

FILE

12

OCC EXHIBIT _____

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The) Case No. 08-1094-EL-SSO
Dayton Power and Light Company for)
Approval of Its Electric Security Plan.)

In the Matter of the Application of the) Case No. 08-1095-EL-ATA
Dayton Power and Light Company for)
Approval of Revised Tariffs.)

In the Matter of the Application of the)
Dayton Power and Light Company for) Case No. 08-1096-EL-AAM
Approval of Certain Accounting Authority)
Pursuant to Ohio Rev. Code § 4905.13.)

In the Matter of the Application of The) Case No. 08-1097-EL-UNC
Dayton Power and Light Company for)
Approval of Its Amended Corporate)
Separation Plan.)

**DIRECT TESTIMONY
of
ANTHONY J. YANKEL**

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**ON BEHALF OF
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL
10 West Broad Street, 18th Floor
Columbus, Ohio 43215-3485**

January 26, 2009

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1 **I. INTRODUCTION**

2
3 **Q1. PLEASE STATE YOUR NAME, ADDRESS, AND EMPLOYMENT.**

4 **A1.** I am Anthony J. Yankel. I am President of Yankel and Associates, Inc. My address is
5 29814 Lake Road, Bay Village, Ohio, 44140.

6
7 **Q2. WOULD YOU BRIEFLY DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
8 **PROFESSIONAL EXPERIENCE?**

9 **A2.** I received a Bachelor of Science Degree in Electrical Engineering from Carnegie Institute
10 of Technology in 1969 and a Master of Science Degree in Chemical Engineering from
11 the University of Idaho in 1972. From 1969 through 1972, I was employed by the Air
12 Correction Division of Universal Oil Products as a product design engineer. My chief
13 responsibilities were in the areas of design, start-up, and repair of new and existing
14 product lines for coal-fired power plants. From 1973 through 1977, I was employed by
15 the Bureau of Air Quality for the Idaho Department of Health & Welfare, Division of
16 Environment. As Chief Engineer of the Bureau, my responsibilities covered a wide range
17 of investigative functions. From 1978 through June 1979, I was employed as the Director
18 of the Idaho Electrical Consumers Office. In that capacity, I was responsible for all
19 organizational and technical aspects of advocating a variety of positions before various
20 governmental bodies that represented the interests of the consumers in the State of Idaho.
21 From July 1979 through October 1980, I was a partner in the firm of Yankel, Eddy, and
22 Associates. Since that time, I have been in business for myself. I am a registered
23 Professional Engineer in Ohio. I have presented testimony before the Federal Energy

1 Regulatory Commission ("FERC"), as well as the State Public Utility Commissions of
2 Idaho, Montana, Ohio, Pennsylvania, Utah, and West Virginia.

3
4 **Q3. ON WHOSE BEHALF ARE YOU TESTIFYING?**

5 **A3.** I am testifying on behalf of the Office of the Ohio Consumers' Counsel ("OCC").
6

7 **Q4. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

8 **A4.** The purpose of my testimony is to address the allocation/assignment of the cost of fuel
9 and purchased power as a part of the Standard Service Offer ("SSO") filed by the Dayton
10 Power and Light Company ("DP&L" or "the Company").
11

12 **Q5. PLEASE SUMMARIZE THE FINDINGS IN YOUR TESTIMONY.**

13 **A5.** I have reviewed the testimony of Company witness Ms. Teresa Marrinan regarding
14 DP&L's proposed treatment/assignment of fuel and purchased power costs and how
15 those costs would be treated for jurisdictional purposes. Although I have not found
16 wholesale problems, there is an area that has not been properly or fully addressed. I
17 recommend that it be made clear that the Company's resources are first to serve
18 jurisdictional customers and that these resources are only to serve non-jurisdictional
19 customers on a secondary basis. Although the procedures for allocating/assigning fuel
20 and purchased power costs as outlined by the Company were generally appropriate, the
21 Company did not go far enough in defining the treatment it would give to all of the costs
22 that it would incur. Specifically, the Company did not address its sales to its affiliate

1 DPL Energy Resources. These sales are non-jurisdictional and must be assigned higher
2 cost resources than those assigned to jurisdictional customers.

3

4 **II. DP&L'S PROPOSED TREATMENT OF FUEL AND PURCHASED**
5 **POWER COSTS**

6

7 **Q6. WILL YOUR TESTIMONY ADDRESS THE SPECIFIC TYPES OF FUEL**
8 **AND PURCHASED POWER COSTS TO BE INCLUDED OR THE**
9 **DEFERRAL OF THOSE COSTS?**

10 **A6.** No. My testimony will only deal with the allocation/assignment of those costs to
11 jurisdictional and non-jurisdictional customers.

