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Office of the Ohio Consumers' Counsel

Your Residential Utility Advocate

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Janine L. Migden-Ostrander
Consumers' Counsel

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February 10, 2009

Ms. Renee Jenkins, Director
Public Utilities Commission of Ohio
180 East Broad Street, 7th Floor
Columbus, Ohio 43215-3793

Re: Dayton Power and Light Company, Case No. 08-1094-EL-SSO et al.

Dear Ms. Jenkins:

On February 9, 2009, the Office of the Ohio Consumers' Counsel filed a Motion to Strike in the above-captioned case. The Motion refers to the Stipulation in Case No. 05-276 which was omitted from the filing. The Stipulation identified in the Motion as Exhibit A is attached to this letter for filing.

Very truly yours,

Jacqueline Lake Roberts
Assistant Consumers' Counsel

Cc: Persons listed on electronic service list

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FILE

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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In The Matter of the Application of the	:	Case No. 05-276-EL-AIR
Dayton Power and Light Company for the	:	
Creation of A Rate Stabilization Surcharge	:	Attorney Examiner: Gregory A. Price
Rider and Distribution Rate Increase	:	

STIPULATION AND RECOMMENDATION

Ohio Administrative Code Rule 4901-1-30 provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in that proceeding. This Stipulation and Recommendation ("Stipulation") sets forth the understanding of the parties that have signed below (the "Signatory Parties"). The Signatory Parties recommend that the Public Utilities Commission of Ohio ("Commission") approve and adopt, as part of its Opinion and Order, this Stipulation which will resolve all of the issues in the above-captioned proceeding.

This Stipulation is a product of lengthy, serious, arm's-length bargaining among the Signatory Parties (who are capable, knowledgeable parties) with the participation of the Commission's Staff, which negotiations were undertaken by the Signatory Parties to settle this proceeding. This Stipulation was negotiated among all parties to the proceedings and no party was excluded from negotiations. This Stipulation is supported by adequate data and information; as a package, the Stipulation benefits customers and the public interest; promotes effective competition and the development of a competitive marketplace; represents a just and reasonable resolution of all issues in this proceeding; violates no regulatory principle or practice; and complies with and promotes the policies and requirements of Ohio Rev. Code Chapter 4928.

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While this Stipulation is not binding on the Commission, it is entitled to careful consideration by the Commission, where, as here, it is sponsored by parties representing a wide range of interests;

WHEREAS, in 1999, the Ohio General Assembly passed Am. Sub. Senate Bill 3, which deregulated electric generation service in Ohio;

WHEREAS, Senate Bill 3 states that it is the policy of the State to: (1) "[e]nsure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service"; and (2) "[e]nsure the availability of unbundled and comparable retail electric service that provides consumers with the supplier, price, terms, conditions, and qualify options they elect to meet their respective needs" (Ohio Rev. Code § 4921.02(A) & (B));

WHEREAS, Senate Bill 3 provides that utilities would have a five-year market development period ("MDP"), designed to provide stable prices to consumers while competition is given time to develop;

WHEREAS, DP&L filed an Electric Transition Plan ("ETP") (Case No. 99-1687-EL-ETP) as required by Senate Bill 3;

WHEREAS, the parties to DP&L's ETP proceeding expected competition and stable prices to develop rapidly in DP&L's service territory, and therefore, the parties entered a Stipulation and Recommendation ("ETP Stipulation") that established a three-year MDP for DP&L;

WHEREAS, competition and stable prices did not develop as anticipated, and DP&L therefore filed an application at the Commission in which DP&L asked the Commission

to extend DP&L's MDP to last the full five years permitted under Senate Bill 3 (Case No. 02-2779-EL-ATA);

WHEREAS, the parties to that case entered a Stipulation and Recommendation ("RSP Stipulation") designed to provide stable rates through 2008, in part by extending DP&L's MDP until 2005 and by creating a Rate Stabilization Period ("RSP") through 2008;

WHEREAS, the RSP Stipulation permits DP&L to implement a Rate Stabilization Surcharge ("RSS") during the RSP (i.e., from 2006-2008), which permits DP&L to recover increases in fuel, environmental, security and tax costs, subject to a limit equal to 11% of DP&L's January 1, 2004 generation rate;

WHEREAS, since the RSP Stipulation was signed, market prices for fuel have increased substantially and stringent environmental restrictions have been imposed by the United States Environmental Protection Agency, which have resulted in substantial increases in costs for DP&L and are expected to result in substantial additional future cost increases for DP&L;

WHEREAS, DP&L has filed an application to implement the RSS, which establishes that DP&L has allowable cost increases in excess of the 11% limit;

