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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

PUCO

In the Matter of the Complaint of )

Miami Valley Communications Council )

Complainant )

v. )

The Dayton Power & Light Company )

Respondent. )

Case No. 04- 85 -EL-CSS

COMPLAINT OF THE MIAMI VALLEY COMMUNICATIONS COUNCIL ON  
BEHALF OF ITSELF AND ITS PARTICIPATING MUNICIPALITIES

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**BEFORE  
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<b>In the Matter of the Complaint of</b>	)	
	)	
<b>Miami Valley Communications Council</b>	)	
	)	
<b>Complainant</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 04-        -EL-CSS</b>
	)	
<b>The Dayton Power &amp; Light Company</b>	)	
	)	
<b>Respondent.</b>	)	

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**COMPLAINT OF THE MIAMI VALLEY COMMUNICATIONS COUNCIL ON  
BEHALF OF ITSELF AND ITS PARTICIPATING MUNICIPALITIES**

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Now comes the Miami Valley Communications Council ("MVCC") on behalf of itself and the municipalities of Centerville, Bellbrook, Kettering, Moraine, Miamisburg, and Germantown ("MVCC Communities") and respectfully submits this Complaint to the Public Utilities Commission of Ohio ("Commission").

As further detailed herein, MVCC submits that the Dayton Power & Light Company ("DP&L") has demanded certain charges for billing services for MVCC's governmental aggregation group that are in excess of what is authorized by DP&L's Commission-approved tariffs, which would violate the Commission's Rules and the Revised Code, and which are unjust, unreasonable, and unjustly discriminatory. DP&L has also taken unreasonable actions to frustrate retail competition and governmental aggregation that violate the Commission's Rules, Ohio Energy's policy, the Revised Code itself, and DP&L's corporate separation plan and code of conduct. Further, in violation of the Commission's Rules, the Revised Code, DP&L's

corporate separation plan and code of conduct, DP&L has engaged in prohibited information-sharing practices with its corporate affiliates, including DPL Energy Resources, Inc. ("DPLER").

In support of this Complaint, MVCC avers as follows:

#### **PARTIES AND PRELIMINARY AVERMENTS**

1. MVCC is a regional council of governments established by the authority and power granted, *inter alia*, by Revised Code ("RC") Chapter 167. MVCC assists member and non-member communities in the formation of governmental aggregation programs, and has been so authorized to act by its board.

2. Approximately 50,000 electric accounts are eligible to participate in the governmental aggregation programs of the MVCC Communities. MVCC and the MVCC Communities desire to bring the benefits of governmental aggregation and retail competition to these 50,000 accounts that receive electric distribution service from DP&L.

3. MVCC acts on behalf of and represents the MVCC Communities with respect to their governmental aggregation programs. MVCC and the MVCC Communities have enacted legislation and entered into agreements to authorize MVCC to act on behalf of the MVCC Communities to effectuate and administer their governmental aggregation programs.

4. The MVCC Communities have voter-approved referenda to establish governmental aggregation programs pursuant to RC § 4928.20, and the MVCC Communities are doing so. Indeed, some MVCC Communities have adopted resolutions approving their plan of operation and governance, and MVCC will shortly be applying to the Commission for certification as a governmental aggregator.

5. MVCC has issued Request for Proposals ("RFPs") for the supply of generation and related services to the governmental aggregation programs of the MVCC Communities.

6. DP&L, a subsidiary of DPL Inc. ("DPL"), has its principal place of business in Dayton, Ohio, and serves about half a million accounts in Western Ohio.

7. DP&L is engaged in the business of supplying electricity for light, heat, or power purposes to consumers within Ohio, and therefore, DP&L is an electric light company pursuant to RC § 4905.03(A)(4) and an electric distribution public utility pursuant to RC § 4905.02. Accordingly, DP&L is subject to the jurisdiction of this Commission pursuant to RC §§ 4905.04, 4905.05, and 4905.06.

8. The State of Ohio enacted Am. Sub. S. B. No. 3 ("SB 3"), in 1999, to restructure Ohio's electric utilities to provide consumers with competitive choices with respect to generation service, including through the formation of governmental aggregation programs.