12

13 **Q7. WHAT TYPES OF COSTS HAS THE COMPANY PROPOSED BE**
14 **RECOVERED FROM RETAIL CUSTOMERS UNDER THE SSO?**

15 **A7.** The Company has identified specific FERC accounts in which costs are recorded
16 that would be collected from retail customers under the SSO. As explained by
17 Company witness Marrinan:¹

18 For each of the costs that would be included in the deferral for later
19 recovery, there is a direct relationship between the level of costs
20 incurred and the amount of output and sale made to customers. Fuel,
21 transportation costs, unloading costs, and fuel handling costs are
22 directly related to output and sales made to customers. DP&L

¹ Testimony of Teresa F. Marrinan, Book 1-Standard Offer, at page 5 beginning on line 20.

1 cannot produce electricity from a coal-fired or gas-fired plant
2 without combusting coal or gas. ...

3
4 Purchased power costs are incurred when necessary to supply power
5 to customers during periods when the amount of power generated by
6 DP&L's units is insufficient to meet demand and when it is more
7 economic than DP&L's own generation. Again, these are costs that
8 are directly attributable to the kWh used of our customers.

9
10 I agree with this general premise as outlined – that there is a cost to serving each
11 additional unit of usage/demand for electricity. I also agree with the general
12 premise that is touched upon in this statement – that lower cost resources are
13 utilized before higher cost resources are called upon.

14
15 **Q8. IS IT AN ACCEPTED PRACTICE TO ASSIGN THE LOWEST COST**
16 **RESOURCES TO THE JURISDICTIONAL/RETAIL CUSTOMERS, WHILE**
17 **ASSIGNING HIGHER COST RESOURCES TO NON-JURISDICTIONAL**
18 **CUSTOMERS?**

19 **A8.** Yes. For example, in the recent SSO Case No. 08-0917-EL-SSO, where
20 Columbus Southern and Ohio Power are serving both retail as well as non-retail
21 load, American Electric Power ("AEP") proposed a general design for its Fuel
22 Adjustment Clause Rider 80 that included the development of a resource stack

1 that utilizes the lowest cost resources first for the retail customers that would be
2 taking AEP's Standard Service Offer.²

3
4 This treatment of resource costs (being a part of a resource stack that assigns the
5 lowest cost resources to jurisdictional/retail customers) is appropriate. DP&L's
6 witness Marrinan confirms a similar treatment of separating non-jurisdictional
7 costs being proposed by DP&L when she stated³:

8 Costs associated with non-jurisdictional opportunity sales would
9 be removed and specifically assigned prior to the allocation.

10
11 **Q9. WHAT "ALLOCATION" DOES DP&L PROPOSE AFTER THE SPECIFIC**
12 **ASSIGNMENT BETWEEN JURISDICTIONAL AND NON-JURISDICTIONAL**
13 **COSTS?**

14 **A9.** DP&L used the phrase "term commitment" to represent two types of customers it has
15 been serving on a long term basis: standard retail customers and sales to public
16 authorities (specifically municipal utility customers that are currently served under 20-
17 year contracts). These municipal utility customers make up approximately 7.5% of
18 DP&L's sales.⁴ DP&L proposes to allocate the costs that are assigned to the retail
19 customers and these municipal utilities on the basis of energy (kWh allocator), i.e.,
20 treating these two groups as being able to call upon the same portion of the Company's

² See direct testimony of Company Witness Nelson at page 12 lines 13-15 of AEP's Case No. 08-0917-EL-SSO.

³ Direct Testimony of Teresa F. Marrinan, Book 1-Standard Offer, at page 7, lines 15 and 16.

⁴ DP&L's 2007 FERC Form 1 at page 301 lists sale to Public Authorities as 1,393,891 MWH out of total sales of 18,597,719 MWH.

1 resource stack. I am not addressing this proposed kWh allocator in this case. I am only
2 addressing the assignment of costs between what DP&L refers to as “term commitment”
3 customers and non-jurisdictional customers with non-jurisdictional customers getting
4 assigned the upper end of the resource stack.

5
6 ***Q10. WHAT PART OF DP&L’S ASSIGNMENT OF FUEL AND PURCHASED POWER***
7 ***COSTS BETWEEN JURISDICTIONAL AND NON-JURISDICTIONAL***
8 ***CUSTOMERS NEEDS TO BE BETTER DEFINED?***

9 ***A10.*** As stated above, it is appropriate to assign the lower cost resources to the jurisdictional
10 customers. For purposes of this case, DP&L has defined “term commitment” customers
11 as consisting of both retail (jurisdictional) customers as well as municipal utility
12 customers.⁵ I have accepted that distinction for purposes of this case. The Company also
13 has proposed to assign its higher cost resources to non-jurisdictional opportunity sales.
14 This is also appropriate. Based upon the Company’s 2007 FERC Form 1, opportunity
15 sales makes up approximately 18% of all resources.⁶ The Company’s proposal would
16 properly relegate this 18% of energy to be provided by its highest cost resources.

