PUBLIC - REDACTED VERSION **FILE**

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of the Dayton Power and Light Company For Approval of its Electric Security Plan.	)	Case No. 08-1094-EL-SSO
In the Matter of the Application of the Dayton Power and Light Company For Approval of Revised Tariffs.	)	Case No. 08-1095-EL-ATA
In the Matter of the Application of the Dayton Power and Light Company For Approval of Certain Accounting Authority Pursuant to Section 4905.13, Revised Code.	)	Case No. 08-1096-EL-AAM
In the Matter of the Application of the Dayton Power and Light Company For Approval of Its Amended Corporate Separation Plan.	)	Case No. 08-1097-EL-UNC

DIRECT TESTIMONY OF KEVIN M. MURRAY ON BEHALF OF INDUSTRIAL ENERGY USERS-OHIO

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January 26, 2009

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ON BEHALF OF INDUSTRIAL ENERGY USERS-OHIO

I. INTRODUCTION

Q1. Please state your name and business address.

A1. My name is Kevin M. Murray. My business address is 21 East State Street, 17th Floor, Columbus, Ohio 43215-4228.

Q2. By whom are you employed and in what position?

A2. I am a Technical Specialist for McNees Wallace & Nurick LLC ("McNees"), providing testimony on behalf of Industrial Energy Users-Ohio ("IEU-Ohio").

Q3. Please describe your educational background.

A3. I graduated from the University of Cincinnati in 1982 with a Bachelor of Science degree in Metallurgical Engineering.

Q4. Please describe your professional experience.

A4. I have been employed by McNees for 11 years where I focus on helping IEU-Ohio members address issues that affect the price and availability of utility services. I have also been active on behalf of commercial and industrial customers in the formation of regional transmission operators and the organization of regional electricity markets. I have previously served as an end use customer sector representative on the Midwest ISO ("MISO") Advisory Committee and I have been actively involved in MISO working groups that focus on various issues. Prior to joining McNees, I was employed by the law firm of Kegler, Brown, Hill & Ritter in a similar capacity. I also previously spent 12 years with The Timken Company, a specialty steel and roller bearing manufacturer. While at The Timken Company, I worked within a group that focused on meeting the electricity and natural gas requirements for facilities in the United States. I also spent several years in supervisory positions within The Timken Company's steelmaking operations.

Q5. Have you previously testified before the Public Utilities Commission of Ohio ("Commission")?

A5. Yes. I have previously submitted testimony in the Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively "FirstEnergy") electric security plan ("ESP") proceeding at the Commission (Case No. 08-935-EL-SSO) and in FirstEnergy's proceeding (Case No. 08-936-EL-SSO) requesting approval of a market-rate option ("MRO"). I submitted testimony in the Columbus Southern Power Company and Ohio Power Company pending ESP proceeding at the Commission (Case Nos. 08-917-EL-SSO and 08-918-EL-SSO). I also submitted testimony in Duke Energy Ohio's ESP proceeding at the Commission (Case No. 08-920-EL-SSO).

I have also previously submitted testimony in the FirstEnergy electric distribution companies' rate increase cases which are pending before the Commission (Case Nos. 07-551-EL-AIR, *et al.*). However, on February 11, 2008, a Stipulation and Recommendation supported by many of the parties in those proceedings was submitted. The Stipulation and Recommendation, if adopted, would resolve many of the contested issues in the proceedings. A provision in the Stipulation and Recommendation provides that my testimony in those proceedings will not be offered.

Q6. What is the purpose of your testimony?

A6. The purpose of my testimony is to address certain changes that are necessary to the ESP proposal of the Dayton Power and Light Company ("DP&L" or "Company") in order to make the proposal reasonable and more favorable in the aggregate than an MRO. First, the application is largely silent on how customer-sited capabilities can be committed for integration into DP&L's energy efficiency and peak demand reduction programs.

Second, DP&L's request to defer fuel, fuel-related and purchased power costs should not be approved.

