BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of Chapter 4901:1-10, Ohio Administrative Code, Regarding Electric Companies.	)))	Case No. 12-2050-EL-ORD

APPLICATION OF THE DAYTON POWER AND LIGHT COMPANY FOR REHEARING AND CLARIFICATION ON THE FINDING AND ORDER ADOPTING RULES FOR ELECTRIC COMPANIES

Pursuant to Ohio Rev. Code § 4903.10 and Ohio Admin. Code § 4901-3-35, The Dayton Power and Light Company ("DP&L" or "Company") applies to the Public Utilities Commission of Ohio ("Commission" or "PUCO") for rehearing and clarification of its Finding and Order issued January 15, 2014, adopting rules for Electric Companies ("Final Rules"). DP&L is an electric utility as defined in Ohio Rev. Code § 4928.01(A)(11) and will be impacted by the Final Rules. The Final Rules are unreasonable, unlawful, and/or need clarification for the following reasons:

I. The Commission's Order is unreasonable because it sets forth burdensome requirements specifically in regard to Section 4901:1-10-14 OAC; when current procedures are working with few issues:

   A. The new requirement in Section 4901:1-10-14(C)(1)(b) provides the applicant the opportunity to decline the utility's request for a social security or tax identification number and provide additional options of establishing creditworthiness, including having a prior account with another electric utility. DP&L seeks clarification from the Commission to confirm that the burden of proof of providing the applicant's previous account with another utility is borne by the customer, not the utility.

   B. The new requirement in Section 4901:1-10-14(M)(2), implementing a uniform guarantor agreement provided by the Commission, will serve to complicate a process that has historically performed well.

   C. The new requirement set forth in Section 4901:1-10-14(M)(5) will require significant system accommodations to implement the change in release of the guarantor agreement. DP&L's current system for managing the guarantor agreement process is sufficient and has performed well historically.

II. The Commission's Order sets forth new requirements in Section 4901:1-10-24 that will require clarification from the Commission, specifically in regard to Section 4901:1-10-24(F)(2) concerning load pattern development.

A. The new requirement in Section 4901:1-10-24(F)(2) is burdensome and in the case of a utility not currently holding 3 years of customer load pattern data, impossible to meet. DP&L is not opposed to complying with this proposed rule, but seeks clarification for those utilities that are unable to meet this requirement at the effective date of the Final Rules.

B. The new requirement in Section 4901:1-10-24(E) regarding written proof of consent concerning the release of customer information is overly burdensome and unworkable. The Commission should grant rehearing on this rule.

C. DP&L seeks clarification on rule 4901:1-10-24(G) concerning disclosure of customer lists and recommends removing subsections 1 through 3 since they will become obsolete when the rule becomes effective.

III. The Commission's Order sets forth several requirements in Section 4901:1-10-28 regarding Net Metering that are unreasonable and others that require clarification as described below.

A. Rule 4901:1-10-28(B)(3) needs clarification on the reference to (B)(10) and clarification on the meaning and intent of the one-year review;

B. Rule 4901:1-10-28(B)(6) is unreasonable because it requires electric utilities to measure the output of the customer-generator before the electricity flows through the utility's meter;

C. Rule 4901:1-10-28(B)(7) should clarify that the calculation of the customer-generator's requirements for electricity is a one-time calculation and based on the three previous years before becoming a net metering customer;

D. Rule 4901:1-10-28(B)(9)(c) is unreasonable because it unnecessarily requires electric utilities to refund annually, without the request of the customer-generator;

E. Rule 4901:1-10-28(B)(9)(c) is unlawful and unreasonable because it improperly characterizes a competitive generation service as noncompetitive;

F. Rule 4901:1-10-28(B)(10) is unlawful and unreasonable because it ignores the fact that customer-generators with excess-generation avoid the cost of using the distribution system, at the expense of customers without net metering; and

G. Rule 4901:1-10-28(C)(3) needs clarification on how an electric utility is to bill a hospital net metering customer on both tariff charges and market value.

Based on the above and for the reasons more fully discussed in the attached Memorandum in Support, DP&L respectfully seeks rehearing or clarification of the Final Rules.

