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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
The Dayton Power and Light Company)
for Approval of its Proposed Economic) Case No. 07-1079-EL-ATA
Development Rider.)

**REPLY OF
OHIO PARTNERS FOR AFFORDABLE ENERGY
TO DAYTON POWER AND LIGHT COMPANY'S
MEMORANDUM IN RESPONSE**

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October 25, 2007

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Affordable Energy**

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MEMORANDUM IN RESPONSE**

Ohio Partners for Affordable Energy ("OPAE") hereby replies to The Dayton Power and Light Company's ("DP&L") memorandum in response to OPAE's motion to intervene in the above-referenced application, which requests approval of an economic development rider. The proposed rider provides for an incentive payment to eligible customers in the amount of 50% of distribution demand charges paid by the customer over a twelve-month period. DP&L proposes to defer incentives paid and to recover deferred amounts through future distribution rate proceedings. Application at Exhibit C-1.

In its memorandum in response to OPAE's motion to intervene, DP&L states that it does not oppose OPAE's motion to intervene but contends that no proceeding has been initiated to recover the costs of the economic development program so that cost-recovery subjects are "premature and improper." DP&L contends that OPAE should not be allowed in this proceeding to argue the merits of future requests to recover the costs associated with the program.

DP&L's memorandum neglects to mention that part of its filing for the rider is the proposal to defer incentives paid pursuant to the program. DP&L's application also states that DP&L will seek to recover deferred amounts through

future rate proceedings. Application Exhibit C-1. Thus, because DP&L is requesting deferrals of expenses in this application and stating its intention to recover those deferrals through future rate proceedings, DP&L itself has raised the issue of cost recovery in this proceeding. Moreover, DP&L would not have requested deferrals and signaled its intention to recover them through future rate proceedings if these issues had no significance to this application.

As OPAE stated in its motion to intervene, the application represents an unlawful attempt to secure Commission pre-approval of a distribution rate increase for customers of DP&L. In addition, in the case here where the expenses relate to incentives provided only to non-residential customers, the problem of subsidies from residential customers to other classes arises. OPAE seeks to ensure that the deferrals do not eventually shift costs to residential and small commercial customers from other customer groups. OPAE also intends to address any other issues that may arise during consideration of this application, including whether any generation-related costs may unlawfully be included in the deferrals, which DP&L may seek to recover through distribution rates. *Elyria Foundry Company, et al., v. Pub. Util. Comm.*, 114 Ohio St.3d 305 (2007).

Given that DP&L does not oppose OPAE's motion to intervene, OPAE's motion to intervene should be granted. As for DP&L's argument regarding cost recovery issues, DP&L itself has raised in its application issues of deferrals and cost recovery of those deferrals. Therefore, the cost recovery associated with the deferrals is an issue that should be addressed in this application. If the rider is approved and the request for deferrals is granted, certain issues related to cost recovery and the method of cost recovery may be unreasonably and unlawfully foreclosed to intervenors such as OPAE.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply was served by regular U.S. Mail upon the parties of record identified below in this case on this 25th day of October, 2007.



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Counsel for Ohio Partners for
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