Third, the Commission should separately consider DP&L's energy efficiency and demand response plan from the proposed Advanced Metering plan and the Smart Grid development plan, rather than treat these elements as a single integrated conservation and energy management program. The Commission should also modify the energy efficiency rider to collect the costs associated with the energy efficiency and demand response plan as discussed in my testimony.

Fourth, the Commission should modify rate schedules to recognize that shopping customers will pay for transmission service through their supplier.

Fifth, the Commission should direct DP&L to modify the proposed creditworthiness provision in the application for economic development programs.[1]

Finally, DP&L should be directed to supplement or amend its application to include the Adjustable Rate Tariff Sheet No. G23.

[1] This modification is addressed in the Direct Testimony of Joseph G. Bowser.

II. CUSTOMER-SITED CAPABILITIES

Q7. What are customer-sited alternative energy resource, demand response, energy efficiency and peak demand capabilities?

A7. It is my understanding that these customer-sited capabilities are means that an electric distribution utility ("EDU") may use to comply with the portfolio requirements of Amended Substitute S.B. 221 ("SB 221") beginning in 2009.

Q8. How is compliance with these requirements measured?

A8. It is my understanding that compliance is addressed in SB 221 both directly and by giving the Commission the ability to issue rules. The Commission recently issued draft rules on the portfolio requirements.

Q9. How should EDUs treat customer-sited capabilities for purposes of providing the SSO in conjunction with the ESP?

A9. It is my understanding that the portfolio requirements apply to an EDU regardless of whether the standard service offer ("SSO") is provided under the MRO or ESP approach and that SB 221 encourages the use of customer-sited capabilities to meet these requirements in both an MRO and ESP context.

Q10. Does DP&L's application address how customer-sited capabilities will be used to meet its portfolio obligations?

A10. No, it does not, although DP&L has acknowledged this provision of SB 221. As discussed by Dona R. Seger-Lawson in her direct testimony (Book II – Customer Conservation and Energy Management Programs) at page 11, DP&L has included a provision in its proposed energy efficiency rider ("EER") that would allow mercantile customers satisfying the Commission's rules regarding integration of their capabilities towards its EDU's obligations to not be subject to the EER. This is the only information in the application that touches upon the issue of customer-sited capabilities.

Q11. Is the information contained in the application adequate?

A11. No, it is not. DP&L has not provided any information on how customer-sited capabilities will be relied upon. It is my understanding that the portfolio requirements in SB 221 require compliance beginning January 1, 2009. Accordingly, I believe that it is imperative that actionable details for customer-sited projects be addressed and resolved in this proceeding.

III. DEFERRAL OF FUEL, FUEL-RELATED AND PURCHASED POWER COSTS

Q12. How has DP&L proposed to treat fuel, fuel-related and purchased power costs?

A12. DP&L is proposing to defer fuel, fuel-related and purchased power costs in excess of the amounts being collected currently in rates, and to recover those deferred costs over a ten-year period, beginning in 2009. DP&L has estimated that the total amount of fuel and purchased power costs that is embedded in and being recovered in rates since January 1, 2006 is 1.8 cents per kWh.

Q13. Why is DP&L proposing to defer these costs?

A13. Dona R. Seger-Lawson states in her testimony, (Book I – Standard Offer Plan) at page 8, that the deferral is "an effort to maintain and abide by DP&L's current rate plan, approved in the 2005 Case No. 05-276-EL-AIR, and to maintain rates through the end of 2010… ."

Q14. Do you agree that the total amount of fuel, fuel-related and purchased power costs that is being recovered in rates since January 1, 2006 is 1.8 cents per kWh?

