

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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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
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In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs	:	Case No. 08-1095-EL-ATA
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In the Matter of the Application of The Dayton Power and Light Company for Approval of Certain Accounting Authority Pursuant to Ohio Rev. Code Section 4905.13	:	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
	:	

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

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Commission's Staff,¹ 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 Chapter 4928, Revised Code. 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 2005, DP&L filed an application to implement a Rate Stabilization Surcharge ("RSS") (Case No. 05-276-EL-AIR) to allow DP&L to recover certain increases in costs, and certain parties to that proceeding entered into a Stipulation and Recommendation ("2005 RSP Stipulation") designed to provide stable rates and prevent rate shock by extending DP&L's RSP through 2010. On December 28, 2005, the Commission modified and approved the 2005 RSP Stipulation, making the 2005 RSP Stipulation DP&L's current rate plan;

WHEREAS, in 2008, the Ohio General Assembly passed Substitute Senate Bill 221 ("SB 221"), which includes new Section 4928.143(D), Revised Code, the effect of which is that DP&L's current rate plan would remain in effect until 2010 as scheduled, and that DP&L would be permitted to apply to recover or defer the incremental costs of providing a

¹ Staff will be considered a party for the purpose of entering into this Stipulation. Rule 4901-1-10(c), Ohio Admin. Code.

standard service offer not being recovered under the rate plan, and of complying with SB 221's energy efficiency, peak demand reduction and alternative energy targets;

WHEREAS, in order to comply with SB 221, DP&L filed an Application and Supporting Testimony, Chapters, Schedules and Workpapers in this proceeding;

WHEREAS, DP&L's Application in this matter includes plans and programs designed to achieve SB 221's energy efficiency, peak demand reduction, and alternative energy targets;

WHEREAS, it is in the best interest of DP&L and its customers to enter into an agreement that will provide stable rates through 2012 and will permit DP&L to implement energy efficiency, peak demand reduction and alternative energy programs, and to recover the costs of those programs; and

WHEREAS, the terms and conditions of this Stipulation satisfy the policies of the State of Ohio as set forth in Section 4928.02, Revised Code.

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

1. To assist in maintaining rate certainty, the parties agree to extend DP&L's current rate plan through December 31, 2012, except as expressly modified herein.
2. DP&L will implement a bypassable fuel recovery rider to recover retail fuel and purchased power costs, based on least cost fuel and purchased power being allocated to retail customers. To calculate the rider, jurisdictional emission allowance proceeds and twenty-

five percent of jurisdictional coal sales gains will be netted against the fuel and purchased power costs. Retail customers for the purpose of this calculation include DP&L as well as DPL Energy Resource customers. The rider will initially be established at 1.97¢ per kWh, which amount will be subtracted from DP&L's residual generation rates. No later than November 1, 2009, DP&L will make a filing at the Commission to establish the fuel rider to become effective January 1, 2010. Thereafter, the Company shall file quarterly adjustments for recovery of the cost of fuel and purchased power. The Company's annual filing will be submitted during the first quarter of each year, beginning in 2011, and will be subject to due process, including audits and hearings (unless no signatory party objects to foregoing the hearing) for the twelve-month periods ending December 31, 2010 and 2011. The Company's annual filing shall include but not be limited to details substantiating all costs included in the fuel recovery rider during the prior calendar year so that Staff and interested parties can evaluate the methodology, account balances, forecasts, and substantiating support. Such audit shall be conducted by an independent third party auditor or Staff, at the Commission's discretion. If conducted by a third party: (a) the third party will be engaged by and report to staff; and (b) DP&L will fund the audit and may seek cost recovery through the fuel recovery rider. DP&L will withdraw its request for deferral of fuel costs for 2009-2010.

3. The current RSS charge will continue as a nonbypassable charge through December 31, 2012. Through December 31, 2012, shopping customers who return to DP&L shall pay the Standard Service Offer ("SSO") rate under the applicable tariff. In 2011 and 2012, governmental aggregation customers who elect not to pay the RSS will return to DP&L at a market-based rate. DP&L will develop and file for approval a market-based rate calculated consistent with Section 4928.20(J), Revised Code, by July 1, 2010.