9. The Commission has jurisdiction over this Complaint pursuant to, *inter alia*, RC § 4905.26, RC § 4928.16, and RC § 4928.18, and accordingly, the Commission has jurisdiction to enforce DP&L's compliance with DP&L's Commission-approved tariffs, corporate separation plan, code of conduct, the Commission's Rules, and the Revised Code.

10. RC § 4928.16 and RC § 4905.26 provide generally that following the starting date of competitive retail electric service ("CRES"), the Commission has jurisdiction over a complaint brought by "any person" concerning the provision of electric and related services by an electric utility, or violations by the electric utility of the Revised Code or the Commission's Rules. MVCC is entitled to bring this Complaint against DP&L on behalf of itself and the MVCC Communities it represents and acts on behalf of.

**COUNT I: DP&L's demanded charge for billing services is excessive, unjust, unreasonable, and discriminatory**

11. MVCC incorporates the above paragraphs as if written in their entirety herein.

12. Ohio Administrative Code ("OAC") 4901:1-21-14(B) requires that bills issued by or for CRES providers shall be accurate, understandable, rendered at intervals consistent with those of the customer's electric distribution utility ("EDU"), and contain sufficient information for customers to compute and compare the total cost of competitive retail electric service.

13. To effectuate the supply and billing of the MVCC governmental aggregation programs, suppliers responding to MVCC's RFPs approached DP&L concerning the billing of participating MVCC consumers. DP&L demanded a charge of \$1.90 per bill per month for each customer participating in the governmental aggregation programs of the MVCC Communities.

14. DP&L's demanded charge for the provision of billing services is unjustly and unreasonably in excess of any reasonable measure of the cost of providing such services, and violates DP&L's Commission-approved tariff, the Commission's Rules, and the Revised Code.

15. DP&L's excessive, unjust, and unreasonable charge for billing services violates RC § 4905.22, which directs that "[a]ll charges made or demanded [by any public utility, such as DP&L,] for any service rendered, or to be rendered, shall be just, reasonable, and not more than the charges allowed by law or by order of the public utilities commission, and no unjust or unreasonable charge shall be made or demanded for, or in connection with, any service, or in excess of that allowed by law or by order of the commission."

16. OAC 4901:1-10-29(H)(1) provides that EDUs shall make dual billing and consolidated billing available to CRES providers. Further, DP&L's Commission-approved Electric Generation Service Alternative Generation Supplier Coordination Tariff, First Revised Sheet No. G8, Paragraph 10.1, provides that the "Company will provide consolidated, rate ready billing services" and that the "AGS [Alternative Generation Supplier] may request the Company to do all or some of the billing for the AGS's Customers . . ."

17. DP&L is required to provide dual and consolidated billing services to CRES providers and governmental aggregators. However, by demanding an excessive, unjust, and unreasonable charge for billing services, DP&L is effectively denying CRES providers access to such services, in violation of its Commission-approved tariff and the Commission's Rules.

18. DP&L's Commission-approved Electric Generation Service Alternative Generation Supplier Coordination Tariff, First Revised Sheet No. G8, Paragraph 10.1, also provides that "[c]harges for such billing services will be non-discriminatory." In violation of this provision, upon information and belief, DP&L has demanded different billing services charges from different CRES providers.

19. DP&L's Director of Regulatory Operations has publicly stated that billing is a competitive service, which allows DP&L to demand the charge that it is demanding. However, billing, metering, and collection services are non-competitive retail electric services. In fact, in Case No. 03-681-EL-COI, the Commission is presently considering whether billing and other services should be provided competitively. In that same case DP&L has commented that "the Commission should neither start a pilot program nor declare . . . metering, or billing and collection service as competitive services." See Initial Comments of The Dayton Power & Light Company, Case No. 03-681-EL-COI, at pg. 11. Pursuant to RC § 4928.04 and RC § 4928.05, DP&L's billing service is subject to the Commission's review as a noncompetitive service, and costs for the same have to be recovered at just, reasonable, and cost-based rates, to the extent that DP&L is not otherwise recovering the same.