A14. No. The mathematical process through which DP&L arrived at the 1.8 cents per kWh value is described in the testimony of Dona R. Seger-Lawson. DP&L used the Electric Fuel Component ("EFC") that was established in 1999 in Case No. 99-0105-EL-EFC at a rate of 1.3 cents per kWh as a starting point. DP&L then noted that in Case No. 05-276-EL-AIR, DP&L justified fuel, purchased power, and other expenses that, in total, exceeded $117 million during the test period. DP&L attributed $76 million of these expenses, or $0.5 cents per kWh, which DP&L was authorized to recover through the Stipulation approved in Case No. 05-276-EL-AIR as part of the Environmental Investment Rider ("EIR"), to fuel costs it is currently recovering through rates to arrive at the 1.8 cents per kWh value.

To examine what fuel costs are being recovered in current revenues requires that current rates be unbundled into fuel and non-fuel components. But the mathematical process proposed by DP&L to establish current fuel rates does not properly separate current rates into fuel and non-fuel components.

DP&L's unbundling method starts with the 1999 historical level of its EFC which was in effect at the time. As discussed below, the Commission's EFC rule made certain categories of costs eligible for recovery through the EFC. However, the costs that DP&L is seeking to defer include a much broader range of cost categories than were eligible for recovery through the EFC mechanism, which was eliminated by Ohio's electric restructuring legislation. Because DP&L is using a broader definition of costs for purposes of its deferral proposal than it is using for the definition of the base level of fuel-related costs in current rates, DP&L's unbundling method does not properly consider matching cost categories for the purpose of unbundling current rates.

As the Commission knows, the EFC was established by rule (Chapter 4901:1-11, Ohio Administrative Code) for uniform application to all electric utilities.[2] Under Rule 4901:1-11-1(O), Ohio Administrative Code, "fuel costs" were defined as the "... actual acquisition and delivery costs of fuel consumed, including the amortized costs of nuclear fuel expended, to generate electricity, unless otherwise provided in this chapter." Certain types of costs were not permitted to be recovered through the EFC, and the Commission's rule also imposed obligations on utilities to operate their generating assets for the benefit of their

[2] In 1998, the Commission completed its periodic review of Chapter 4901:1-11, Ohio Administrative Code, as required by Section 119.032(B), Revised Code, in Case No. 98-967-EL-ORD, concluding that no amendments to the rule were necessary. For purposes of my testimony, the references to the EFC rule are references to the rule attached to the Commission's July 2, 1998 Entry in Case No. 98-967-EL-ORD, which was the version of the rule in place when the EFC was eliminated by Ohio's electric restructuring legislation.

customers. For example, under Rule 4901:1-11-4(D)(1), Ohio Administrative Code, purchased power costs associated with demand or capacity costs, as well as any gross receipts tax or any revenue based tax occasioned by fuel revenues, could not be recovered through the EFC. The rules also did not permit the recovery of costs associated with chemical or consumable supplies associated with the operation of environmental equipment through the EFC. Gypsum disposal costs resulting from the operation of flue gas desulfurization equipment was not recoverable through the EFC.

DP&L's unbundling method escalated the historical 1999 EFC rate of 1.3 cents per kWh by 0.5 cents per kWh to arrive at the 1.8 cents value it attributes to the amount of recovery that is embedded in its current rates. The 0.5 cents escalation is derived from the rate increase produced by the Rate Stabilization Surcharge Rider, through which DP&L implemented the $76 million annual increase approved in Case No. 05-276-EI-AIR. The Rate Stabilization Surcharge Rider is associated with much broader categories of costs than could have historically been recovered through the EFC, including environmental costs, taxes, and security costs, as well as any demand component of purchased power costs.

Because DP&L is proposing to defer a much broader category of costs than what was historically recoverable through the EFC, DP&L should have used the same cost categories to unbundle rates to avoid a potential mismatch between revenue and expenses. Since DP&L did not match the cost categories for purposes of its unbundling proposal, further analysis is required to make sure that unbundled expenses are properly aligned with the unbundled revenue available from current rates. This is not a simple undertaking and, if attempted, could end up looking very similar to a traditional cost of service analysis used to determine if a proposed rate increase is warranted. However, I do not believe such an undertaking is necessary to answer the question of whether, in totality, DP&L's current revenues are providing an opportunity to recover all of its fuel costs. As discussed in the testimony of Joseph G. Bowser, during 2007 DP&L earned a return on equity in excess of 20%. DP&L is obviously recovering sufficient revenues to recover its fuel costs or its earnings would be negative or less robust. Thus, the logical conclusion is that the current rates, in totality, reflect DP&L's actual fuel costs.