4. Advanced Metering Infrastructure and Smart Grid
- a. DP&L will develop independent business cases for both its AMI and Smart Grid proposals, which include accompanying billing, communications and information technology infrastructure. Both the AMI and Smart Grid business cases shall address rollouts that encompass the Company's entire service territory. Energy Efficiency and Peak Demand Reduction programs that are not dependent upon AMI will not be included in the Company's business case analyses and will go forward immediately. This would include their costs and benefits as well.
 - b. The AMI and Smart Grid business cases that demonstrate a positive benefit cost analysis will be filed in this docket no later than September 1, 2009. The analysis shall include projected reliability impacts that will result from full Smart Grid deployment. Prior to September 1, 2009, DP&L shall consult with interested Signatory Parties to seek their advice with regard to the costs and benefits of the Company's AMI and Smart Grid business cases.
 - c. DP&L will delay implementation of the Infrastructure Investment Rider (IIR) until reviewed by the Commission's Staff and approved by the Commission. Staff will endeavor to complete its review in the fourth quarter of 2009 so that the rider may be implemented January 1, 2010. This IIR rate will recover any prudently incurred costs related solely to the Company's AMI and/or Smart Grid approved plans. Prudently incurred costs and IIR revenues will be trued up on a two-year basis and the levelized IIR rate design will be eliminated. The Company will be entitled to recover those prudently incurred AMI and/or Smart Grid costs net of the Company's capital and operational savings solely due to their investment.
 - d. Should renewable energy projects be added to the grid that cause verifiable voltage fluctuations on DP&L's distribution system, any Smart Grid or switching costs incurred to address this issue will be included in the IIR.
 - e. As the delay in implementing AMI and Smart Grid may affect the Company's ability to meet the SB 221 targets, the Company may file an application with the Commission to amend the Company's annual energy efficiency and peak demand reduction benchmarks due to a delay in approving or denial of the Company's revised AMI or Smart Grid business cases.

5. DP&L will implement an Energy Efficiency Rider (EER) on April 1, 2009 to recover actual costs incurred through December 31, 2008 solely related to DP&L's programs to achieve compliance with the energy efficiency and peak demand reduction targets established in SB 221, plus the estimated costs to be incurred through March 31, 2011 for those programs that do not require AMI infrastructure to be in place for implementation. The first true-up filing will be made April 30, 2011 for costs incurred through March 31, 2011. DP&L will use a third party to verify program savings; the costs of third party verification will be recovered in the EER. Costs and revenues will be trued up on a two-year basis. Shopping customers may participate in all programs. Taking Standard Service Offer generation shall not be a condition for participation in any of the programs. Lost revenues will not include generation revenue, and will be capped at \$72 million over the seven-year period ending December 31, 2015, or when new distribution rates go into effect, whichever is earlier. Lost revenues will not be recovered on existing mercantile customer programs. Cost allocation and lost revenue among customer classes will be based upon the cost of programs for the respective customer classes.

6. DP&L will implement an avoidable Alternative Energy Rider (AER) as filed in the Application, subject to annual true up of actual costs incurred. Annual true up will take place no later than June 1 each year by filing an ATA filing. DP&L will make a filing at the Commission to seek Commission approval if DP&L seeks a nonbypassable AER charge in the future.

7. For the IIR in ¶ 4, the EER in ¶ 5, and the AER in ¶ 6, DP&L will file its cost and revenue reconciliation on the dates shown in those paragraphs. Carrying charges will be applied to any over-recovery or any under-recovery at DP&L's cost of debt approved by the Commission in DP&L's most recent proceeding.

8. The weighted average cost of capital shall be as filed in DP&L's Book II Schedule D-1. The carrying cost rate for deferrals shall be 5.86%, which is the interest rate on long-term debt reflected in the capital structure on Schedule D-1.

9. DP&L will file a new ESP and/or MRO case by March 31, 2012 to set SSO rates to apply for period beginning January 1, 2013. At least 120 days prior to March 31, 2012, DP&L will consult with interested Signatory Parties to discuss the filing.

10. DP&L will implement an Economic Development Rider on April 1, 2009 that will initially be set at zero. Recovery (if any) of delta revenues associated with economic development contracts and other reasonable or unique arrangements will be subject to Commission rules.

11. **Energy Efficiency Collaborative**

- a. Upon approval of this Stipulation, DP&L will establish a residential (including low-income) collaborative and a manufacturing and business collaborative, to advise and consult with the Company in developing and implementing specific energy efficiency and demand response programs that benefit the customers and interests represented by members of the collaborative. All Signatory Parties will be eligible for membership in the collaboratives. Non-signatories, including entities that are not participants in this proceeding, may become members of the collaboratives with the consent of DP&L, such consent not to be unreasonably withheld; provided, however, that no governmental entity shall be precluded from membership in the collaborative. In determining whether to include a non-signatory in the collaboratives, DP&L shall give due consideration to the nature of the party's interest, the expertise it will bring to bear on the collaborative process, and whether the party's interest is adequately represented by existing members of the collaboratives.
- b. DP&L will work with all of the collaborative groups referenced above to explore, educate and advise on the development of future pricing programs, for implementation, that take into consideration

the respective collaborative customer groups in the DP&L service territory.