Respectfully submitted,

/s/ Judi L. Sobecki
Judi L. Sobecki (0067186)
The Dayton Power and Light Company
1065 Woodman Avenue
Dayton, OH 45432
Telephone: (937) 259-7171
Facsimile: (937) 259-7178
Email: judi.sobecki@aes.com

Attorney for The Dayton Power and Light Company

MEMORANDUM IN SUPPORT OF APPLICATION FOR REHEARING OF THE DAYTON POWER AND LIGHT COMPANY

In its Finding and Order in the present proceeding, the Commission has adopted Final Rules that impose unlawful and/or unreasonable requirements upon electric distribution utilities. DP&L seeks rehearing or clarification of the Final Rules for the reasons set forth below.

I. The Commission's Order is unreasonable because it sets forth overly burdensome requirements in regard to Section 4901:1-10-14 OAC; when current procedures are working with few issues

A. The new requirement in Section 4901:1-10-14(C)(1)(b) provides the applicant the opportunity to decline the utility's request for a social security or tax identification number and provide additional options of establishing creditworthiness, including having a prior account with another electric utility. DP&L seeks clarification from the Commission to confirm that the burden of proof of providing the applicant's previous account with another utility is borne by the customer, not the utility.

DP&L set forth within its initial comments at page 4 that the Commission should include language within this rule to place the burden of providing a customer's prior utility documents for establishing creditworthiness on the customer. DP&L argues that it would be unduly burdensome for the utility to be required to contact and track down a customer's previous service with another electric utility. DP&L believes that it should be the customer's responsibility to obtain a letter from their previous utility that meets the requirements stated within Section 4901:1-10-14(C)(2) to establish creditworthiness for new service at DP&L or any electric utility. DP&L offers the following language as amendment to Section 4901:1-10-14(C)(2):

(2) The applicant **provides proof of** ~~had~~ a prior account with an electric utility for the same class of service within two years before the date of application, unless during the final year of prior service one of the following occurred:

B. The new requirement in Section 4901:1-10-14(M)(2), implementing a uniform guarantor agreement provided by the Commission, will only complicate a process that has historically performed well.

DP&L argued within its initial comments at page 5 that the Commission should strike the proposed language as the modification will put additional burden on the Company by requiring DP&L to keep and manage a guarantor file. Further, DP&L argued that the process of beginning service for customers requiring a guarantor will be delayed as DP&L will now have to wait for a signed guarantor agreement. The use of a uniform agreement across the state is prudent; however, the methodology of administering the process will be extremely burdensome to customers and DP&L. DP&L does not provide service to a customer requiring security until one of the regulated methods of providing security is completed. If the customer chooses to use a guarantor, the guarantor contacts DP&L for an explanation of the agreement and to qualify, verbally agrees, and DP&L mails the terms and conditions to the guarantor with an opportunity for the guarantor to decline after receiving the written confirmation. DP&L grants the applicant service upon verbal acceptance of the guarantor agreement between DP&L and the guarantor. Under the newly identified process, the customer will need to access the internet to download the agreement, sign the agreement, scan it, and return it via FAX or e-mail. This will undoubtedly result in a longer, more involved process to provide service for the guaranteed customer. It will involve more work for the guarantor, and DP&L will have the additional workload and expense associated with developing and maintaining a tracking system, retaining the signed guarantor agreements, and mailing a copy to the guarantor. DP&L's experience with its current process indicates minimal problems occur and therefore, requests that the Commission grant rehearing.

C. The new requirement set forth in Section 4901:1-10-14(M)(5) will require significant system accommodations to implement the change in release of the guarantor agreement. DP&L's current system for managing the guarantor agreement process is sufficient and has performed well historically.