Q15. Does DP&L's current rate plan provide for the deferral of fuel, fuel-related and purchased power costs in excess of the amount recovered in rates during 2009 and 2010?

A15. No, it does not. DP&L's current rate plan is the result of a Stipulation and Recommendation adopted by the Commission in Case No. 05-276-EL-AIR. The Stipulation and Recommendation, which superseded provisions of DP&L's rate stabilization period ("RSP") adopted in Case No. 02-2779-EL-ATA, has three sections that address what rates DP&L will be permitted to charge in 2009 and 2010. The first component of rates is a market-based SSO, which is discussed on page 4 of the Stipulation and Recommendation. The specific market-based SSO to be charged to each rate schedule is identified in Attachment A to the Stipulation and Recommendation. The second component of rates is a rate stabilization charge ("RSC"), discussed on page 5 of the Stipulation and Recommendation, which is set equal to 11% of DP&L's January 1, 2004 tariffed generation rates. The RSC is a carryover from the RSP adopted in Case No. 02-2779-EL-ATA. The specific RSC charges to apply are identified in Attachment B to the Stipulation and Recommendation. The third component of rates is an EIR, discussed on page 5 of the Stipulation and Recommendation. The EIR is an annual increase each year from 2007 through 2010, equal to 5.4% of DP&L's January 1, 2004 tariffed generation rates. The specific EIR charges applicable to each rate schedule are identified in Attachment C to the Stipulation and Recommendation. In approving the Stipulation and Recommendation, the Commission modified it to make the EIR avoidable by any shopping customer from 2007 through 2010. Neither the Stipulation and Recommendation, nor the Commission's order makes any mention of deferrals for fuel, fuel-related, or purchased power costs.

Q16. Did the Stipulation and Recommendation recognize the potential for Ohio legislation that could have a material impact on the rates, terms and conditions of the Stipulation and Recommendation?

A16. Yes. Section I.G. of the Stipulation and Recommendation states:

> The parties recognize that subsequent legislation in Ohio may be enacted that affects the rates, terms, and conditions of this Stipulation. In such event, the Company and Signatory Parties, through good faith negotiations, will comply with the subsequently-enacted legislation by amending this Stipulation to the extent

necessary, while endeavoring to preserve the respective benefits of the compromises reached herein, subject to Commission approval.

Q17. Has an amended stipulation been presented to the Commission?

A17. Not to my knowledge. There is also no mention in the application in this proceeding that DP&L's ESP proposal is the outgrowth of discussions between the Company and Signatory Parties regarding amending the prior Stipulation and Recommendation.

Q18. Are there additional reasons why the Commission should not approve DP&L's request for the deferral of fuel, fuel-related and purchased power costs?

A18. Yes. Notwithstanding that DP&L's current rate plan does not explicitly address fuel, fuel-related and purchased power costs, I do not think approving deferrals of these costs would be appropriate under the present circumstances facing customers and DP&L. A shaky economy is taking a toll on many of DP&L's customers and they are already facing the prospect of automatic increases of 5.4% in both 2009 and 2010. DPL Inc. on the other hand, seems to be faring quite nicely in its overall financial performance.

Q19. On what do you base your conclusion that DPL Inc. seems to be faring quite nicely in it is overall financial performance?

A19. I have reviewed several presentations and transcripts of DPL Inc.'s quarterly earnings conference calls and they indicate that DPL Inc. is experiencing robust earnings and expects this to continue, even in the absence of any deferrals for fuel, fuel-related, and purchased power costs.

Q20. What is the recent trend regarding fuel costs?