- c. If DP&L achieves energy efficiency savings and demand reductions that are greater than the statutory benchmarks and baseline for energy efficiency set pursuant to Ohio Rev. Code § 4928.66, then DP&L shall be entitled to carry over the increment above the current year benchmark to meet subsequent years' benchmarks.
- d. The intervening Signatory Parties will not to oppose a request by DP&L to amend statutory benchmarks due to force majeure events.

12. Mercantile Customer Opt Out Exemption:

- a. Mercantile customers that commit all or some of the results from their demand-response, energy efficiency, or other customer-sited capabilities, whether existing or new, for use by DP&L to achieve targets contained in SB 221, may apply to the Commission for a total exemption from DP&L's EER designed to recover the costs of its programs created to meet the energy savings and peak demand reduction benchmarks set forth in Section 4928.66(A)(1)(a) and (b), Revised Code. DP&L will work cooperatively with those mercantile customers to develop all of the necessary details to include in the applications and to file the joint applications with the Commission seeking approval of the exemption. DP&L will also work with mercantile customers on opportunities to reduce their energy intensity per unit produced, retaining and expanding jobs and facilitating their efforts to be competitive in the global economy.
- b. Mercantile customers may receive their electric supply from DP&L or a CRES provider and still qualify for an exemption.
- c. To qualify for an exemption, an applicant customer must demonstrate to the Commission that it has undertaken or will undertake self-directed energy efficiency and/or demand reduction programs that have produced or will produce annual percentage energy savings and/or peak demand reductions equal to or greater than the applicable annual percentage statutory energy savings and/or peak demand reduction benchmarks to which DP&L is subject.
- d. The energy savings and demand reductions resulting from the customer's self-directed program shall be calculated using the same methodology used to calculate DP&L's energy savings and demand reductions for purposes of determining compliance with

the statutory benchmarks, including normalization adjustments to the baseline, where appropriate.

- e. As part of the application, an applicant customer shall provide a calculation of the customer baseline and independent measurement and verification of the level of energy savings and demand reduction achieved or anticipated, and, to retain the exemption, shall, thereafter, on an annual basis, make a filing with the Commission demonstrating that it remains eligible for the exemption under the criteria set forth herein.
- f. The parties recognize that there may be customers that have previously implemented effective self-directed energy efficiency and demand reduction programs and that such existing programs may severely limit the ability of such customers to achieve additional savings and reductions. The parties further recognize that such existing customer programs also affect DP&L's ability to comply with the applicable statutory benchmarks by limiting the potential for savings and reductions that can be achieved under its own programs. Such a customer seeking exemption from rider EER based on savings and or demand reductions under an existing self-directed program shall demonstrate in its application that (1) such program was tailored to the particular energy consumption characteristics of the customer's equipment and/or facilities and (2) that the savings and/or reductions that have been achieved under its existing self-directed program have limited its ability to achieve meaningful additional cost-effective savings and/or reductions through participation in DP&L's programs.
- g. Applicant customers may seek confidential treatment of materials provided in support of the application, including, but not limited to, customer names, price, and trade secret(s).

13. DP&L will support this Stipulation in part by sponsoring testimony showing that the extension of the rate plan through 2012 is reasonable because its pricing and all other terms and conditions, including any deferrals and future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under Section 4928.142, Revised Code.²

² Constellation NewEnergy, Inc., Constellation Energy Commodities Group, Inc. and Dominion Retail, Inc. take no position regarding whether the market-rate-option test is satisfied by the Stipulation.

14. DP&L will convene a meeting no less frequently than annually with interested Competitive Retail Electric Service ("CRES") providers and other interested parties to discuss customer choice issues and related tariff provisions. DP&L will have appropriate CRES supplier support personnel at such meeting. DP&L agrees to post a supplier hotline telephone number on its website. In addition, DP&L will designate an individual to serve as the primary contact for CRES providers for resolving operational and other CRES issues.

15. Reasonable or unique arrangements are not prohibited by this Stipulation, but signatory parties retain all rights to contest proposals for such arrangements. Reasonable and unique arrangements shall be filed with the Commission for approval.

16. If DP&L intends to transfer its ownership interest in OVEC or its ownership of any generating assets before December 31, 2012, then DP&L will file a separate application to initiate the proceeding to address such a transfer.

17. DP&L will withdraw its Application in this matter to provide behind-the-meter services. DP&L may file a separate Application for Tariff Approval to provide such services. Although other parties may move to intervene, DP&L will not oppose OCC's intervention in such a proceeding.

18. DP&L's distribution base rates will be frozen through December 31, 2012. This distribution rate freeze does not limit DP&L's right to seek emergency rate relief pursuant to Section 4909.16, Revised Code, or to apply to the Commission for approval of separate rate riders to recover the following costs:

- a. The cost of complying with changes in tax or regulatory laws and regulations effective after the date of this Stipulation; and

- b. The cost of storm damage.

