BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of its Rules for Energy Efficiency Programs Contained in chapter 4901:1-39 of the Ohio Administrative Code	)))))	Case No. 13-651-EL-ORD
In the Matter of the Commission's Review of its Rules for the Alternative Energy Portfolio Standard Contained in chapter 4901:1-40 of the Ohio Administrative Code	)))))	Case No. 13-652-EL-ORD
In the Matter of the Amendment of Ohio Administrative Code Chapter 4901:1-40, regarding the Alternative Energy Portfolio Standard, to Implement Am. Sub. S.B. 315.	))))	Case No. 12-2156-EL-ORD

COMMENTS OF THE DAYTON POWER AND LIGHT COMPANY REGARDING THE COMMISSION'S REVIEW OF ITS RULES FOR ENERGY EFFICIENCY PROGRAMS AND THE ALTERNATIVE ENERGY PORTFOLIO STANDARD CONTAINED IN CHAPTERS 4901:1-39 AND 4901:1-40 OF THE OHIO ADMINISTRATIVE CODE

The Dayton Power and Light Company ("DP&L" or "the Company") appreciates the opportunity to provide comments in response to the Entry dated January 29, 2014 in which the Public Utilities Commission of Ohio ("Commission" or "PUCO") solicited interested parties' comments on proposed changes relating to the Commission's energy efficiency programs and alternative energy portfolio standard rules. DP&L's comments are set forth below.

§4901:1-39-01 Definitions.

DP&L disagrees with the addition of §4901:1-39-01(O)(4) under the definition of "Independent program evaluator" authorizing the statewide evaluator to evaluate and report on the appropriateness and reasonableness of costs included in the EDUs energy efficiency cost recovery mechanisms. First, this is beyond the purview of the statewide evaluator's

responsibilities, and more than likely beyond the evaluator's level of expertise. The primary function, and expertise of the independent evaluator, is to analyze evaluation methodologies employed by the utility's evaluator and savings calculations related to energy efficiency measures. It is unlikely that the independent evaluator will have expertise related to regulatory cost recovery issues. To further complicate the issue for the independent evaluator, each utility will likely have differing cost recovery mechanisms. For instance, some utilities may be recovering lost revenues while others may have a decoupling mechanism. It is typically the responsibility of Commission Staff to evaluate rate filings made by the EDU, including prudency of costs. In addition, an approved portfolio plan suggests prior review of the reasonableness and cost effectiveness of energy efficiency programs that is essentially serving the very purpose of ensuring the EDU is passing through only prudently incurred costs to ratepayers.

§4901:1-39-04 Program portfolio plan and filing requirements.

DP&L is concerned by the proposed language in §4901:1-39-04(A) that requires the EDU to file an updated energy efficiency program portfolio plan annually. The program portfolio approval process has proven to be demanding of all parties involved. For example, DP&L's most recent approved program portfolio took eight months from the time of filing to final approval, and included multiple rounds of intense, time-consuming negotiations between numerous parties. While DP&L agrees with the Commission's goal of minimizing the expense for all stakeholders in the portfolio planning process, requiring EDUs to file a new portfolio annually will prove to be costly, time-consuming and unduly burdensome on all parties involved. Customers will be negatively affected by the uncertainty of a program portfolio which changes each year. In addition, an annual filing and approval process will create significant issues for program implementers, evaluators, and vendors. The core issue with filing a new portfolio

annually is timing. EDUs all use outside vendors to implement programs. These contracts often span multiple years and are the result of a competitive bid process, which in itself can take multiple months. Moving to an annual filing and approval schedule would create significant challenges in the contracting process with implementation vendors and would ultimately serve to drive up costs for customers and provide no additional benefits. Constantly re-negotiating terms and conditions will also affect the variety and number of vendors available to work with EDUs, increasing costs to reach energy efficiency mandates. In addition, the EDU's program evaluators need an adequate amount of time to run the EDU's portfolio through its models and provide the utility with valuable program data and information to be used to make well-informed program decisions. Annual program portfolio updates prevent the opportunity for a thorough review of the proposed plan by evaluators, EDUs and interested parties, including the Commission. DP&L believes the current three-year program portfolio gives certainty to customers, program vendors and EDUs and allows for increased implementation efficiency rather than using resources for continued contract negotiations and program portfolio filing preparation and litigation. Despite the comments in opposition to the changes to §4901:1-39-04(A), DP&L is supportive of the filing date change to September 15 in the last year of the existing commission approved portfolio plan, allowing time for proactive approval of EDU program portfolios.