A20. As a result of strong worldwide demand, coal, oil and natural gas prices rose significantly, in some cases to all-time highs, in the first half of 2008. However, since that time there has been a steep drop-off in fuel prices, precipitated in part by the global economic slowdown.

Q21. What has been the trend in DP&L's fuel costs?

A21. DP&L's fuel costs per ton, which are predominately coal, have been trending downward, as demonstrated by information provided during DPL Inc.'s quarterly earnings review conference calls. The presentation materials used by DPL Inc. during the calls, as well as the audio transcripts from the conference calls, document the trend in fuel costs. Copies of these materials are publically posted at: http://phx.corporate-ir.net/phoenix.zhtml?c=93052&p=irol-financialdocuments.

At the time of the second quarter conference call, DPL Inc. estimated its 2008 average coal costs for all plants to be $41.25 per ton and 2009 coal costs were estimated to be $49.90 per ton. At that time, 100% of committed 2008 coal burn, 100% of the 2009 coal burn and 73% of the projected 2010 coal burn was hedged. The committed coal burn is the amount projected to be necessary to generate electricity to serve DP&L's full requirements load, including forward power sales.

Forecasted coal costs had changed by the time of DPL Inc.'s third quarter earnings conference call, which was held on October 30, 2008, several weeks after DP&L's application was filed in this proceeding. The presentation materials used by DPL Inc. during the third quarter conference call, as well as the audio transcripts from the conference call, are also publically posted at: http://phx.corporate-ir.net/phoenix.zhtml?c=93052&p=irol-financialdocuments. At the time of the third quarter conference call, DPL Inc. estimated its 2008 average coal costs for all plants to be $40.00 per ton. 2009 coal costs were estimated to be $45.00 per ton. As of October 30, 2008, 100% of committed coal burn through 2010 was also hedged.

This information indicates that the recent trend-line of DP&L's fuel costs has been downward from prior estimates.

Q22. Do you have any more recent information on DP&L's forecasted coal costs?

A22. Yes. In a response dated January 5, 2009 to an IEU-Ohio interrogatory, DP&L indicated its estimated 2009 coal costs, after coal sales, would [redacted] Additionally, DP&L's forecasted total costs in both 2009 and 2010 for accounts 501-fuel, 502-steam expenses, 509-allowances, 547-fuel, 555-purchased power, 411.8-gains from the disposition of allowances and 411.9-losses from the disposition of allowances are projected to be [redacted].

Q23. Are the lower fuel costs that DP&L is projecting solely the result of declining market prices?

A23. I don't believe so. Some portion of the decrease is the result of a coal optimization strategy DP&L has been executing.

Q24. What is DP&L's coal optimization strategy?

A24. My understanding is limited to what I have been able to ascertain from the materials I have reviewed. Therefore, DP&L may be able to explain the coal optimization strategy in greater detail.

The Company completed its scrubber program in the second quarter of 2008. The scrubber program involved the installation of five scrubbers, one at the Killen generating facility and the other four scrubbers at the Stuart facility.

Prior to being scrubbed, these generating units were burning lower sulfur coal to meet emission limits. Once the installation of scrubbers was complete, the units were able to begin shifting their coal to a blend of higher sulfur and, therefore, lower cost coal. This shift in the coal feedstock is still being optimized. However, it has allowed the Company to purchase lower cost high sulfur coal, and free up higher cost low sulfur coal either owned or under contract for sale. DP&L has been able to earn profits on the sale of lower sulfur coal that has been freed up through this optimization strategy. In fact, during its third quarter earnings conference call, DPL Inc. estimated it would experience a $20 million net gain to earnings in the fourth quarter of 2008 due to a net gain on coal sales.

Q25. How have fuel, fuel-related and purchased power costs affected DPL Inc.'s earnings available for common equity holders?