WHEREAS, the Commission's Staff has prepared a Staff Report of Investigation, which found that DP&L has incurred allowable cost increases in excess of the 11% limit;

WHEREAS, the increased fuel costs, environmental restrictions and lack of new generation sources affect the market price of power, and the parties anticipate that market rates in 2009 and 2010 will be well above DP&L's current generation rate;

WHEREAS, customers would face rate shock if DP&L's RSP were permitted to end after 2008 and customers were required to pay the forecasted market rates in 2009 and 2010;

WHEREAS, it is in the best interests of DP&L and its customers to enter into an agreement that will provide stable prices through 2010, to allow the marketplace additional time to develop and to protect consumers from volatile market prices and rate shock.

For the purposes of resolving all issues raised in this proceeding, the Signatory Parties stipulate, agree and recommend as follows:

I. THE RATE STABILIZATION PERIOD

- A. **The Rate Stabilization Period:** DP&L shall have a Rate Stabilization Period ("RSP") that starts on January 1, 2006 and extends to December 31, 2010.
- B. DP&L's Market-Based Standard Service Offer:
1. During the RSP, DP&L shall provide a market-based standard service offer ("MBSSO") pursuant to Ohio Rev. Code § 4929.14(A).
 2. The 5% residential discount established in Senate Bill 3 and the 2.5% residential discount agreed to in the RSP Stipulation shall continue through 2008.
 3. The market-based rates to be charged by DP&L during the RSP are set forth on Attachment A.

C. **Rate Stabilization Charge**

1. Beginning on January 1, 2006 and continuing throughout the RSP, DP&L shall be entitled to charge a Rate Stabilization Charge ("RSC") to compensate DP&L for providing stabilized rates for customers and Provider of Last Resort service.
2. The RSC shall equal 11% of DP&L's January 1, 2004 tariffed generation rates. The RSC shall be a one-time 11% increase and shall be unavoidable.
3. The RSC rates to be applicable are set forth on Attachment B.

D. **The Environmental Investment Rider**

1. Starting on January 1, 2007, DP&L shall be entitled to recover an Environmental Investment Rider ("EIR") to recover environmental plant investments and incremental O&M, depreciation and tax costs during the RSP.
2. Starting on January 1 of each year from 2007 through 2010, the EIR shall increase by 5.4% of DP&L's January 1, 2004 tariffed generation rates. All increases to the EIR shall be cumulative.
3. A portion of the EIR will be avoidable for switching customers, as follows: 100% of the 5.4% increase in 2009 and 100% of the 5.4% increase in 2010 will be avoidable.

4. The EIR rates to be paid by switching and MBSSO customers for 2007 through 2010 are set forth on Attachment C.
 5. The EIR shall be implemented through an ATA filing to be made by DP&L no later than three (3) months before the EIR is scheduled to be increased each year. The Commission's Staff shall review DP&L's filing for the limited purpose of confirming that the filing implements the rates set forth on Attachment C.
- E. **The RSP Stipulation:** As market conditions have changed, this Stipulation supersedes Section IX.A, D, E and G of the RSP Stipulation. Section IX.C of the RSP Stipulation ends December 31, 2008. The remaining provisions of RSP Stipulation § IX continue in effect for the period identified in Section I.A of this Stipulation.
- F. **Voluntary Enrollment Procedure ("VEP"):** DP&L agrees to conduct a VEP bidding process one time in 2006 and one time in 2007. The VEP bidding process shall be conducted in the same manner that the VEP bidding process was conducted in 2005.
- G. **Subsequent Legislation:** 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.

II. OTHER CONDITIONS

- A. In arm's-length bargaining, the Signatory Parties have negotiated terms and conditions that are embodied in this Stipulation. This Agreement involves a variety of difficult, complicated issues that would otherwise be resolved only through expensive, complex, protracted litigation. This Stipulation contains the entire Agreement among the Signatory Parties, and embodies a complete settlement of all claims, defenses, issues and objections in these proceedings. The Signatory Parties agree that this Stipulation is in the best interests of the public and of all parties, and urge the Commission to adopt it.
- B. The Signatory Parties agree that the evidence in this matter supports the reasonableness of the Stipulation, as that evidence supported a range of positions and possible outcomes, and the Stipulation is within the range of outcomes supported by the evidence.
- C. All Signatory Parties, other than DP&L, are withdrawing without prejudice, and consistent with this Stipulation, their filed testimony and objections to the Staff Report.
- D. This Stipulation is a consensus among the Signatory Parties of an overall approach to rates. It is submitted for the purposes of this case alone and should not be understood to reflect the positions that an individual

Signatory Party may take as to any individual provision of the Stipulation standing alone, nor the position a Signatory Party may have taken if all of the issues in this proceeding had been litigated. Nothing in this Stipulation shall be used or construed for any purpose to imply, suggest or otherwise indicate that the results produced through the compromise reflected herein represent fully the objectives of any Signatory Party. This Stipulation is submitted for purposes of this proceeding only, and is not deemed binding in any other proceeding, except as expressly provided herein, nor is it to be offered or relied upon in any other proceedings, except as necessary to enforce the terms of this Stipulation. As with such Stipulations reviewed by the Commission, the willingness of Signatory Parties to sponsor this document currently is predicated on the reasonableness of the Stipulation taken as a whole.