Within §4901:1-39-04(C)(2), language was added that requires EDUs to conduct quarterly stakeholder meetings in which it will provide interested parties with program performance updates and among other things, solicit input from stakeholders on existing and potential new programs. All EDUs' existing portfolio plans already include periodic stakeholder meetings. Requiring these meetings by rule is unnecessary, and will impose a rigid, mandatory structure to what is currently well-functioning, voluntary, collaborative process. Ultimately, the

utility bears the burden of compliance with the energy efficiency benchmarks, not the stakeholders, so flexibility in these meetings must be maintained. Therefore, §4901:1-39-04(C)(2) should be rejected by the Commission.

§4901:1-39-05 Annual performance verification.

DP&L's issues with §4901:1-39-05(B)(3) mimic those explained above under §4901:1-39-01. Once more, DP&L proposes removal of §4901:1-39-05(B)(3), which requires the statewide evaluator to assess the appropriateness and reasonableness of all costs included in the utility's energy efficiency recovery mechanism, as this is beyond the scope of its responsibilities as a retroactive evaluator of EDU portfolio implementation effectiveness.

In the January 29, 2014 entry in this case, Commission Staff "welcomes comments relating to the timing of the availability of technical reference manual ("TRM") updates in order for the utilities to have the ability to include those updates in their plans on a timely basis." Furthermore, Staff added a new rule, §4901:1-39-05(E), which directs the independent program evaluator to file an updated TRM "Based upon [its] recommendations…relative to revisions to the [TRM], and the comments received on the independent evaluator's recommendations pursuant to paragraph (C) of this chapter…" DP&L believes that changes to the TRM should be addressed in a separate docket and not within the docket regarding the independent evaluator's report of each utility's portfolio status report. More importantly, historically the independent program evaluator's report has been filed at a substantial lag from current EDU annual status updates and program portfolios. Based on actual experience with this timetable, from a practical standpoint the utilities will not be able to include any TRM updates into their plans on a timely basis. As such, DP&L suggests that§4901:1- 39-05(B)(4) and §4901:1-39-05(E) be removed; however, if these proposed sections are retained the subject should be considered in a separate

docket. Regardless, revisions to the TRM need to be completed well in advance of a utility filing its portfolio plan. Portfolio plans, by definition, include savings projections with corresponding budgets based on the measure saving assumptions. Once a portfolio plan is filed and approved, the savings assumptions used for the planning period need to be fixed for the duration of the plan. Otherwise the plan, and its corresponding budgets, will no longer be viable to achieve the plan goals. Therefore, if portfolio plans are to be filed on September 15, any revisions to the TRM should be finalized and approved through a public process, no later than six months prior to the filing of the portfolio plan, providing the utilities with sufficient time to develop the plan with the revised TRM savings assumptions.

§4901:1-39-06 Recovery Mechanism.

Commission Staff's revised Section 4901:1-39-06 states:

> Any cost recovery that occurs under the electric utility's rate adjustment mechanism shall be subject to reconciliation based on the commission's opinion and order issued in the performance verification process.

DP&L seeks clarification in regard to the "performance verification process." It is unclear what verification process the rule is referring to, whether it is the independent program evaluator's report or the utility's annual status report. Regardless, DP&L would initially suggest that "performance verification process" be changed to "the utility's annual recovery mechanism true-up filing." Reconciliation of costs should be addressed within the context of each utility's cost recovery mechanism case.

§4901:1-39-07 Historical mercantile customer programs, combined heat and power, or waste energy recovery systems.