A25. Notwithstanding the upward pressure globally in early 2008 on coal, natural gas and oil, DPL Inc.'s earnings have remained healthy and are growing, according to its own estimates. In its 2007 year end review conference call with analysts, DPL Inc. identified its 2006 per share earnings (fully diluted) from continuing operations were $1.03 per share on 121.9 million shares outstanding.[3] In 2007, DPL Inc.'s per share earnings (fully diluted) from continuing operations were $1.80 per share on 121.9 million shares outstanding. At that time, DPL Inc. was projecting a 2008 earnings range of $1.90 to $2.10 per share, and a 2009 earnings range of $2.10 to $2.40 per share.

During the third quarter 2008 earnings conference call, John Gillen, DPL Corp. Senior VP, CFO and Treasurer, reaffirmed its earnings guidance. He indicated that 2008 earnings were projected to be $2.00 to $2.20 per share, while 2009 earnings were projected to be $2.00 to $2.60 per share. The wider variance in 2009 earnings reflected "recovery of the items contained in our ESP filing, the impact of the Clean Air Interstate Rule on 2009 emission allowance sales, which is approximately $0.10 to $0.12 per share, and the slowing economy."[4] Based upon DPL Inc.'s third quarter 10Q filed at the Securities and Exchange Commission ("SEC"), the consolidated balance sheet reflects shareholder equity

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[3] The presentation materials used by DPL Inc. during the 2007 year end review conference call are publically posted at: http://phx.corporate-ir.net/phoenix.zhtml?c=93052&p=irol-financialdocuments.

[4] *Id.*

of $967,800,000. Earnings at the $2.00 per share level would represent approximately a 24% return on equity.

Q26. Has DPL Inc. provided any estimate of how its ESP application may impact its earnings?

A26. Yes. During the third quarter earnings conference call, Paul Barbos, DPL Corp. President and CEO, was asked what the 2009 earnings impact would be if DP&L did not get approval for the recovery of costs it was seeking in the ESP proceeding. Mr. Barbos stated that "if we don't have any recovery, the range of earnings in 2009 would be $2.00 to $2.20 [per share]."[5]

Q27. Are there any other indications that DPL Inc.'s earnings have been growing?

A27. Yes. The Board of Directors of DPL Inc. has increased the dividend four times in the last thirty six months. On February 1, 2006, the quarterly dividend was increased by 4% to $0.25 per share. On February 1, 2007, the quarterly dividend was increased by 4% (annualized) to $0.26 per share. On December 13, 2007, the quarterly dividend was increased by 5.8% to $0.275 per share. On December 10, 2008, the quarterly dividend was increased by 3.6% to $0.285 per share. A pattern of sustained dividend growth is consistent with earnings growth.

[5] *Id.*

Q28. What are your overall conclusions regarding deferral of fuel, fuel-related and purchased power agreements?

A28. From the information I have reviewed, it does not appear that DP&L's current rate plan is producing financial results that require an infusion of revenue or suggests that there is a need to defer expenses that would otherwise be matched against revenue during the period of the current plan.

Q29. Are you opposed to DP&L seeking to establish some type of fuel recovery mechanism under any circumstances?

A29. Not necessarily. However, any type of fuel recovery mechanism should be structured to balance the interests of DP&L's owners and its customers' interests. Otherwise, I do not believe a fuel recovery mechanism can be reasonable. DP&L's as-filed proposal is tilted fairly heavily towards the Company's interests. For example, the deferral mechanism DP&L seeks to establish would essentially guarantee DP&L cost recovery of prudently incurred costs, not unlike the prior EFC, although, as previously noted, DP&L is seeking guaranteed cost recovery for a much broader scope of costs than what could have historically been recovered through the EFC. As indicated above, the Commission's EFC rule also specified obligations that an electric utility had to satisfy, and provided for a process through which compliance could be audited by the Commission. In this instance, DP&L is seeking guaranteed cost recovery but does not propose to assume similar obligations.