Although other parties may move to intervene, DP&L will not oppose OCC's intervention in any of the above proceedings referenced in this Stipulation including with regard to this paragraph.

19. DP&L may apply to the Commission for approval of separate rate riders to recover:

- a. The cost of complying with new environmental legislation or regulation related to climate changes or carbon-related emissions or storage;
- b. Environmental costs required to keep the Hutchings Generating Station in operation and available to customers to the extent such costs are cost effective;
- c. TCRR costs; and
- d. RTO costs not recovered in the TCRR.

Although other parties may move to intervene, DP&L will not oppose OCC's intervention in any of the above proceedings referenced in this Stipulation including with regard to this paragraph..

20. Given the concessions made by DP&L in this Stipulation, and the extension of DP&L's current rate plan through 2012, the earnings test of Section 4928.143(F), Revised Code, shall not be applicable to DP&L for the years 2009 - 2011 (i.e., could first be applied to DP&L in 2013 for 2012).

21. DP&L will comply with the Commission's rules with regard to the programs and other provisions discussed in this Stipulation.

22. DP&L will implement the rates and riders shown on Attachments A through E to this Stipulation. DP&L will endeavor to adjust the recovery mechanisms established in this Stipulation if necessary to access state or federal energy efficiency and/or

potential future Smart Grid technology demonstration project funds or to comply with related state or federal requirements.

23. City of Dayton.

- a. DP&L agrees to work cooperatively with the City of Dayton to study the electric usage characteristics of buildings and facilities in the City and to make recommendations for ways they can further control demand and energy usage through increased demand response, energy efficiency or other capabilities.
- b. DP&L agrees that the aggregated load of all City of Dayton facilities served by DP&L qualifies the City as a mercantile customer. DP&L will work cooperatively with the City to develop all of the necessary details to include in the applications and to file joint applications with the Commission seeking approval of exemptions from the EER.
- c. Upon approval of the Stipulation, DP&L agrees to provide the City of Dayton an unrecoverable financial contribution of \$350,000 per year in funding for a period of four (4) years to assist in establishing, promoting and maintaining an energy efficiency audit and implementation program.
- d. When the necessary technology and infrastructure has been approved by the Commission and been deployed by DP&L, DP&L agrees to work with the City of Dayton to explore, educate and advise the City of Dayton on the development of future pricing programs for City of Dayton buildings and facilities.
- e. DP&L agrees to consult with the City of Dayton on reliability issues as those issues arise and as the City of Dayton requests such consultation.

24. Honda.

- a. DP&L will work with Honda of America Mfg., Inc. to structure a demand response and MWh reduction program utilizing Honda's conservation assets and on site generation facilities. DP&L shall meet with the Honda engineering group as soon as practical following the approval of this Stipulation and provide the necessary utility technical assistance and expertise to permit Honda to make a Section 4928.66, Revised Code mercantile opt out application to the Commission on or before June 22, 2009.

25. IEU-Ohio.

- a. DP&L shall work proactively with IEU-Ohio's mercantile customers to identify, develop and facilitate customer-sited capabilities that can assist DP&L in meeting its portfolio obligations in Sections 4928.64 and 4928.66, Revised Code and, as appropriate, to enable such customer-sited capabilities through a reasonable arrangement to be submitted to the Commission pursuant to Section 4905.31, Revised Code. The focus of DP&L's commitment to work with IEU-Ohio's mercantile customers shall be on opportunities to reduce their energy intensity per unit produced, retaining and expanding jobs and facilitating their efforts to be competitive in the global economy. Nothing in this commitment shall be construed or applied to negatively affect the development or implementation of programs that may apply to non-mercantile customers.
- b. The Commission should:
 - i. Designate PJM's GATS as the nonexclusive registry to handle issuance, transfer and other functions that need to be undertaken by the REC registry required by SB 221.
 - ii. Designate PJM's GATS as the nonexclusive registry to handle issuance, transfer and other functions that need to be performed to facilitate compliance with energy efficiency and demand response requirements of SB 221.

26. Kroger.

- a. DP&L agrees that the aggregated load of all The Kroger Company stores served by DP&L qualifies them as mercantile customers. DP&L will work cooperatively with the Kroger Company to develop all of the necessary details to include in the applications and to file the joint applications with the Commission seeking approval of the exemptions from the EER.
- b. DP&L agrees to work cooperatively with the Kroger Company to study the electric usage characteristics of its stores served by DP&L and to make recommendations for ways they can further control their demand and energy usage through increased demand response, energy efficiency or other store-sited capabilities.
- c. When the necessary technology and infrastructure has been approved by the Commission and been deployed by DP&L, DP&L agrees to work cooperatively with the Kroger Company in order to structure a pilot program, to be implemented as AMI metering

capability is available to Kroger Company member stores, that provides Kroger's the capability for EDI billing and payment services. In conjunction with the pilot, a pulse connection from the AMI metering will be made available to Kroger's.

