lists CBP auction costs, CBP consultant fees, Commission consultant fees, audit costs, supplier default costs, and case expense, as CBP related cost items that it would include. However, the list of CBP cost items to be included in the rider is open ended, and is also intended to include “any other costs associated with implementing the MRO.”<sup>23</sup> Also, as described elsewhere in testimony, “case expense” actually refers to the cost associated with processing this MRO case, rather than costs of implementing the CBP.<sup>24</sup> Regarding the inclusion of case expense, Staff believes that the proper context for consideration of these costs would be a distribution rate case. Further, regarding the open ended nature of the list of other items to be included in RR, Staff believes that the proposal could allow for costs of existing

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<sup>20</sup> Rate Blending Plan at 13-14, 19-22, 28-32.

<sup>21</sup> *Id.* at 13-14, 28.

<sup>22</sup> *Id.* at 14.

<sup>23</sup> *Id.* at 4.

<sup>24</sup> Direct Testimony of Dona R. Seger-Lawson at 4.

routine day-to-day functions of the Company and for a multitude of unknown future costs to become included in the RR simply because the costs may have some relationship to the CBP process. In order to allow some flexibility in dealing with potential unknown costs, and at the same time provide some certainty about what should be included, Staff recommends that the CBP costs that can be included in RR at this time be limited to those that are specifically listed in the application, and not to include the case expense item or any other non-listed costs. If the Company, at some future time, believes that it is appropriate to include other costs in addition to those specifically listed, it should be required to apply to the Commission for approval prior to including such costs.

**6. 4901:1-35-03(B)(2)(b)**

Pro forma financial projections of the effect of the CBP plan's implementation, including implementation of division (D) of section 4928.142 of the Revised Code, upon generation, transmission, and distribution of the electric utility, for the duration of the CBP plan.

The Company provided pro forma financial projections in its workpapers, WP-12, WP-12.1 and WP-12.1a. The workpapers were sponsored by Company witness Jackson.<sup>25</sup> The Company has complied with the requirements of this section of the rules.

**7. 4901:1-35-03(B)(2)(c)**

Projected generation, transmission, and distribution rate impacts by customer class and rate schedules for the duration of the CBP plan. The electric utility shall clearly indicate

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<sup>25</sup> Direct Testimony of Craig L. Jackson at 2,7, 8.

how projected bid clearing prices used for this purpose were derived.

The Company's Rate Blending Plan provides a set of schedules projected by customer class, and supporting workpapers. Company witnesses Seger-Lawson and Marrinan describe how the projected rate schedules and bid clearing price used in the above projections were derived. Staff believes that the requirements of this section of the rule have been addressed.

**8. 4901:1-35-03(B)(2)(d)**

Detailed descriptions of how the CBP plan ensures an open, fair, and transparent competitive solicitation that is consistent with and advances the policy of this state as delineated in divisions (A) to (N) of section 4928.02 of the Revised Code.

Book II of the Company's application describes the aspects of the CBP plan that are designed address the requirement that it be an open, fair, and transparent competitive solicitation. Company witness Marrinan addresses the question of whether the solicitation advances of state policy, although not every listed policy is explicitly addressed in her testimony.<sup>26</sup> Staff believes that the application addresses the requirements of this section of the Rule.

**9. 4901:1-35-03(B)(2)(e)**

Detailed descriptions of the customer load(s) to be served by the winning bidder(s), and any known factors that may affect such customer loads. The descriptions shall include, but not

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<sup>26</sup>

Direct Testimony of Teresa F. Marrinan at 14-18.

be limited to, load subdivisions defined for bidding purposes, load and rate class descriptions, customer load profiles that include historical hourly load data for each load and rate class for at least the two most recent years, applicable tariffs, historical shopping data, and plans for meeting targets pertaining to load reductions, energy efficiency, renewable energy, advanced energy, and advanced energy technologies. If customers will be served pursuant to time-differentiated or dynamic pricing, the descriptions shall include a summary of available data regarding the price elasticity of the load. Any fixed load provides to be served by winning bidder(s) shall be described.

The Company indicates in its application that it intends to implement a CBP information website that will include customer load information. This would include three years of historical load data, historical hour load data for total retail load and SSO load, historical switching statistics, historical load profiles, customer counts, peak demand and network service peak load (NSPL) for eligible and SSO load by customer class.<sup>27</sup> The Company's plans for meeting energy efficiency and renewable energy targets are described in the Rate Blending Plan as well as in the testimony of Company witness Marrinan.<sup>28</sup> The Company's residential time of use pilot program is described in the Rate Blending Plan as well as in the testimony of Company witness Rabb.<sup>29</sup> Staff believes that the requirements of this section of the rule have been addressed. However, Staff also notes that the Company's proposed CBP information website is not yet functional, so it

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<sup>27</sup> Direct Testimony of Robert J. Lee at 6.