20. Misleading public statements by DP&L's employees and officers in this regard, whether or not made knowingly or purposely, violate the policy set forth in RC § 4928.02.

21. With respect to MVCC's request for billing services, DP&L has indicated that MVCC need not obtain such services from DP&L. While this may be theoretically true, for all intents and purposes, billing for governmental aggregation groups is a noncompetitive service. DP&L is the sole provider of such services in its territory, and no other billing provider is readily available to render bills that comply with the Commission's billing requirements set forth in OAC 4901:1-21-14.

22. RC § 4928.01(A)(18) defines "market power" as the "ability to impose on customers a sustained price for a product or service above the price that would prevail in a competitive market." DP&L is the sole provider of billing services to retail consumers in DP&L's service territory. By demanding an excessive, unjust, and unreasonable charge for billing services, DP&L is abusing its market power in violation of the policy set forth in, *inter alia*, RC § 4928.02(H) and RC § 4928.06, which provide that consumers shall be protected against unreasonable sales practices, market deficiencies, and market power. DP&L is also in violation of OAC 4901:1-20-16(G)(4)(h), which provides that "[t]he electric utility shall ensure retail electric service consumers protection against unreasonable sales practices, market deficiencies, and market power."

23. Additionally, RC § 4928.03 provides that "each consumer in this state and the suppliers to a consumer shall have comparable and nondiscriminatory access to noncompetitive retail electric services of an electric utility." DP&L does not separately charge DP&L's standard-offer customers for billing and related services. DP&L recovers its expenses for such services through costs embedded in end-user rates, or the monthly customer charge, or by other mechanisms approved by the Commission. However, DP&L's demanded charge for the billing of end-users who switch to governmental aggregation programs or take service from CRES

providers will cause such consumers to pay twice for the same service – once through their rates and/or charges and again through the charge imposed on alternative providers who must pass through such charges to end users. To the extent not recovered through the generation rate, DP&L's demanded charge for billing services would cause shopping consumers to overpay relative to non-shopping consumers. In so doing, DP&L is discriminating against shopping consumers, and denying them access to comparable billing services.

24. As set forth in paragraphs 11 through 23, DP&L's demanded charge for billing services is excessive, unjust, unreasonable, and discriminates in violation of, *inter alia*, DP&L's Commission-approved tariff, RC §§ 4928.01, 4928.02, 4928.03, 4928.04, 4928.05, 4928.06, and 4905.22, as well as OAC 4901:1-20-16, OAC 4901:1-21-14, and OAC 4901:1-10-29.

**COUNT II: DP&L's actions unreasonably and unlawfully frustrate governmental aggregation and competitive retail switching**

25. MVCC incorporates the above paragraphs as if written in their entirety herein.

26. The Ohio Retail Electric Choice Programs Report of Market Activity 2001-2002, issued by the Commission in May 2003, demonstrates that not even a single residential customer has switched to a competitive supplier in DP&L's territory. Additionally, the Commission provides no Apples-to-Apples chart for DP&L, because not even a single CRES provider is marketing to such consumers in DP&L's service territory.

27. It is undisputed that governmental aggregation programs have been primarily responsible for stimulating competitive switching in Ohio's residential electric market. DP&L's actions, whether purposeful or not, result in a significant stifling of aggregation efforts by MVCC and the MVCC Communities, and create a roadblock to bringing the benefits of competition to retail consumers in DP&L's territory. DP&L's proposed billing charge frustrates



competitive switching for purposes of protecting its standard-offer service load and generation supply by its affiliates, such as DPLER, which violates, *inter alia*, RC § 4928.02.

28. Upon information and belief, the governmental aggregation programs in the MVCC Communities constitute approximately 12% of DP&L's total residential and small commercial load, and approximately 20% of DP&L's generation sales revenues from such customers. DPL has publicly indicated that its corporate strategy is to bring its affiliates' generation to market through DP&L's standard-offer service load. Thus, DP&L and its affiliates have a financial incentive to frustrate retail competition in DP&L's service territory.