27. OCC.

- a. DP&L has valued OCC's suggestions regarding energy efficiency programs in the past, and looks forward to OCC's participation in the collaborative. The energy efficiency and demand response collaborative will discuss and consider all of OCC's ideas and suggestions, including:
 - i. OCC's concerns regarding the home performance program
 - ii. A cost-effective residential and small commercial (100 kW or less) REC purchase program, which OCC requests be made available by April 30, 2009;
 - iii. The proposed benchmark that marketing, education and administration costs should be equal to or less than 25% of total program costs unless modified by the collaborative;
 - iv. Cost-justified "white tag" programs.
- b. DP&L will work with OCC to explore and consider opportunities to request state or federal funds for AMI, Smart Grid, and energy efficiency and demand response programs. Funds that are reasonably unencumbered by state or federal mandates will be used to reduce the costs of such programs to DP&L's customers.
- c. As necessary, DP&L will revise its Corporate Separation Plan to comply with Commission rules. DP&L's Code of Conduct will apply to DP&L employees and representatives. DP&L's employees and representatives shall not have the discretion to act in a manner that is inconsistent with the Commission's Corporate Separation rules or DP&L's Corporate Separation Plan.
- d. DP&L's alternative energy purchases will comply with the Commission's final rules stemming from Case No. 08-888-EL-ORD.

28. OHA.

- a. DP&L agrees to work with the Ohio Hospital Association ("OHA") member hospitals served by DP&L to establish a net metering program for those hospitals seeking to net meter their on site generation resources. This program will seek to structure a

program whereby the member hospitals may receive technical and operational assistance with the installation, maintenance and operation of their emergency generation facilities. Further this program will include provisions for making such facilities available for a DP&L/OHA member hospital peak load reduction program. Participating hospitals will have to make a firm commitment of the amount of capacity from its on-site generation it intends to make available to this program for a minimum period of three years.

- b. Upon approval of this settlement DP&L agrees to provide an unrecoverable financial contribution of \$150,000 per year in funding to the OHA for a period of four years to establish a hospital-specific energy efficiency audit program and for development of specific energy efficiency programs for the hospitals served by DP&L.
- c. DP&L agrees to work with the OHA member hospitals served by DP&L to structure an arrangement with the member hospitals in order for the hospitals to receive redundant distribution electric service billed on a demand basis.
- d. When the necessary technology and infrastructure has been approved by the Commission and been deployed by DP&L, DP&L agrees to form a DP&L/OHA member hospital collaborative to explore, educate and advise on the development of future pricing programs for member hospitals served by DP&L that take into consideration member hospitals emergency generation facilities usage as a means of reducing costs to the hospitals.

29. OMA.

- a. DP&L agrees to work with the Ohio Manufacturers' Association ("OMA") members served by DP&L to establish a net metering program for those manufacturing members seeking to net meter their on site generation resources. This program will seek to structure a program whereby the manufacturing members may receive technical and operational assistance with the installation, maintenance and operation of their emergency generation facilities. Further this program will include provisions for making such facilities available for a DP&L/OMA manufacturing members peak load reduction program. A participating manufacturing member will have to make a firm commitment of the amount of capacity from its on-site generation that it intends to make available to this program for a minimum period of three years.

- b. **The parties agree that DP&L shall, with the assistance of OMA, establish an energy efficiency, manufacturing collaborative (Manufacturing Collaborative) to develop and implement programs for manufacturers in DP&L's certified territory that benefit both participants and the State of Ohio consistent with SB 221. OMA and other participating statewide non-profit manufacturing advocacy organizations with manufacturing membership may participate in the Manufacturing Collaborative and provide volunteers to participate in program design, development and implementation working with DP&L. DP&L shall provide the Manufacturing Collaborative with an unrecoverable financial contribution of up to \$100,000 per year during the BSP period, for research and development of energy efficiency programs for manufacturers. DP&L further agrees to provide its expertise, in association with participating manufacturers and Staff, in developing energy efficiency programs targeted toward manufacturers in DP&L's service territory. The Manufacturing Collaborative shall recommend cost-effective, energy efficiency programs to the Commission for adoption and recovery through the EBR. DP&L also agrees to participate in a statewide energy efficiency, manufacturing collaborative or similar organization if appropriate resources are available and if such a Manufacturing Collaborative or organization is formed.**
- c. **DP&L agrees to work with the OMA manufacturing members served by DP&L to structure an arrangement with the manufacturing members in order for the members to receive redundant distribution electric service billed on a demand basis.**
- d. **When the necessary technology and infrastructure has been approved by the Commission and been deployed by DP&L, DP&L agrees to work with manufacturing members to explore, educate and advise on the development of future pricing programs for manufacturing members served by DP&L that take into consideration manufacturing members emergency generation facilities usage as a means of reducing costs to the manufacturing members.**