17
18 ***Q11. DOES THE COMPANY’S PROPOSAL PROPERLY ADDRESS ALL SALES THAT***
19 ***SHOULD BE ASSIGNED THESE HIGHEST COST RESOURCES-RESOURCES***
20 ***THAT SHOULD NOT BE PICKED UP BY “TERM COMMITMENT”***
21 ***CUSTOMERS?***

⁵ Direct Testimony of Teresa F. Marrinan, Book 1-Standard Offer, at page 7, lines 18-21.

⁶ According to pages 301 and 311 of the 2007 FERC Form 1, there were 3,363,615 MWH sold as Opportunity Sales out of the total 18,597,719 MWH sold or 18%.

1 **A11.** No, the Company's proposal does not address the treatment of energy sold to its affiliate,
2 DPL Energy Resources. DPL Energy Resources makes up an additional approximately
3 18% of the sales made by DP&L.⁷ Most, if not all, of the sales made by DPL Energy
4 Resources are made to what would otherwise be considered DP&L retail customers,
5 except for the fact that these customers have chosen to obtain their generation from a
6 CRES supplier, i.e. DPL Energy Resources. These sales are clearly not under the Ohio
7 Commission's direct jurisdiction, and thus must be considered non-jurisdictional.

8

9 **Q12. WHAT TREATMENT DO YOU RECOMMEND FOR THE ASSIGNMENT OF**
10 **COSTS TO THE COMPANY'S AFFILIATE—DPL ENERGY RESOURCES?**

11 **A12.** I recommend that the cost of fuel and purchased power for DP&L's affiliate be treated as
12 other non-jurisdictional sales and be assigned the higher cost resources from the
13 Company's resource stack, i.e., the costs that are incurred after the lower cost resources
14 have been assigned to "term commitment" customers. Thus, approximately the highest
15 36% of the Company's resource costs (18% for opportunity sales and 18% for DPL
16 Energy Resources) should be assigned to non-jurisdictional customers, with the lowest
17 64% of the Company's costs being first assigned to "term commitment" customers, of
18 which retail customers are a part.

19

20 **Q13. HAVE THE HIGHER SYSTEM COSTS BEEN ASSIGNED TO DPL ENERGY**
21 **RESOURCES IN THE PAST?**

⁷ The footnote to page 310 (shown on page 450.1) of DP&L's 2007 FERC Form 1 lists sale to DPL Energy Resources of 3,410,159 MWH which are included in the 18,597,719 MWH listed for all of DP&L on page 301 of that Form 1.

1 **A13.** The regulatory scheme over the last few years has been different than it will be on a
2 going forward basis. There was no assignment per se of fuel and purchased power costs
3 in the recent past. However, a look at the average rates charged in 2007 for non-retail
4 customers gives an indication that DPL Energy Resources may not have been paying the
5 marginal cost of the energy that it purchased from DP&L:

6	Sales to Public Authorities ⁸	\$51.9 per MWH
7	Opportunity Sales ⁹	\$112.9 per MWH
8	DPL Energy Resources ¹⁰	\$44.4 per MWH

9 Although there is a lot that goes into the development of the average rates listed above, it
10 is significant that the average rate charged DPL Energy Resources is considerably below
11 the average rates charged to both Public Authorities and Opportunity Sales. My
12 recommendation is that, on a going forward basis, the cost assigned to Opportunity Sales
13 and DPL Energy Resources (as opposed to revenues collected) should be reflective of a
14 system resource stack that assigns the higher cost resources to these customers, while
15 allowing the jurisdictional customers to enjoy the benefits of the lower cost resources.
16 This is consistent with historical practice, where the Company's resources are priced to
17 first benefit jurisdictional customers and only provide electricity to non-jurisdictional
18 customers after this basic commitment has been met at the lowest possible price.

19

⁸ DP&L's 2007 FERC Form 1 at pages 300 and 301 list Sale to Public Authorities at \$72,333,362 for 1,393,891 MWH for an average of \$51.9 per MWH.

⁹ DP&L's 2007 FERC Form 1 at pages 300 and 301, line 11 list Opportunity Sales at \$379,869,107 for 3,363,615 MWH for an average of \$112.93 per MWH.

¹⁰ DP&L's 2007 FERC Form 1 at page 311 list RQ sales to DPL Energy Resources at \$151,468,401 for 3,410,159 MWH (from the footnote to page 310) for an average of \$44.4 per MWH.

1 **III. CONCLUSION**

2

3 **Q14. DOES THIS CONCLUDE YOUR TESTIMONY?**

4 **A14.** Yes, however I reserve the right to supplement my testimony to incorporate new
5 information that may subsequently become available.

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing the *Direct Testimony of Anthony J. Yankel on Behalf of the Office of the Ohio Consumers' Counsel* has been served via electronic transmission this 26th day of January, 2009.



Jacqueline Lake Roberts,
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