29. The City of Bellbrook ("Bellbrook") is one of the communities participating in MVCC's governmental aggregation program. Two DP&L employees paid an unsolicited visit to Bellbrook's City Manager to discuss Bellbrook's decision to form a governmental aggregation program. The two DP&L officers were DP&L's Vice President of Operations and its Director of Regulatory Operations. These DP&L officers provided Bellbrook's City Manager with a handout that the City Manager provided to MVCC. *See Exhibit A hereto.*

30. The substantive content of DP&L handout casts doubt on and discourages the formation of governmental aggregation programs relative to DP&L's standard offer service. For example, among other issues, the handout strongly suggests that after accounting for billing and other costs that DP&L could impose, DP&L's standard offer rate would be more competitive than the MVCC aggregation program's rate. Further, notwithstanding the Commission's Rules on this matter in OAC 4901:1-21 *et seq.*, the handout indicates that MVCC could hide these additional DP&L billing services costs from the municipality's residents, for surreptitious collection through a rider. Indeed, DP&L's handout to the Bellbrook City Manager states, "However, by law, DP&L has the right to charge suppliers for this [billing] service. It would

become easy for that cost to become a hidden adder that ultimately results in an increase in customer cost after a supply contract is approved.” See Exhibit A hereto.

31. Furthermore, DP&L and its affiliates’ officers and employees have publicly indicated that DP&L desires to maintain its standard-offer service load, because doing so is in the best economic and employment interests of the companies, its employees, and its shareholders. Indeed, DP&L and its affiliates’ employees have publicly admonished officials in the MVCC Communities, that by forming governmental aggregations they could cause DP&L employees to lose their jobs when DP&L shuts down allegedly aging and uneconomical generation facilities that are otherwise unable to compete in the wholesale marketplace. DP&L, however, was unwilling to provide assurances that the same result was not otherwise inevitable, even without aggregation.

32. There is competitive switching among industrial and large commercial consumers in DP&L’s service territory. However, notwithstanding the foregoing, and without mentioning the foregoing, DP&L and its affiliates’ employees have publicly indicated to officials in the MVCC Communities that CRES providers may not be able to reliably supply power to their governmental aggregation programs due to infrastructure and marketplace deficiencies. DP&L and its affiliates’ employees have even gone so far as to suggest that CRES-associated power flows were responsible for the August 14, 2003, blackout.

33. The billing of consumers is obviously an integral part of the provision of services to consumers. By demanding an unjust, unreasonable, and discriminatory charge, DP&L is denying competitive providers access to billing services, so as to prevent retail competition from taking hold in its territory and to impermissibly protect its standard-offer service load.

34. RC § 4905.55 provides that an act, omission, or failure of any officer, employee, or other person acting for the public utility is the act, failure, or omission of the public utility. Through the actions of its officers, employees, and agents, DP&L's actions appear to be an effort to foil aggregation and retail competition in violation of RC § 4928.01(A)(14) and the pro-competition policy set forth in RC § 4928.02.

35. DP&L's actions detailed in the above paragraphs of this Count II are an abuse of market power, DP&L's corporate separation plan and code of conduct, and violate Ohio's energy policy set forth in, *inter alia*, RC §§ 4928.02, 4928.06, and 4928.17, and otherwise unlawful and unreasonable in violation of, *inter alia*, RC §§ 4928.18, 4905.22, and 4905.26.

36. As set forth in paragraphs 25 through 35, DP&L's actions have unreasonably and unlawfully frustrated governmental aggregation and retail competition in violation of, *inter alia*, RC §§ 4928.01, 4928.02, 4928.06, 4928.17, and 4905.55, and otherwise unlawful and unreasonable in violation of, *inter alia*, RC §§ 4928.18, 4905.22, and 4905.26.

**COUNT III: DP&L is engaging in impermissible conduct with its affiliates**

37. MVCC incorporates the above paragraphs as if written in their entirety herein.

38. The standard-offer service is intended to be a default service provided for last resort purposes. DP&L, however, desires to maintain its standard-offer service load, because doing so is in its and its affiliates' economic interest. With regard to its provision of standard-offer service to end-users, DP&L is a competitor to governmental aggregators and CRES providers.