- E. The Signatory Parties agree to, and intend to support, the reasonableness of this Stipulation before the Commission and in any appeal from the Commission's adoption or enforcement of this Stipulation.
- F. The Signatory Parties agree that if the Commission rejects all or any part of this Stipulation, or otherwise materially modifies its terms, any Signatory Parties shall have the right within thirty (30) business days of the Commission's Order, either to file an application for rehearing or to terminate and withdraw from the Stipulation by filing a notice with the Commission. If not fully adopted by the Commission or if rejected by the Supreme Court of Ohio, the Stipulation shall not prejudice any positions

taken by any party or any issue before the Commission in any other proceeding and shall not be admissible evidence in this or any other proceeding. If not fully adopted by the Commission, if rejected by the Supreme Court of Ohio or if modified by the Ohio General Assembly, within ten (10) days the Signatory Parties shall make a good faith effort to preserve the essential economic relationships established according to the Stipulation.

IN WITNESS THEREOF, the undersigned parties agree to this Stipulation and Recommendation as of this 3rd day of November, 2005. The undersigned parties respectfully request the Commission to issue its Opinion and Order approving and adopting this Stipulation.

THE DAYTON POWER AND LIGHT
COMPANY

By Charles J. Faruki
Charles J. Faruki

INDUSTRIAL ENERGY USERS-OHIO

By Samuel C. Randazzo
Samuel C. Randazzo

HONDA OF AMERICA MFG., INC.

By M. Howard Petricoff
M. Howard Petricoff

CARGILL, INCORPORATED

By Craig I. Smith
Craig I. Smith

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THE DAYTON POWER AND LIGHT
COMPANY

By _____
Charles J. Faruki

INDUSTRIAL ENERGY USERS-OHIO

By _____
Samuel C. Randazzo

HONDA OF AMERICA MFG., INC.

By _____
M. Howard Petricoff

CARGILL, INCORPORATED

By  _____
Craig I. Smith

CERTIFICATE OF SERVICE

I certify that a copy of the Stipulation and Recommendation has been served via the method indicated upon the following counsel, this 3rd day of November, 2005:

Jeffrey L. Small, Esq.
Office of the Ohio Consumers' Counsel
10 West Broad Street
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Columbus, OH 43215

(VIA HAND DELIVERY)

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(VIA E-MAIL AND U.S. MAIL)

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Columbus, Ohio 43216-1008

(VIA HAND DELIVERY)

Attorneys for Honda of America, Mfg., Inc.



Jeffrey S. Sharkey

158077.2

Case No. 05-276-EL-AIR
Market-Based Generation Rates, 2006 - 2010

		Tariff Charges	
		2006 - 2008	2009 - 2010
Residential			
Energy Charge (0-750 kWh)	Per kWh	\$0.05617	\$0.06072
Energy Charge (over 750kWh)	Per kWh	\$0.04581	\$0.04952
Residential Heating - Rate A			
Energy Charge (0-750 kWh)	Per kWh	\$0.05617	\$0.06072
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.04581	\$0.04952
Energy Charge (over 750 kWh) Winter	Per kWh	\$0.02744	\$0.02967
Residential Heating - Rate B			
Energy Charge (0-750 kWh)	Per kWh	\$0.05617	\$0.06072
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.04581	\$0.04952
Energy Charge (over 750 kWh but less than the first 150 kWh per kW of Billing Demand) Winter	Per kWh	\$0.04581	\$0.04952
Energy Charge (all kWh over 150 kWh per kW of Billing Demand) Winter	Per kWh	\$0.01458	\$0.01576
Secondary			
Billed Demand (over 5 kW)	Per kW	\$7.38595	\$7.38595
Energy Charge (0-1,500 kWh)	Per kWh	\$0.06190	\$0.06190
Energy Charge (1,501-125,000 kWh)	Per kWh	\$0.02722	\$0.02722
Energy Charge (over 125,000 kWh)	Per kWh	\$0.02307	\$0.02307
Max Charge ^1	Per kWh	\$0.14426	\$0.14426
Primary			
Billed Demand	Per kW	\$9.11019	\$9.11019
Energy Charge	Per kWh	\$0.02176	\$0.02176
Max Charge ^1	Per kWh	\$0.15228	\$0.15228
Primary-Substation			
Billed Demand	Per kW	\$9.63121	\$9.63121
Energy Charge	Per kWh	\$0.02072	\$0.02072
High Voltage			
Billed Demand	Per kW	\$9.40715	\$9.40715
Energy Charge	Per kWh	\$0.02048	\$0.02048
Private Outdoor Lighting			
7,000 Lumens Mercury	Per lamp, Per month	\$1.93609	\$1.93609
21,000 Lumens Mercury	Per lamp, Per month	\$3.60036	\$3.60036
2,500 Lumens Incandescent	Per lamp, Per month	\$2.39106	\$2.39106
7,000 Lumens Fluorescent	Per lamp, Per month	\$3.37016	\$3.37016
4,000 Lumens PT Mercury	Per lamp, Per month	\$5.38056	\$5.38056
School			
Energy Charge	Per kWh	\$0.05401	\$0.05401
Street Lighting			
Energy Charge	Per kWh	\$0.02457	\$0.02457