<sup>28</sup> Direct Testimony of Teresa F. Marrinan at 7-11.

<sup>29</sup> Direct Testimony of Emily W. Rabb at 7-9.

has not yet been possible to evaluate the quality of the data that the Company is proposing to provide.

**10. 4901:1-35-03(B)(2)(f)**

Detailed descriptions of the generation and related services that are to be provided by the winning bidder(s). The descriptions shall include, at a minimum, capacity, energy, transmission, ancillary and resource adequacy services, and the term during which generation and related services are to be provided. The descriptions shall clearly indicate which services are to be provided by the winning bidder(s) and which services are to be provided by the electric utility.

Detailed descriptions of the generation and related services that are to be provided by the CBP winning bidders are provided throughout the Company's application and in various supporting testimonies. The CBP Plan section of the application further includes a description of the CBP, the draft Master Standard Service Offer Supply Agreement that must be executed by the winning bidders and DP&L, and other CBP auction related materials. Staff believes that the requirements of this section of the rule have been addressed.

**11. 4901:1-35-03(B)(2)(g)**

Draft copies of all forms, contracts, or agreements that must be executed during or upon completion of the CBP.

Draft copies of forms, contracts, and agreements have been provided in the CBP Plan section of the application, as attachments to the testimony of Company witness Lee. These include Attachment RJL-2 (Master Standard Service Offer Supply Agreement), Attachment RJL-3 (CBP Schedule, though not marked as an attachment), Attachment

RJL-4 (Part 1 and Part 2 Applications), Attachment RJL-5 (Bidding Rules), and Attachment RJL-6 (Communications Protocols). These forms contain a series of certifications and disclosures that must be made during the bidder qualification process, as well as the final supply agreement that must be executed upon completion of the CBP. Staff believes that the requirements of this section of the rule have been addressed in the Company's application.

**12. 4901:1-35-03(B)(2)(h)**

A clear description of the proposed methodology by which all bids would be evaluated, in sufficient detail so that bidders and other observers can ascertain the evaluated result of any bids or potential bids.

The Company has clearly indicated its intention that the bids will be evaluated solely on price. Staff believes that the requirements of this section of the rule have been addressed.

**13. 4901:1-35-03(B)(2)(i)**

The CBP plan shall include a discussion of time-differentiated pricing, dynamic retail pricing, and other alternative retail rate options that were considered in the development of the CBP plan. A clear description of the rate structure ultimately chosen by the electric utility, the electric utility's rationale for selection of the chosen rate structure, and the methodology by which the electric utility proposes to convert the winning bid(s) to retail rates of the electric utility shall be included in the CBP plan.

The new alternative retail rate option being proposed by DP&L as part of its MRO filing is an experimental residential time of use pilot program rate. The experimental

program would be limited to the first 50 residential customers that opt into the program, and is described in the rate blending plan<sup>30</sup> and the testimony of Company witness Rabb.<sup>31</sup>

Staff believes that implementation of the pilot program is an initial step toward development of dynamic retail pricing and is in compliance with the requirements of this section of the rule. With a limitation of the pilot program to 50 participants, the pilot program should not significantly impact residential class load profiles and thus should not detract from the clarity of the product definition for the CBP. Staff believes, however, that the Company's plan to charge a \$5 monthly fee for participation in the program may discourage participation, and recommends that the Company remove the fee, at least during the pilot program phase of the project.

#### **14. 4901:1-35-03(B)(2)(j)**

The first application for a market rate offer by an electric utility that, as of July 31, 2008, directly owned, in whole or in part, operating electric generation facilities that had been used and useful in this state shall include a description of the electric utility's proposed blending of the CBP rates for the first five years of the market rate offer pursuant to division (D) of section 4928.142 of the Revised Code. The proposed blending shall show the generation service price(s) that will be blended with the CBP determined rates, and any descriptions, formulas, and/or tables necessary to show how the blending will be accomplished. The proposed blending shall show all adjustments, to be made on a quarterly basis, included in the

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<sup>30</sup> Rate Blending Plan at 39-41.