39. To establish its governmental aggregation programs, MVCC presented RFPs to numerous suppliers, including DPLER. MVCC confidentially provided the bidding suppliers with non-public information regarding its programs. DP&L and DPLER shared this information,

and DP&L acted on the same for purposes of thwarting MVCC's aggregation programs. For example, DP&L made an unsolicited visit to the Bellbrook City Manager regarding Bellbrook's decision to form a governmental aggregation program, as discussed in Count II above. MVCC also provided the bidding suppliers with a password-protected website to access information they needed to respond to the RFPs. DP&L obtained access to this password-protected website through DPLER, and threatened to file a complaint against MVCC for sharing the information with the RFP bidders. *See* DP&L's October 28, 2003, letter to MVCC, Exhibit B hereto. DP&L and its affiliates shared confidential information, and DP&L used the same to take actions to thwart retail competition from MVCC's aggregation programs.

40. Information about competitors and the marketplace is a "valuable tool" that is used for competitive advantage. *See* DPL Inc.'s Code of Business Conduct, adopted January 28, 2003 (available at <http://www.dplinc.com/oi/index.phtml>). The exchange of competitively valuable information between affiliates is, therefore, an impermissible subsidy to the receiving affiliate. OAC 4901:1-20-16(D) provides, "Cross-subsidies between an electric utility and its affiliates are prohibited. An electric utility's operating employees and those of its affiliates shall work/function independently of each other." By sharing competitively advantageous and valuable information, DP&L and its affiliates, such as DPLER, are exchanging impermissible subsidies in violation of the Commission's Rules.

41. To ensure the policy of promoting retail competition set forth in RC § 4928.02, the Commission prevents the flow of subsidies between EDUs, such as DP&L, and its affiliates, such as DPLER. OAC 4901:1-20-16(G)(4)(f) provides, "The electric utility shall ensure effective competition in the provision of retail electric service *by avoiding anticompetitive subsidies* flowing from a noncompetitive retail electric service to a competitive retail electric

service or to a product or service other than retail electric service, *and vice versa*.” Emphasis added. The sharing of competitively sensitive information has significant value in the marketplace, and is an unauthorized cross-subsidy between affiliates. Further, DP&L is using and acting on such informational subsidies to impermissibly thwart governmental aggregation and retail competition in DP&L’s service territory.

42. RC § 4928.17 requires that DP&L’s corporate separation plan and associated code of conduct “satisfies the public interest in preventing unfair competitive advantage and preventing the abuse of market power.” Contrary to the public interest in fair competition, DP&L and its affiliates are exchanging cross-subsidies by sharing valuable information. Furthermore, by obtaining and acting on such information, DP&L is abusing its market power and gaining an unfair competitive advantage. Such actions by DP&L and its affiliates violate RC § 4928.17, as well as DP&L’s corporate separation plan and code of conduct.

43. Inasmuch as DP&L is foiling governmental aggregation and retail competition in its service territory to retain its standard-offer service load, DP&L is preferentially retaining and promoting a market for its affiliates’ generation and other services. Such conduct by DP&L and its affiliates is a violation of, *inter alia*, DP&L’s corporate separation plan and code of conduct, RC §§ 4928.02 and 4928.17, and OAC 4901:1-20-16.

44. As set forth in paragraphs 37 through 43, DP&L and its affiliates have impermissibly shared subsidies, shared competitively advantageous and valuable information, and have engaged in actions to frustrate governmental aggregation and retail competition in DP&L’s service territory for purposes of preserving DP&L’s standard-offer service load, in violation of, *inter alia*, DP&L’s corporate separation plan and code of conduct, RC §§ 4928.02 and 4928.17, and OAC 4901:1-20-16.