Notes: ^1 DP&L's Max Charge provision for Secondary and Primary Tariff Classes is a bundled rate. This charge reflects only the generation portion of the Max Charge.

Case No. 05-276-EL-AIR
Rate Stabilization Charge (RSC), 2006 - 2010

		Tariff Charges
Residential		
Energy Charge (0-750 kWh)	Per kWh	\$0.00634
Energy Charge (over 750kWh)	Per kWh	\$0.00517
Residential Heating - Rate A		
Energy Charge (0-750 kWh)	Per kWh	\$0.00634
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.00517
Energy Charge (over 750 kWh) Winter	Per kWh	\$0.00310
Residential Heating - Rate B		
Energy Charge (0-750 kWh)	Per kWh	\$0.00634
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.00517
Energy Charge (over 750 kWh but less than the first 150 kWh per kW of Billing Demand) Winter	Per kWh	\$0.00517
Energy Charge (all kWh over 150 kWh per kW of Billing Demand) Winter	Per kWh	\$0.00165
Secondary		
Billed Demand (over 5 kW)	Per kW	\$0.81245
Energy Charge (0-1,500 kWh)	Per kWh	\$0.00681
Energy Charge (1,501-125,000 kWh)	Per kWh	\$0.00299
Energy Charge (over 125,000 kWh)	Per kWh	\$0.00254
Max Charge ^1	Per kWh	\$0.01587
Primary		
Billed Demand	Per kW	\$1.00212
Energy Charge	Per kWh	\$0.00239
Max Charge ^1	Per kWh	\$0.01675
Primary-Substation		
Billed Demand	Per kW	\$1.05943
Energy Charge	Per kWh	\$0.00228
High Voltage		
Billed Demand	Per kW	\$1.03479
Energy Charge	Per kWh	\$0.00225
Private Outdoor Lighting		
7,000 Lumens Mercury	Per lamp, Per month	\$0.21297
21,000 Lumens Mercury	Per lamp, Per month	\$0.39604
2,500 Lumens Incandescent	Per lamp, Per month	\$0.26302
7,000 Lumens Fluorescent	Per lamp, Per month	\$0.37072
4,000 Lumens PT Mercury	Per lamp, Per month	\$0.59186
School		
Energy Charge	Per kWh	\$0.00594
Street Lighting		
Energy Charge	Per kWh	\$0.00270

Notes: ^1 DP&L's Max Charge provision for Secondary and Primary Tariff Classes is a bundled rate. This charge reflects only the RSC portion of the Max Charge.