The historical EFC mechanism was also predicated on the Commission's ability to regulate the operation of the utility's generating units. For example, Rule 4901:1-11-02(A), Ohio Administrative Code, required an electric utility to "... procure fuel, purchase power, and operate its generation, dispatch, transmission, and distribution systems at a minimum overall cost, taking into consideration its voltage, frequency, reliability, safety, environmental, and service quality requirements, as well as its existing contractual obligations." And, Rule 4901:1-11-02(B), Ohio Administrative Code, required an electric utility to "... operate on an economic dispatch basis." The current industry structure places generation dispatch functions, generation resource adequacy and reliability within the control of regional transmission organizations ("RTO") such as PJM Interconnection LLC ("PJM"). The current industry structure also needs to be considered to make sure that any expense that is recoverable through a fuel cost recovery mechanism is related to jurisdictional service and not already recognized in other cost recovery mechanisms such as the transmission component.

DP&L's deferral proposal is focused exclusively on obtaining authority to automatically recover a broad range of costs. DP&L is not proposing to take on the obligations that have been historically part of a fuel adjustment clause, including the obligation to operate generation, transmission and distribution systems for the benefit of its retail customers subject to the regulatory oversight of the Commission. Therefore, DP&L's proposal is unbalanced. Further, I believe the Commission's policies, as a general matter, frown upon the use of deferrals simply to shift cost recovery from one period of time to another.

Under these circumstances, amending the current rate plan to include some type of fuel recovery mechanism, based on a proper unbundling method and appropriate performance commitments, may be a reasonable action provided that other aspects of the current rate plan, such as the term of the current plan, are also open to amendment. Given the timing of this case, the fact that the current plan ends on December 31, 2010, and the amount of time it is taking to complete other ESP cases, it is not too early to be thinking about what needs to be put in place for the period that begins January 1, 2011. Extending the current plan's term might also allow any regulatory assets or liabilities that are created to stabilize revenue and rates to be fully amortized during the term of the plan.

IV. CUSTOMER CONSERVATION AND ENERGY MANAGEMENT PROGRAMS

Q30. What is DP&L's customer conservation and energy management proposal?

A30. A significant portion of DP&L's application is devoted to what is called the Customer Conservation and Energy Management ("CCEM") Program. DP&L describes CCEM as its vision for a technologically advanced, modern distribution system, including Advanced Metering Infrastructure ("AMI"), Smart Grid, energy efficiency and demand response programs, and distribution and substation automation.

Q31. Is the CCEM a package proposal?

A31. DP&L has characterized the CCEM proposal as multiple components that are all necessary in order to make customers more informed and to enable customers to tailor and control their utility services. However, DP&L has provided the specifications, benefits and costs for the various components separately.

Q32. Should the Commission consider the CCEM as a package?

A32. No. The Commission should consider demand and energy efficiency, AMI, Smart Grid and distribution automation separately. It is my understanding that DP&L has a statutory obligation to comply with peak demand and energy efficiency benchmarks beginning in 2009. Thus, DP&L needs to proceed expeditiously in these areas. However, AMI, Smart Grid and distribution automation are discretionary endeavors.

Q33. Do you have any recommendations on the proposed energy efficiency rider ("EER")?

A33. Yes, I have several. First, the Application is somewhat vague about whether the EER is subject to annual adjustment. The proposed rate schedule (Sheet No. D43) includes language that retains DP&L's right to adjust the rate annually. However, DP&L's supporting testimony does not describe how the annual adjustment will be determined or identify the process by which the EER, if approved, will be updated. The Commission should require DP&L to provide some clarity on these issues before considering the EER. DP&L should also identify what review process it anticipates when DP&L proposes adjusting the rate, and whether there is to be a true-up so that the EER reflects actual (rather than forecasted) costs.

Second, DP&L has proposed the EER as a single per kWh charge that would apply to all customers, effectively allocating the costs of the programs on a kWh or volumetric basis. I do not believe that a kWh or volumetric allocation of these program costs is appropriate because of the nature of the costs that will be incurred if these programs move forward and the billing effects of kWh or volumetric charges.