DP&L seeks clarification on the timetables and deadlines set forth under §4901:1-39-07(C). It is unclear from the language when a mercantile customer's application must be filed in order to meet the criteria for a mercantile rebate from the utility.

§4901:1-40-03 Requirements.

DP&L supports the deletion of §4901:1-40-03(C) which requires a ten year compliance plan for future annual advanced and renewable energy benchmarks. The requirement was unnecessary and provided very little benefit.

§4901:1-40-04 Qualified resources.

DP&L is concerned that the proposed language for §4901:1-40-04(D)(4) is contrary to ORC §4928.65. RECs, by statute, have a life of five years following the date of their purchase or acquisition.

Rule 4901:1-40-04(D)(7) is unnecessary and the PUCO should allow entities to comply with the alternative energy requirements by April 15 of the next calendar year by using any REC that is available before the compliance deadline of April 15.

§4901:1-40-05 Annual status reports and compliance reviews

In its Entry, the PUCO solicits feedback on options for collecting data on the cost of RECs which is included in the annual report to the General Assembly. DP&L does not have concerns with including the cost information as a part of the annual compliance status reports since DP&L has provided the data historically as the PUCO has requested. However, each EDU and electric services company should be required to file cost data. For the compliance year 2012 report, eleven electric services companies did not file this information. The information

presented to the General Assembly was incomplete and inaccurate because a substantial portion of the market did not provide data. DP&L suggests that the rules include some penalty which can be imposed upon those entities that are unwilling to comply. ORC §4928.64(D)(1) clearly states that the Commission should annually submit "The average annual cost of renewable energy credits purchased by utilities **and companies** for the compliance year."

Another option in the Entry suggested that tracking systems collect costs data. DP&L is concerned that REC tracking systems, such as GATS, were developed to track REC quantities, and not necessarily the cost of the RECs. Details on what entity enters the cost data, if it can be changed, and if it is all inclusive of acquisition fees and costs must be understood before data from REC tracking systems can be relied upon.

Regarding §4901:1-40-05(A)(4)(d), DP&L seeks clarification whether this demonstration is considered an application or not. It is not clear if a determination is made regarding the cost cap annually, or if it is simply a status update and a separate application must be filed to demonstrate compliance with the costs cap rule in §4901:1-40-07.

§4901:1-40-07 Cost Cap.

DP&L suggests that language throughout this section be consistent and provides specific recommendations below.

Section 4901:1-40-07(A)(5) should be modified to be consistent with §4901:1-40-07(B) and ORC §4928.64(C)(3).

> §4901:1-40-07(A)(5):
> In the case that the commission makes a determination that an electric utility's or electric services company's compliance costs exceed the applicable 3 percent cost cap, the electric utility or electric services company shall ~~may~~ not be required to fully comply with that specific benchmark.

Section 4901:1-40-07(B)(2)(b), should be modified to be consistent with §4901:1-40-07(B)(2)(a):

> §4901:1-40-07(B)(2)(b):
> For an electric utility that is transitioning to 100 percent competitive bid rates, the dollars per megawatt-hour figure should be a weighted average of the reasonably expected cost of the SSO supply for delivery during the compliance year net of distribution losses ~~bid results for delivery during the compliance year~~ and an applicable base generation rate. The base generation rate component shall consist of a reasonable projection of any rate schedule and riders to be used during the compliance year to collect by-passable energy, capacity, and transmission and ancillary service costs while excluding any by-passable rider used to recover compliance costs associated with section 4928.64 of the Revised Code.

DP&L believes a typographical error was made in the initial draft of the proposed rule in Section 4901:1-40-07(B)(1) and it should be modified as follows:

> Determine the compliance baseline in ~~dollars per~~ megawatt-hours for the compliance year consistent with the applicable section of paragraph (B) of rule 4901:1-40-03 of the Administrative Code.

As always, DP&L appreciates the opportunity to provide comments in connection with this five-year rule review, and urges the Commission to adopt the changes proposed by DP&L.

Respectfully submitted,

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Summary: Comments of the Dayton Power and Light Company, electronically filed by Mr. Tyler A. Teuscher on behalf of The Dayton Power and Light Company