	Tariff Charges							
	2007		2008		2009		2010	
	All	All	All	All	Standard	Switched	Standard	Switched
Residential								
Energy Charge (0-750 kWh)	\$0.00311	\$0.00622	\$0.00933	\$0.00622	\$0.00933	\$0.00622	\$0.01244	\$0.00622
Energy Charge (over 750kWh)	\$0.00254	\$0.00508	\$0.00762	\$0.00508	\$0.00762	\$0.00508	\$0.01016	\$0.00508
Residential Heating - Rate A								
Energy Charge (0-750 kWh)	\$0.00311	\$0.00622	\$0.00933	\$0.00622	\$0.00933	\$0.00622	\$0.01244	\$0.00622
Energy Charge (over 750 kWh) Summer	\$0.00254	\$0.00508	\$0.00762	\$0.00508	\$0.00762	\$0.00508	\$0.01016	\$0.00508
Energy Charge (over 750 kWh) Winter	\$0.00152	\$0.00304	\$0.00456	\$0.00304	\$0.00456	\$0.00304	\$0.00608	\$0.00304
Residential Heating - Rate B								
Energy Charge (0-750 kWh)	\$0.00311	\$0.00622	\$0.00933	\$0.00622	\$0.00933	\$0.00622	\$0.01244	\$0.00622
Energy Charge (over 750 kWh) Summer	\$0.00254	\$0.00508	\$0.00762	\$0.00508	\$0.00762	\$0.00508	\$0.01016	\$0.00508
Energy Charge (over 750 kWh but less than the first 150 kWh per kW of Billing Demand) Winter	\$0.00254	\$0.00508	\$0.00762	\$0.00508	\$0.00762	\$0.00508	\$0.01016	\$0.00508
Secondary								
Energy Charge (all kWh over 150 kWh per kW of Billing Demand) Winter	\$0.00081	\$0.00162	\$0.00243	\$0.00162	\$0.00243	\$0.00162	\$0.00324	\$0.00162
Billed Demand (over 5 kW)								
Energy Charge (0-1,500 kWh)	\$0.39884	\$0.79768	\$1.19652	\$0.79768	\$1.19652	\$0.79768	\$1.59536	\$0.79768
Energy Charge (1,501-125,000 kWh)	\$0.00334	\$0.00668	\$0.01002	\$0.00668	\$0.01002	\$0.00668	\$0.01336	\$0.00668
Energy Charge (over 125,000 kWh)	\$0.00147	\$0.00294	\$0.00441	\$0.00294	\$0.00441	\$0.00294	\$0.00588	\$0.00294
Max Charge *1	\$0.00125	\$0.00250	\$0.00375	\$0.00250	\$0.00375	\$0.00250	\$0.00500	\$0.00250
Primary								
Billed Demand	\$0.00779	\$0.01558	\$0.02337	\$0.01558	\$0.02337	\$0.01558	\$0.03116	\$0.01558
Energy Charge	\$0.49195	\$0.98390	\$1.47585	\$0.98390	\$1.47585	\$0.98390	\$1.96780	\$0.98390
Max Charge *1	\$0.00116	\$0.00236	\$0.00354	\$0.00236	\$0.00354	\$0.00236	\$0.00472	\$0.00236
Primary-Substation								
Billed Demand	\$0.00822	\$0.01644	\$0.02466	\$0.01644	\$0.02466	\$0.01644	\$0.03288	\$0.01644
Energy Charge	\$0.52009	\$1.04018	\$1.56027	\$1.04018	\$1.56027	\$1.04018	\$2.08036	\$1.04018
High Voltage	\$0.00112	\$0.00224	\$0.00336	\$0.00224	\$0.00336	\$0.00224	\$0.00448	\$0.00224
High Voltage								
Billed Demand	\$0.50799	\$1.01598	\$1.52397	\$1.01598	\$1.52397	\$1.01598	\$2.03196	\$1.01598
Energy Charge	\$0.00111	\$0.00222	\$0.00333	\$0.00222	\$0.00333	\$0.00222	\$0.00444	\$0.00222
Private Outdoor Lighting								
7,000 Lumens Mercury	\$0.10455	\$0.20910	\$0.31365	\$0.20910	\$0.31365	\$0.20910	\$0.41820	\$0.20910
21,000 Lumens Mercury	\$0.19442	\$0.38884	\$0.58326	\$0.38884	\$0.58326	\$0.38884	\$0.77768	\$0.38884
2,500 Lumens Incandescent	\$0.12912	\$0.25824	\$0.38736	\$0.25824	\$0.38736	\$0.25824	\$0.51648	\$0.25824
7,000 Lumens Fluorescent	\$0.18199	\$0.36398	\$0.54597	\$0.36398	\$0.54597	\$0.36398	\$0.72796	\$0.36398
4,000 Lumens PT Mercury	\$0.29055	\$0.58110	\$0.87165	\$0.58110	\$0.87165	\$0.58110	\$1.16220	\$0.58110
School								
Energy Charge	\$0.00292	\$0.00584	\$0.00876	\$0.00584	\$0.00876	\$0.00584	\$0.01168	\$0.00584
Street Lighting								
Energy Charge	\$0.00133	\$0.00266	\$0.00399	\$0.00266	\$0.00399	\$0.00266	\$0.00532	\$0.00266

Notes: *1 DP&L's Max Charge provision for Secondary and Primary Tariff Classes is a bundled rate. This charge reflects only the EIR portion of the Max Charge.