<sup>31</sup> Direct Testimony of Emily W. Rabb at 7-9.

generation service price(s) that the electric utility proposes for changes in costs of fuel, purchased power, portfolio requirements, and environmental compliance incurred during the blending period. The electric utility shall provide its best current estimate of anticipated adjustment amounts for the duration of the blending period, and compare the projected adjusted generation service prices under the CBP plan to the projected adjusted generation service prices under its proposed electric security plan.

As stated previously in these comments, the Company's MRO plan includes a 5 year and 5 month blending period, with the initial period consisting of 10% competitively bid SSO supply for a period of 1 year and 5 months. Four subsequent annual periods would increase the percentage of competitively bid SSO supply by 10% each period, with 50% competitively bid SSO supply in the fifth annual period. Subsequent to the fifth period, the Company's MRO plan is to increase the percentage of competitively bid SSO supply to 100%.<sup>32</sup> The Company's rate blending plan includes discussion of riders for recovery of costs associated with fuel, purchased power, and portfolio requirements, and adjustments to be applied to those riders during the rate blending period. The Company proposes to merge its environmental investment rider into its base generation rates as part of this plan.<sup>33</sup>

Staff believes that the Company has presented information to address the requirements of this section of the rule.

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<sup>32</sup> Rate Blending Plan at 2.

<sup>33</sup> Direct Testimony of Dona R. Seger-Lawson at 7.

**15. 4901:1-35-03(B)(2)(k)**

The electric utility's application to establish a CBP shall include such information as necessary to demonstrate whether or not, as of July 31, 2008, the electric utility directly owned, in whole or in part, operating electric generation facilities that had been used and useful in the state of Ohio.

As stated previously in these comments, the Company has shown in the Company's application that it owns, or has ownership share, in various coal, oil, or natural gas fired electric generating facilities, all of which were owned and in service as of July 31, 2008.<sup>34</sup>

**16. 4901:1-35-03(B)(2)(l)**

The CBP plan shall provide for funding of a consultant that may be selected by the commission to assess and report to the commission on the design of the solicitation, the oversight of the bidding process, the clarity of the product definition, the fairness, openness, and transparency of the solicitation and bidding process, the market factors that could affect the solicitation, and other relevant criteria as directed by the commission. Recovery of the cost of such consultant(s) may be included by the electric utility in its CBP plan.

The application states that the Company will fund the cost of a consultant for the Commission, and the cost will be recovered through the RR (reconciliation rider) proposed in the application.<sup>35</sup> Staff believes that the requirements of this section of the rule have been addressed.

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<sup>34</sup> Direct Testimony of Teresa F. Marrinan at 6; TFM-1.

<sup>35</sup> Direct Testimony of Dona R. Seger-Lawson at 14.

**17. 4901:1-35-03(B)(2)(m)**

The CBP plan shall include a discussion of generation service procurement options that were considered in development of the CBP plan, including but not limited to, portfolio approaches, staggered procurement, forward procurement, electric utility participation in day-ahead and/or real-time balancing markets, and spot market purchases and sales. The CBP plan shall also include the rationale for selection of any or all of the procurement options.

Company witness Lee describes the rationale for the Company's choice of a slice of system, load following, full requirements products, to be procured through a descending clock auction.<sup>36</sup> Company witness Lee also describes the alternative procurement method considered by the Company, a one-shot sealed bid approach, in comparison with the selected descending clock auction approach.<sup>37</sup> Staff believes that the requirements of this section of the rule have been addressed.

**18. 4901:1-35-03(B)(2)(n)**

The electric utility shall show, as a part of its CBP plan, any relationship between the CBP plan and the electric utility's plans to comply with alternative energy portfolio requirements of section 4928.64 of the Revised Code, and energy efficiency requirements and peak demand reduction requirements of section 4928.66 of the Revised Code. The initial filing of a CBP plan shall include a detailed account of how the plan is consistent with and advances the policy of this state as delineated in divisions (A) to (N) of section 4928.02 of the Revised Code. Following the initial filing, subsequent filings shall include a discussion of how the state policy continues to be advanced by the plan.

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<sup>36</sup> Direct Testimony of Robert J. Lee at 16.

<sup>37</sup> *Id.* at 19-22.