DP&L's current procedures for managing the guarantor agreement process will be forced to undergo significant accommodations to implement the changes set forth in Section

4901:1-10-14(M)(5) regarding the release of the guarantor agreement. The Company's process today is simple. A guarantor cannot be released while the guaranteed account is in collection activity. If the guaranteed account has a disconnect notice greater than 60 days of service, the 60 days of service amount is transferred to the guarantor's account and the guarantor is released from any further responsibility for the guaranteed account. The guarantor agreement is no longer valid. A deposit is billed to the previously guaranteed account and both the previous guarantor and the previously guaranteed customer receive a confirmation letter regarding the release. The customer can avoid a deposit with any other regulated form of security. If a guarantor opts to no longer be the guarantor when the guaranteed account is not in danger of disconnect, the guarantor is released immediately and another form of security is obtained from the previously guaranteed account. Given the new requirement, a tracking system will have to be implemented to identify if a guarantor receives a disconnection notice. A new letter of notification of termination of the guarantor agreement will need to be developed and mailed and a tracking system developed to ensure the guaranteed customer provides a deposit or another form of security. Manual tracking systems are not possible due to resource limitations, so automated tracking systems will need to be developed and implemented. DP&L requests that the Commission grant rehearing in regard to this rule for the fact that the Company's current system is sufficient and has performed well historically.

II. The Commission's Order sets forth new requirements in Section 4901:1-10-24 that will require clarification from the Commission, specifically in regard to Section 4901:1-10-24(F)(2) concerning load pattern development.

A. The new requirement in Section 4901:1-10-24(F)(2) is burdensome and in the case of a utility not currently holding 3 years of customer load pattern data, impossible to meet. DP&L seeks clarification for those utilities that are unable to meet this requirement at the effective date of the Final Rules.

DP&L's Reply Comments at page 11 opposed Duke Energy Retail's (DER) proposal to establish a statewide methodology for establishing customer load profiles. The Commission should seek to clarify what is meant by a "more realistic result" as indicated by DER. If the intent of a 3 year load profile is to smooth any abnormal weather variations that a utility's service area might experience, then the rule should be amended to encompass not only a 3 year load profile, but also a weather normalized load profile based on 1 year of data. At the very least, the Commission should indicate that a waiver of this requirement be granted in the event an electric utility isn't able to immediately comply with this new requirement. DP&L offers the following language modification to Section 4901:1-10-24(F)(2):

(2) Provide generic customer load pattern information, in a universal file format, to other electric service providers on a comparable and nondiscriminatory basis. **Load pattern information shall be based upon one of the following:**

- **a) A minimum of three years of historical customer usage data;**
- **b) A single, weather normalized year of historical customer usage data;**
- **c) The utility may seek waiver to this rule until such time data is collected to comply with sections (a) and (b) above.**

B. The new requirement in Section 4901:1-10-24(E) regarding written proof of consent concerning the release of customer information is overly burdensome and unworkable and the Commission should grant rehearing.

With the amendments to Section 4901:1-10-24(E), the Commission has established an additional tracking requirement that is unreasonable and unworkable as utilities will now be required to physically document and store a customer's consent for a task as simple as disclosing a customer's account number. DP&L strongly recommends that the Commission reexamine this and grant rehearing.

C. DP&L seeks clarification on rule 4901:1-10-24(G) concerning disclosure of customer lists and recommends removing subsections 1 through 3 since they will become obsolete when the rule becomes effective.

DP&L notes that the revised requirement set forth in Section 4901:1-10-24(G) directs a utility to disclose active CRES provider lists on the utility's website and upon request. Based

on this revised requirement, DP&L seeks clarification from the Commission as to the necessity of subsections 1 through 3 if the Company is publishing such lists on its website and upon customer request.

III. The Commission's Order sets forth several requirements in Section 4901:1-10-28 regarding Net Metering that are unreasonable and others that require clarification as described below.

A. Rule 4901:1-10-28(B)(3) Needs Clarification On The Reference To (B)(10) And Clarification On The Meaning And Intent Of The One-Year Review

Final Rule 4901:1-10-28(B)(3) states "Subsequent to the one-year review, as specified in (B)(10), if the customer-generator thereafter becomes an excess-generator, the electric utility shall contact the customer-generator in order to resolve the change in status." This Rule references (B)(10), which has no mention of a one-year review. DP&L asks that the Commission clarify the reference to (B)(10) and clarify the meaning and intent of the one-year review.

DP&L proposes the following language: "Subsequent to a one-year review, if the customer-generator thereafter becomes an excess-generator, the electric utility shall contact the customer-generator in order to resolve the change in status."