### **PRAYER FOR RELIEF**

As its prayer for relief, MVCC, on behalf of itself and the MVCC Communities, respectfully requests the Commission to find and grant the following:

- a. DP&L's demanded charge for billing services is excessive, unjust, unreasonable, and discriminatory, in violation of the Revised Code, the Commission's Rules, and DP&L's Commission-approved tariff, corporate separation plan, and code of conduct.
- b. DP&L's demanded charge for billing services is a barrier to competitive entry, in violation of the Revised Code, the Commission's Rules, and DP&L's Commission-approved tariff, corporate separation plan, and code of conduct.
- c. The Commission should set the rate that DP&L may demand for providing billing services to governmental aggregators and CRES providers. DP&L's charge for billing services for shopping customers shall be just and reasonable; should not exceed DP&L's cost of providing such services; should be collectible to the extent not already being recovered through DP&L's base rate, customer service charge, or any other mechanisms; and should be collectible to the extent such charges are also imposed on others that are similarly situated.
- d. DP&L and its affiliates have knowingly and otherwise engaged in behavior to thwart governmental aggregation and retail competition in DP&L's service territory, in violation of the Revised Code, the Commission's Rules, and DP&L's Commission-approved tariff, corporate separation plan, and code of conduct.
- e. Order a Commission-Staff investigation of DP&L's conduct with its affiliates and DP&L's compliance with its corporate separation plan and code of conduct; discipline DP&L for such violations pursuant to RC § 4928.18 (C) and (D); and, pursuant to RC § 4928.17(D), as

otherwise necessary and appropriate, order the amendment of DP&L's corporate separation plan and code of conduct "to reflect changed circumstances" since the same were approved.

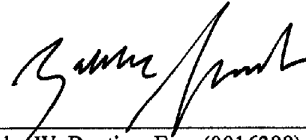
- f. Order DP&L's general counsel to conduct an investigation of DP&L's actions and interactions with its affiliates with regard to their compliance with DP&L's corporate separation plan and code of conduct, the Commission's Rules, and the Revised Code, as set forth in OAC 4901:1-20-16(G)(5).
- g. Provide such other relief, as the Commission may deem necessary or appropriate.

**WHEREFORE**, MVCC, on behalf of itself and the MVCC Community, respectfully requests that the Commission find that reasonable cause exists to set this matter for hearing, direct DP&L to answer this Complaint, and establish a hearing schedule for this matter. MVCC respectfully requests the Commission find that DP&L has engaged in unjust, unreasonable, and unlawful actions, as follows:

- A. DP&L's demanded charge for billing services is excessive, unjust, unreasonable, and discriminates in violation of, *inter alia*, DP&L's Commission-approved tariff, RC §§ 4928.01, 4928.02, 4928.03, 4928.04, 4928.05, 4928.06, and 4905.22, as well as OAC 4901:1-20-16, OAC 4901:1-21-14, and OAC 4901:1-10-29.
- B. DP&L's actions have, whether knowingly or not, unreasonably and unlawfully frustrated governmental aggregation and retail competition in violation of, *inter alia*, RC §§ 4928.01, 4928.02, 4928.06, 4928.17, and 4905.55, and are otherwise unlawful and unreasonable in violation of, *inter alia*, RC §§ 4928.18, 4905.22, and 4905.26.
- C. DP&L and its affiliates have impermissibly shared subsidies, shared competitively advantageous and valuable information, and have engaged in actions to frustrate

governmental aggregation and retail competition in DP&L' service territory, in violation of, *inter alia*, DP&L's corporate separation plan and code of conduct, RC §§ 4928.02 and 4928.17, and OAC 4901:1-20-16.

Respectfully submitted,



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**Miami Valley Communications Council**



**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Complaint of Miami Valley Communications Council on Behalf of itself and its Participating Municipalities was served upon the following persons or as a courtesy, via ordinary U.S. Mail postage prepaid, express mail, hand delivery, or electronic transmission, on January 21, 2004.