The Company indicates that it intend to comply with alternative energy resource requirements under the CBP plan primarily through the purchase of renewable energy credits (RECs). Additionally, its existing Yankee solar facility is available to help meet solar renewable requirements. Future alternative energy resource requirement compliance would be through a combination of power purchase agreements, REC purchases and new construction.<sup>38</sup> Further, the Company indicated an intention to include alternative energy resource requirement compliance as a component of its CBP plan.<sup>39</sup> The Company intends to comply with energy efficiency requirements pursuant to its energy efficiency and peak demand reduction (EE/PDR) compliance plan, which was approved by the Commission on April 27, 2011. The Company has indicated that nothing in its MRO application is intended to modify its existing EE/PDR compliance plan.<sup>40</sup>

Staff believes that the Company provided information to comply with the requirements of this section of the rule. However, as stated earlier, Staff believes that the Company's proposal to include renewable requirement compliance as part of the CBP plan may not be appropriate at this time.

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<sup>38</sup> Direct Testimony of Teresa F. Marrinan at 7-8.

<sup>39</sup> *Id.* at 8-11.

<sup>40</sup> *Id.* at 7.

**19. 4901:1-35-03(B)(2)(o)**

An explanation of known and anticipated obstacles that may create difficulties or barriers for the adoption of the proposed bidding process.

Potential obstacles to adoption of the proposed CBP are briefly discussed by Company witness Lee.<sup>41</sup> Staff believes that the requirements of this section of the rule have been addressed.

**20. 4901:1-35-03(B)(3)**

The electric utility shall provide a description of its corporate separation plan, adopted pursuant to section 4928.17 of the Revised Code, including but not limited to, the current status of the corporate separation plan, a detailed list of all waivers previously issued by the commission to the electric utility regarding its corporate separation plan, and a timeline of any anticipated revisions or amendments to its current corporate separation plan on file with the commission pursuant to Chapter 4901:1-37 of the Administrative Code.

The Company's proposed Third Amended Corporate Separation Plan (CSP) is provided as Appendix A to the application. The proposed CSP, in comparison with the Company's currently existing CSP, is described by Company witness Sobecki.<sup>42</sup> Staff believes that the requirements of this section of the rule have been addressed.

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<sup>41</sup> Direct Testimony of Robert J. Lee at 22.

<sup>42</sup> Direct Testimony of Judi L. Sobecki at 2-4.

**21. 4901:1-35-03(B)(4)**

A description of how the electric utility proposes to address governmental aggregation programs and implementation of divisions (I) and (J) of section 4928.20 of the Revised Code.

Company witness Seger-Lawson addresses the issue of impacts that the Company's MRO application is expected to have on governmental aggregation efforts in its service territory.<sup>43</sup> Staff believes that the requirements of this section of the rule have been addressed.

**II. Dayton Power and Light should consider an electric security plan SSO option.**

DP&L requests that the Commission approve an electric service stability charge (ESSC) as part of its standard service offer. The company states that the ESSC is designed to compensate DP&L for maintaining electric service stability for customers and the Company.<sup>44</sup> The Applicant also points out that this charge is similar to a provision contained in Duke's current ESP case. However, Duke operates under an electric security plan, not a market rate offer. In this case, DP&L requests a stability charge as part of a market rate offer, not an electric security plan. The ESP statute, Section 4928.143(B)(2)(d) specifically allows for such a stability charge, but the MRO statute does not explicitly address such a provision.

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<sup>43</sup> Direct Testimony of Dona R. Seger-Lawson at 22-23.

<sup>44</sup> *Id.* at 11.

Staff believes that the Applicant should consider submitting an electric security plan pursuant to R.C. 4928.143. Although either an electric security plan or a market rate option would fulfill the obligation under R.C. 4928.141, the electric security plan can offer significant advantages for the Applicant, the ratepayers of the Applicant and the public at large. An electric security plan can:

- Include a competitive procurement process without the requirement for an initial blending period;
- Utilize options to hedge rates;
- Encourage economic development
- Provide a means of encouraging energy efficiency and the use of renewable energy sources;
- Add flexibility to change rate treatment within rate classes;
- Provide a process where stakeholders can seek resolution of specific issues.

Staff recommends that the Applicant strongly consider building on the successful electric security plan rather than proceed with the somewhat more limited market rate option.

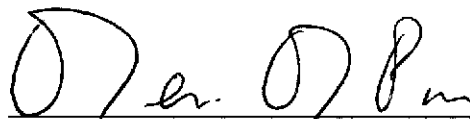
## CONCLUSION

Based upon the foregoing, the Staff requests that the Commission give studied consideration to the comments contained herein.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Th. W. McNamee", is written over a horizontal line.

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## PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Comments** submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served upon the following Parties of Record via electronic mail this 27<sup>th</sup> day of April 2012.



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