30. OPAE and The Edgemont Neighborhood Coalition

- a. **Due to the current adverse economic conditions, effective February 1, 2009, and continuing through December 31, 2012, DP&L shall contribute an unrecoverable total of \$ 400,000 annually to benefit electric consumers at or below 200% of the federal poverty line or consumers who demonstrate they are at-risk of losing electric service. The contribution shall be made directly to Ohio Partners for Affordable Energy, as a Section 501(c)(3)**

entity, which will handle the distribution of funds to Community Action Partnership of the Greater Dayton Area, SOURCES Community Network Services, Tri-County Community Action Commission of Champaign/Logan/Shelby Counties, Community Action Organization of Delaware/Madison/Union Counties, Inc., Community Action Organization of Delaware/Madison/ Union Counties, Inc., Clinton County Community Action Program, and, the Community Action Commission of Fayette County. The agencies shall receive an administrative fee of 5% of the amount allocated, to be taken out of the total of \$400,000.³ The allocations and program operating guidelines shall be developed and implemented by the agencies working in concert with DP&L, Staff of the Public Utilities Commission of Ohio, OCC, Edgemont Neighborhood Coalition, and the Ohio Department of Development.

31. Sierra Club.

- a. Pursuant to the August 7, 2008 Consent Decree issued by the United States District Court for the Southern District of Ohio, Civil Action No.: 2:04-CV-905, the Sierra Club is not bound by Stipulation ¶¶ 4.e and 11.d.

32. Signatory Parties City of Dayton, IEU-Ohio, Kroger, OCC, OHA, OMA, OP&E, The Edgemont Neighborhood Coalition, and Sierra Club agree that they support or do not oppose DP&L's Application in this proceeding, including all requested relief and urge Commission approval. The establishment of the net metering, demand response, energy efficiency, AMI metering programs set forth in paragraphs 23 through 31 are not conditioned on the aforementioned parties taking Standard Service Offer generation service from DP&L.

33. 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,

³ OCC notes its objection to the 5% administrative fee. OCC believes the \$20,000 administrative fee is excessive and should be used to serve at-risk customers. The administrative fee allowed in this Stipulation has no precedential value.

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.

34. All Signatory Parties, other than DP&L, will withdraw without prejudice, their filed testimony. DP&L offers its testimony and exhibits as further evidentiary support for this Stipulation, and will file supplemental testimony in support of this Stipulation. Except as modified by this Stipulation, DP&L's Application in these matters, including all supporting chapters, schedules, workpapers, and testimony, is approved.

35. 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.

36. The Signatory Parties will support the Stipulation if the Stipulation is contested, and no Signatory Party will oppose an application for rehearing designed to defend the terms of this Stipulation. The Parties recommend that the Commission find that extending DP&L's rate plan through December 31, 2012 is reasonable because the rate plan's pricing and all other terms and conditions, including any deferrals and future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under Section 4928.142, Revised Code.⁴

37. This Stipulation is conditioned upon adoption of the Stipulation by the Commission in its entirety and without material modification.⁵ If the Commission rejects or modifies all or any part of this Stipulation, any Signatory Party shall have the right to apply for rehearing. If the Commission does not adopt the Stipulation without material modification upon rehearing, then within thirty (30) days of the Commission's Entry on Rehearing: (a) any Signatory Party may terminate and withdraw from the Stipulation by filing a notice with the Commission; or (b) DP&L may terminate and withdraw from the Stipulation by filing a notice pursuant to Section 4928.143(C)(2)(a)&(b), Revised Code. Upon the filing of such notice, the Stipulation shall immediately become null and void; provided, however, that the filing of such a notice by DP&L shall not be deemed to terminate paragraphs 4-6 and 10 of the Stipulation if said paragraphs were approved by the Commission without material modification. No Signatory Party shall file a notice of termination and withdrawal without first negotiating in good faith with the other Signatory Parties to achieve an outcome that substantially satisfies the intent of the

⁴ Constellation NewEnergy, Inc., Constellation Energy Commodities Group, Inc. and Dominion Retail, Inc. take no position regarding whether the market-rate-option test is satisfied by the Stipulation.

⁵ Any Signatory Party has the right, in its sole discretion, to determine what constitutes a "material" change for the purposes of that Party withdrawing from the Stipulation.

Stipulation. If a new agreement is reached, the Signatory Parties will file the new agreement for Commission review and approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are unsuccessful, the Commission will convene an evidentiary hearing to afford the Signatory Parties the opportunity to present evidence through witnesses, to cross-examine witnesses, to present rebuttal testimony, and to brief all issues that the Commission shall decide based upon the record and briefs as if this Stipulation had never been executed. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are successful, some, or all, of the Signatory Parties shall submit the amended Stipulation to the Commission for approval after a hearing if necessary.