  
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**EXHIBIT**

**A**

## Issues to be Considered

- **Billing:** If the generation supplier elects to do so, they can request that DP&L bill for the generation portion of the electric bill. However, by law, DP&L has the right to charge suppliers for this service. It would become easy for that cost to become a hidden adder that ultimately results in an increase in customer cost after a supply contract is approved. In addition, each supplier desiring to have DP&L bill for the generation component is required to negotiate a Billing Services Agreement with DP&L. Please encourage that this be done prior to the approval of any pricing agreements.
- **Metering:** How is the cost for metering going to be paid for, by the supplier or by the individual customers? The cost of the type of meter required (interval meter) for any commercial customer greater than 100 kW is several hundred dollars (approximately \$800-\$1000). Please either ensure this cost is embedded in the effective generation price or proactively communicate to commercial customers within your community they will be assessed this charge.
- **Ancillary Services:** Please ensure that the cost for imbalance service is included as a separate component in the supplier pricing to ensure that cost doesn't show up as an unanticipated adder at a later date.
- **Accounts Receivable Liability:** Again, this is a routine cost of doing business. Please ensure it is included in any supplier pricing.

- **Switching Fees:** Who is required to pay the \$5 switching fee if a resident is unhappy and chooses to switch back to DP&L's standard offer?
- **Transmission Costs:** Be aware of the costs associated with line losses and congestion management in any pricing proposal. DP&L is not currently fully integrated into the PJM RTO (Regional Transmission Organization). DP&L plans to become fully integrated in the fall of 2004. At the time of full RTO integration, transmission associated costs could change.

**Residential Customer**

Monthly Usage

800 kWh

Shopping Credit	<u>Price</u>	<u>kWh</u>		
0 - 750 kWh	\$ 0.05338	750	\$	40.04
Over 750 kWh	\$ 0.04332	50	\$	2.17
Total			\$	42.21

Avg Shopping Credit \$ 0.05276

Aggregation Rate \$ 0.05000 800 \$ 40.00

Difference (Savings) \$ (2.21)

**Residential Customer**

Monthly Usage

1200 kWh

Shopping Credit	<u>Price</u>	<u>kWh</u>		
0 - 750 kWh	\$ 0.05338	750	\$	40.04
Over 750 kWh	\$ 0.04332	450	\$	19.49
Total			\$	59.53

Avg Shopping Credit \$ 0.04961

Aggregation Rate \$ 0.05000 1200 \$ 60.00

Difference (Savings) \$ 0.47

**Residential Heating Customer**

Monthly Usage 800 kWh

Shopping Credit	Price	kWh		
0 - 750 kWh	\$ 0.05338	750	\$	40.04
Over 750 kWh	\$ 0.02550	50	\$	1.28
Total			\$	41.32
Avg Shopping Credit				\$ 0.05165
Aggregation Rate	\$ 0.05000	800	\$	40.00
Difference (Savings)			\$	<u>(1.32)</u>

**Residential Heating Customer**

Monthly Usage 1200 kWh

Shopping Credit	Price	kWh		
0 - 750 kWh	\$ 0.05338	750	\$	40.04
Over 750 kWh	\$ 0.02550	450	\$	11.48
Total			\$	51.52
Avg Shopping Credit				\$ 0.04293
Aggregation Rate	\$ 0.05000	1200	\$	60.00
Difference (Savings)			\$	<u>8.48</u>