B. Rule 4901:1-10-28(B)(6) Is Unreasonable Because It Requires Electric Utilities To Measure The Output Of The Customer-Generator Before The Electricity Flows Through The Utility's Meter

Final Rule 4901:1-10-28(B)(6) states "A customer-generator must intend primarily to offset part or all of the customer-generator's requirements for electricity. A customer-generator that annually generates less than one hundred and twenty percent of its requirements for electricity is presumed to be primarily intending to offset part or all of its requirements for electricity." This Rule is unreasonable because the utility does not measure the generation output of a net metering customer's renewable generation facility. From DP&L's perspective, the electric utility only measures what flows through the utility's meter. Therefore, DP&L cannot

calculate if a customer-generator is intending primarily to offset part or all of its requirements for electricity by using what the net metering customer's renewable facility generates.

The Company proposes alternative language for the second sentence: "A customer-generator that delivers net electricity to the utility that is less than twenty percent of the customer-generator's requirements for electricity, for any 12 month period, shall be considered primarily intending to offset part or all of its requirements for electricity."

C. Rule 4901:1-10-28(B)(7) Should Clarify That The Calculation Of The Customer-Generator's Requirements For Electricity Is A One-Time Calculation And Based On The Three Previous Years Before Becoming A Net Metering Customer

Final Rule 4901:1-10-28(B)(7) states "A customer-generator's requirements for electricity is the average amount of electricity consumed annually by the customer-generator over the previous three years." Clarification is needed to ensure this calculation is only performed once, and based on the three previous years before becoming a net metering customer. Failure to make this clarification could lead to confusion on whether the rule does or does not require a rolling three year average computation.

The Company proposes the following language:

> *4901:1-10-28(B)(7) "A customer-generator's requirements for electricity is the average amount of electricity consumed annually by the customer-generator over the previous three year period prior to the installation of the generation. This calculation should be performed once, and is not subject to change."*

D. Rule 4901:1-10-28(B)(9)(c) Is Unreasonable Because It Unnecessarily Requires Electric Utilities To Refund Annually, Without The Request Of The Customer-Generator

This Rule requires that electric utilities issue a refund to the customer-generator for the amount of the monetary credit remaining in the account at the end of the May billing cycle, and that the annual refund be issued to customer-generators by July 1. In DP&L's experience, most customer-generators do not ask for a refund and prefer "rolling" the credit and applying it to the

next monthly billing period. This Final Rule forces electric utilities to issue burdensome and unnecessary refunds, and is not what most customer-generators want. DP&L proposes that any refund should be issued only at the customer-generator's request, and the default practice should be a customer credit.

E. Rule 4901:1-10-28(B)(9)(c) Is Unlawful And Unreasonable Because It Improperly Characterizes A Competitive Generation Service As Noncompetitive

Final Rule 4901:1-10-28(B)(9)(c) states "The electric utility shall issue a refund to the customer-generator for the amount of the monetary credit remaining in the account at the end of the May billing cycle, regardless of whether the customer-generator is receiving generation from the electric utility or a competitive retail electric service provider. This refund shall be calculated at the electric utility's standard service offer generation rate."

Retail generation service in Ohio was declared a competitive service beginning in 2001 with the passage of Ohio SB3 in 1999. Requiring the utility to issue a credit for SSO service to a customer that takes competitive retail electric service essentially transforms that service into a noncompetitive service. Under Ohio law, generation is either competitive or noncompetitive. Administrative rules cannot supplant the statue such that a service can be competitive or noncompetitive depending on whether a customer is or is not a net metering customer. Credit on any excess generation should be the responsibility of the customer's generation supplier, regardless of whether that supplier is a CRES provider or the SSO provider. If the Commission believes this is a noncompetitive service and electric utilities are required to issue a refund to the customer-generator regardless of whether that customer is receiving generation from the electric utility or a competitive retail electric service provider, then the electric utility should be permitted to recover those costs through a nonbypassable charge, as can be permitted with noncompetitive services.

Second, this Final Rule is in direct contradiction of Ohio Revised Code 4928.67(A)(1).

> *4928.67(A)(1) "…an electric utility shall develop a standard contract or tariff providing for net metering. That contract shall be identical in rate structure, all retail rate components, and any monthly charges to the contract or tariff to which the same customer would be assigned if that customer were not a customer-generator."*

If a customer receiving generation service from a competitive retail electric service provider were not concurrently a net metering customer, that same customer would not be on the electric utility's SSO generation tariff. That same customer should not be permitted to receive credit based on the appropriate utility tariff SSO generation rate when that customer is not on the utility SSO tariff.