IN WITNESS THEREOF, the undersigned parties agree to this Stipulation and Recommendation as of this 24th day of February, 2009. 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 Lisa G. McAlister
Lisa G. McAlister

THE STAFF OF THE PUBLIC UTILITIES COMMISSION OF OHIO

By Thomas G. Lindgren
Thomas G. Lindgren
Staff takes no position on IP20
OHIO PARTNERS FOR AFFORDABLE ENERGY

THE KROGER COMPANY

By John W. Bentine / per e-mail authorization 2/24/09
John W. Bentine

OFFICE OF THE OHIO CONSUMERS' COUNSEL

By David C. Rinebolt
David C. Rinebolt
by Charles J. Faruki per e-mail authorization
THE OHIO ENVIRONMENTAL COUNCIL

By Jacqueline L. Roberts
Jacqueline L. Roberts

OHIO MANUFACTURERS' ASSOCIATION

By Barth E. Royer
Barth E. Royer

By Thomas J. O'Brien
Thomas J. O'Brien

DOMINION RETAIL, INC.

By 
Barth E. Royer

CARGILL, INCORPORATED

By _____
Craig I. Smith

CONSTELLATION NEWENERGY INC.
AND CONSTELLATION ENERGY
COMMODITIES GROUP, INC.

By 
M. Howard Petricoff

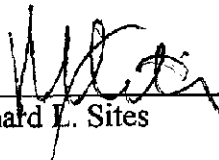
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By _____
Larry R. Gearhardt

OHIO ENERGY GROUP

By _____
David F. Boehm

THE OHIO HOSPITAL ASSOCIATION

By 
Richard L. Sites

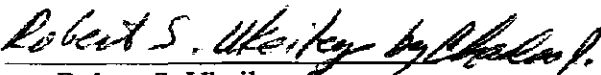
HONDA OF AMERICA MFG., INC.


By 
M. Howard Petricoff

CITY OF DAYTON

By 
~~Andre T. Porter~~
CHRISTOPHER L. MILLER

SIERRA CLUB

By 
Robert S. Ukeiley
Fauchi per email authorization
THE EDMONT NEIGHBORHOOD
COALITION

By 
Ellis Jacobs
J. Fauchi per email authorization

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Stipulation and Recommendation has been served via electronic mail upon the following counsel of record, this 24th day of February, 2009:

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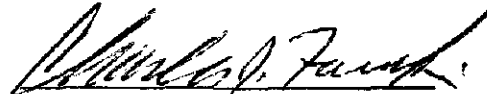
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Charles J. Faruki

Case No. 08-1094-EL-SSO

Residual Generation Rates, December 31, 2009 - 2012

Description: This is a bypassable charge associated with the costs of providing retail standard offer generation service to customers. This rate results from subtracting \$.01970 per kWh (base fuel) from the residual generation rates that were in effect February 2009.

		Tariff Charges 12/31/2009 - 2012
Residential		
Energy Charge (0-750 kWh)	Per kWh	\$0.04102
Energy Charge (over 750kWh)	Per kWh	\$0.02982
Residential Heating - Rate A		
Energy Charge (0-750 kWh)	Per kWh	\$0.04102
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.02982
Energy Charge (over 750 kWh) Winter	Per kWh	\$0.00997
Residential Heating - Rate B		
Energy Charge (0-750 kWh)	Per kWh	\$0.04102
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.02982
Energy Charge (over 750 kWh but less than the first 150 kWh per kW of Billing Demand) Winter	Per kWh	\$0.02982
Energy Charge (all kWh over 150 kWh per kW of Billing Demand) Winter	Per kWh	\$0.00000
Secondary		
Billed Demand (over 5 kW)	Per kW	\$7.38596
Energy Charge (0-1,500 kWh)	Per kWh	\$0.04220
Energy Charge (1,501-125,000 kWh)	Per kWh	\$0.00752
Energy Charge (over 125,000 kWh)	Per kWh	\$0.00337
Max Charge ^1	Per kWh	\$0.12456
Primary		
Billed Demand	Per kW	\$9.11019
Energy Charge	Per kWh	\$0.00206
Max Charge ^1	Per kWh	\$0.13256
Primary-Substation		
Billed Demand	Per kW	\$9.63121
Energy Charge	Per kWh	\$0.00102
High Voltage		
Billed Demand	Per kW	\$9.40716
Energy Charge	Per kWh	\$0.00078
Private Outdoor Lighting		
7,000 Lumens Mercury	Per lamp, Per month	\$0.45859
21,000 Lumens Mercury	Per lamp, Per month	\$0.56656
2,500 Lumens Incandescent	Per lamp, Per month	\$1.13026
7,000 Lumens Fluorescent	Per lamp, Per month	\$2.06996
4,000 Lumens PT Mercury	Per lamp, Per month	\$4.53346
School		
Energy Charge	Per kWh	\$0.03431
Street Lighting		
Energy Charge	Per kWh	\$0.00487