Attachment A

Case No. 02-2779-EL-ATA  
Shopping Credits, 2004-2005

		2004	2005
<b>Residential</b>			
Energy Charge (0-750 kWh)	Per kWh	\$0.05338	\$0.05338
Energy Charge (over 750kWh)	Per kWh	\$0.04332	\$0.04332
<b>Residential Heating - Rate A</b>			
Energy Charge (0-750 kWh)	Per kWh	\$0.05338	\$0.05338
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.04332	\$0.04332
Energy Charge (over 750 kWh) Winter	Per kWh	\$0.02550	\$0.02550
<b>Residential Heating - Rate B</b>			
Energy Charge (0-750 kWh)	Per kWh	\$0.05338	\$0.05338
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.04332	\$0.04332
Energy Charge (over 750 kWh but less than the first 150 kWh per kW of Billing Demand) Winter	Per kWh	\$0.04332	\$0.04332
Energy Charge (all kWh over 150 kWh per kW of Billing Demand) Winter	Per kWh	\$0.01300	\$0.01300
<b>Secondary</b>			
Billed Demand (over 5 kW)	Per kW	\$7.38595	\$7.38595
Energy Charge (0-1,500 kWh)	Per kWh	\$0.03597	\$0.03597
Energy Charge (1,501-125,000 kWh)	Per kWh	\$0.02173	\$0.02173
Energy Charge (over 125,000 kWh)	Per kWh	\$0.01910	\$0.01910
Max Charge	Per kWh	\$0.11327	\$0.11327
<b>Primary</b>			
Billed Demand	Per kW	\$9.11019	\$9.11019
Energy Charge	Per kWh	\$0.01488	\$0.01488
Max Charge	Per kWh	\$0.10545	\$0.10545
<b>Primary-Substation</b>			
Billed Demand	Per kW	\$9.63121	\$9.63121
Energy Charge	Per kWh	\$0.01396	\$0.01396
<b>High Voltage</b>			
Billed Demand	Per kW	\$9.40715	\$9.40715
Energy Charge	Per kWh	\$0.01348	\$0.01348
<b>Private Outdoor Lighting</b>			
7,000 Lumens Mercury	Per lamp, Per month	\$1.53634	\$1.53634
21,000 Lumens Mercury	Per lamp, Per month	\$2.77954	\$2.77954
2,500 Lumens Incandescent	Per lamp, Per month	\$2.04994	\$2.04994
7,000 Lumens Fluorescent	Per lamp, Per month	\$3.01838	\$3.01838
4,000 Lumens PT Mercury	Per lamp, Per month	\$5.15137	\$5.15137
<b>School</b>			
Energy Charge	Per kWh	\$0.04227	\$0.04227
<b>Street Lighting</b>			
Energy Charge	Per kWh	\$0.01687	\$0.01687



*Working For You Today And Tomorrow*

Miggle E. Cramblit

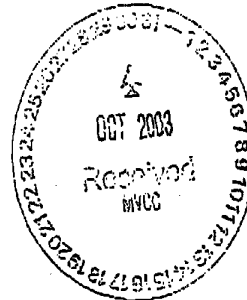
Vice President and  
General Counsel  
(937) 259-7176

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Kent Bristol, Executive Director  
Miami Valley Communications Council  
1195 Alex-Bell Road  
Centerville, OH 45459

VIA EMAIL AND U.S. POST OFFICE MAIL

October 28, 2003



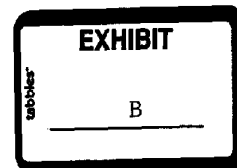
Dear Mr. Bellish:

Customer information provided by the Dayton Power and Light Company to Buckeye Energy Brokers has been posted on the Internet. DP&L treats customer information as confidential and only provides it to third parties as required by law. Ohio law does establish that this information must be made available to electric service companies, and therefore DP&L provided it to Buckeye Energy Brokers. Ohio law certainly does not contemplate this information being made available to the general public as Buckeye has done by posting it on the Internet. Ohio Revised Code 4928.10 (G). We expect our customer data to be removed from the Internet immediately.

In addition, DP&L's tariff, as approved by the Public Utilities Commission of Ohio, requires that DP&L must be reimbursed its costs of preparing the data by way of a \$1000 charge. See page 11 of First Revised Sheet No. G8 of DP&L's Electric Generation Tariff. While Buckeye has paid this charge, posting the information on the Internet will give other parties access to this information without charge, thus depriving DP&L of recovery of its costs. Failure to remove the data immediately from the Internet will expose Buckeye to a claim for the entire cost of preparing the data. In addition, we expect that MVCC or Buckeye will reimburse DP&L \$1000 for each bidder on the MVCC Request for Proposal. Furthermore, to the extent we find other CRES providers using this information, we will expect payment on their behalf as well.

It is our expectation that Buckeye and MVCC will treat customer information with the confidentiality intended by Ohio law. Please remove it from the Internet immediately and follow the tariff provisions approved by the PUCO so that we do not have to file a complaint.

Sincerely,



The Dayton Power and Light Company • 1065 Woodman Drive • Dayton, Ohio 45432