The description of the specific measures to be undertaken (pages 14-40 of Chapter 2 - Energy Efficiency and Demand Response Plan 2009-2015) identifies that each measure is targeted at a specific customer class or classes. Therefore, revenue responsibility for energy efficiency and demand response expenditures should initially be allocated among customer classes. For larger commercial and industrial customers, the rate design for EER should reflect a recognition of fixed and variable cost components.

Lastly, the lost revenues DP&L has proposed to collect through the EER are significantly overstated and should be reduced. DP&L calculated lost revenues by multiplying the average rates by tariff class, less the fuel expense reflected in rates, by the estimated kWh by rate schedule. Beginning in 2011, average rates by tariff schedule were increased by 3.25% annually. This calculation assumes that when a customer reduces energy usage through energy efficiency, DP&L loses the full retail revenue other than the avoided fuel costs. This ignores the fact that DP&L may sell the energy associated with the avoided usage into the wholesale market, thereby offsetting lost revenues. The calculation also assumes that DP&L is providing 100% of the generation service on and after

January 1, 2011. After January 1, 2011, we do not know who will be providing generation service, or how it will be priced. Thus, the assumption that DP&L is entitled to lost generation revenues is not appropriate.

If the Commission determines that it would be appropriate to allow for recovery of lost revenues as part of the EER, as it is not appropriate to assume at this time who will be providing generation service after December 31, 2010, or how it will be priced in order to derive a generation related lost revenue component of EER, I recommend that any lost revenues be limited to lost distribution related revenues.

V. TRANSMISSION SERVICE

Q34. Has DP&L proposed any modifications to its rate schedule for competitive retail generation service?

A34. Yes. DP&L has proposed changes to this rate schedule related to the minimum stay for residential and small commercial customers, and the rate customers will pay if they return to DP&L for generation service during the ESP.

Q35. Are there additional changes that should be made to this rate schedule?

A35. Yes. The rate schedule for competitive retail generation service states that customers that receive generation service from a competitive supplier must still pay DP&L for transmission and ancillary services. This is historical language that existed in the rate schedule prior to DP&L becoming a member of PJM. Under the market rules in place within PJM, third party suppliers arrange for and pay for transmission and ancillary services directly to PJM. Therefore, this rate schedule should be modified to recognize that customers receiving generation service from a competitive supplier are no longer subject to charges from DP&L for transmission and ancillary services, as they will be responsible for these costs through their competitive supplier.

VI. ADJUSTABLE RATE TARIFF

Q36. Can you describe the proposed Adjustable Rate Tariff Sheet No. G23?

A36. DP&L has proposed that customers that switch to a competitive generation supplier, but subsequently return to DP&L during the ESP, receive generation service under market-based rates. The market-based generation rates will be reflected in the Adjustable Rate Tariff Sheet No. G23. DP&L did not include the proposed Adjustable Rate Tariff Sheet No. G23 as part of its application, but plans to submit a separate filing at some later date.

Q37. Do you have any recommendations on this aspect of the application?

A37. Yes. It is not apparent whether this new rate schedule represents an appropriate modification of DP&L's existing rate plan. It is not possible to answer that question in part because DP&L did not include the proposed rate schedule as part of its application. Therefore, before the merits of this aspect of DP&L's proposal can be considered, the Commission, at a minimum, should require DP&L to supplement or amend its application to include the actual proposed Adjustable Rate Tariff Sheet No. G23. The rate schedule should be reviewed as part of this proceeding to determine whether it is reasonable, rather than deferring this issue to a subsequent filing.

VII. CONCLUSION

Q38. Does this conclude your testimony?

A38. Yes, it does. However, I reserve the right to submit supplemental testimony.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Direct Testimony of Kevin M. Murray on Behalf of Industrial Energy Users-Ohio* was served upon the following parties of record this 26th day of January, 2009, *via* electronic transmission, hand-delivery or first class mail, postage prepaid.

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