Third, this Final Rule conflicts with Rule 4901:1-21-13(A) of the Administrative Code.

> *4901:1-21-13(A) "An electric services company providing retail electric generation service may offer net metering to its customers by developing a contract for net metering that is consistent with the requirements of rules 4901:1-21-11 and 4901:1-21-12 of the Administrative Code. Such contract shall be made available upon request to qualifying customer generators."*

This rule states that competitive retail electric services providers can offer a contract for net metering. Any refund for generation service should be through a contract or tariff for net metering by the company providing retail electric generation service. This Final Rule could result in the customer improperly receiving a refund for generation from both the electric utility and a competitive retail electric service provider.

F. Rule 4901:1-10-28(B)(10) Is Unlawful And Unreasonable Because It Ignores The Fact That Customer-Generators With Excess-Generation Avoid The Cost Of Using The Distribution System, At The Expense Of Customers Without Net Metering

Final Rule 4901:1-10-28(B)(10) states "In no event shall the electric utility impose on the customer-generator any charges that relate to the electricity the customer-generator feeds back to the system." DP&L contends that there is an exception to this Final Rule. Under the

Final Rules, customer-generators with excess generation clearly rely on the distribution system to export that excess generation and avoid the cost of using the distribution system. The cost of the usage of the distribution system is being shifted to non-net metering customers, resulting in a subsidy to excess-generating net metering customers.

Net metering cost-shifting is being recognized by other states. In an Arizona Corporation Commission ("ACC") Decision filed on November 3, 2013 in Case No. E-01345A-13-0248, the ACC Staff found that "With increasing levels of DG (distributed generation) penetration, the potential of shifting costs from customers with DG systems to those customers without such systems becomes apparent." ACC Decision 74202, E-01345A-13-0248, Page 6, Paragraph 21. The ACC agreed that there was a cost shift, and approved a monthly charge on net metering customers to spread the cost of maintaining a reliable electrical grid more fairly among all customers. DP&L simply believes that all customers should pay for all of their usage of the grid, regardless if they are a net metering customer or a non-net metering customer.

DP&L proposes that customer-generators be billed on monthly excess generation at the electric utility's base distribution rate. The Company offers the following addition to 4901:1-10-28(B)(10) of the Final Rules:

> *In no event shall the electric utility impose on the customer-generator any charges that relate to the electricity the customer-generator feeds back to the system, with the exception of excess generation, which shall be charged at the electric utility's base distribution rate.*

G. Rule 4901:1-10-28(C)(3) Needs Clarification On How An Electric Utility Is To Bill A Hospital Net Metering Customer On Both Tariff Charges And Market Value

This Rule states "The tariff shall be based both upon the rate structure, rate components, and any charges to which the hospital would otherwise be assigned if the hospital were not taking service under this rule and upon the market value of the customer-generated electricity at the

time it is generated." Net metering billing is a monthly computation, not hourly, and is the net of what the utility delivers to the customer and what the utility receives from the customer. This usage is then applied to the appropriate rate schedule.

DP&L seeks clarification on how to calculate hourly values on a process that is typically done at month end and of the net of two reads. In addition, the Final Rules dictate two sets of pricing, one being charges at the appropriate tariff, and the other a market value consisting of locational marginal prices ("LMP"). This rule is at best unclear and may lead to double credit of hospital generation charges.

CONCLUSION

Based on the above, the Commission should grant DP&L's request for rehearing and clarification and accordingly revise the Final Rules.

Respectfully submitted,

/s/ Judi L. Sobecki
Judi L. Sobecki (0067186)
The Dayton Power and Light Company
1065 Woodman Avenue
Dayton, OH 45432
Telephone: (937) 259-7171
Facsimile: (937) 259-7178
Email: judi.sobecki@aes.com

Attorney for The Dayton Power and Light Company

Summary: Application for Rehearing and Memorandum in Support electronically filed by Eric R Brown on behalf of The Dayton Power and Light Company