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. 08-1094-EL-SSO

Retail Fuel and Purchase Power, December 31, 2009

Description: This charge is a bypassable retail fuel and purchase power rider. The rider will initially be established at \$0.01970 per kWh, which amount is subtracted from DP&L's residual generation rates that were in effect February 2009, to establish the residual generation rate in effect December 31, 2009. No later than November 1, 2009, DP&L will make a filing at the Commission to establish the 2010 fuel rider, which may include quarterly seasonal adjustments.

		Tariff Charges 12/31/2009
Residential		
Energy Charge (0-750 kWh)	Per kWh	\$0.01970
Energy Charge (over 750kWh)	Per kWh	\$0.01970
Residential Heating - Rate A		
Energy Charge (0-750 kWh)	Per kWh	\$0.01970
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.01970
Energy Charge (over 750 kWh) Winter	Per kWh	\$0.01970
Residential Heating - Rate B		
Energy Charge (0-750 kWh)	Per kWh	\$0.01970
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.01970
Energy Charge (over 750 kWh but less than the first 150 kWh per kW of Billing Demand) Winter	Per kWh	\$0.01970
Energy Charge (all kWh over 150 kWh per kW of Billing Demand) Winter	Per kWh	\$0.01970
Secondary		
Energy Charge (0-1,500 kWh)	Per kWh	\$0.01970
Energy Charge (1,501-125,000 kWh)	Per kWh	\$0.01970
Energy Charge (over 125,000 kWh)	Per kWh	\$0.01970
Max Charge ^1	Per kWh	\$0.01970
Primary		
Energy Charge	Per kWh	\$0.01970
Max Charge ^1	Per kWh	\$0.01970
Primary-Substation		
Energy Charge	Per kWh	\$0.01970
High Voltage		
Energy Charge	Per kWh	\$0.01970
Private Outdoor Lighting		
7,000 Lumens Mercury	Per lamp, Per month	\$1.47750
21,000 Lumens Mercury	Per lamp, Per month	\$3.03380
2,500 Lumens Incandescent	Per lamp, Per month	\$1.26080
7,000 Lumens Fluorescent	Per lamp, Per month	\$1.30020
4,000 Lumens PT Mercury	Per lamp, Per month	\$0.84710
School		
Energy Charge	Per kWh	\$0.01970
Street Lighting		
Energy Charge	Per kWh	\$0.01970

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

Case No. 08-1094-EL-SSO
Alternative Energy Rider, 2009-2010

Description: This charge is a bypassable charge intended to recover costs associated with meeting the renewable energy portfolio standards prescribed by Section 4928.64 of the Ohio Revised Code.

		Tariff Charges	
		2009	2010 ^{^1}
Residential			
Energy Charge (0-750 kWh)	Per kWh	\$0.0001146	\$0.0001323
Energy Charge (over 750kWh)	Per kWh	\$0.0001146	\$0.0001323
Residential Heating - Rate A			
Energy Charge (0-750 kWh)	Per kWh	\$0.0001146	\$0.0001323
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.0001146	\$0.0001323
Energy Charge (over 750 kWh) Winter	Per kWh	\$0.0001146	\$0.0001323
Residential Heating - Rate B			
Energy Charge (0-750 kWh)	Per kWh	\$0.0001146	\$0.0001323
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.0001146	\$0.0001323
Energy Charge (over 750 kWh but less than the first 150 kWh per kW of Billing Demand) Winter	Per kWh	\$0.0001146	\$0.0001323
Energy Charge (all kWh over 150 kWh per kW of Billing Demand) Winter	Per kWh	\$0.0001146	\$0.0001323
Secondary			
Energy Charge (0-1,500 kWh)	Per kWh	\$0.0001146	\$0.0001323
Energy Charge (1,501-125,000 kWh)	Per kWh	\$0.0001146	\$0.0001323
Energy Charge (over 125,000 kWh)	Per kWh	\$0.0001146	\$0.0001323
Primary			
Energy Charge	Per kWh	\$0.0001146	\$0.0001323
Primary-Substation			
Energy Charge	Per kWh	\$0.0001146	\$0.0001323
High Voltage			
Energy Charge	Per kWh	\$0.0001146	\$0.0001323
Private Outdoor Lighting			
7,000 Lumens Mercury	Per lamp, Per month	\$0.0085950	\$0.0099225
21,000 Lumens Mercury	Per lamp, Per month	\$0.0176484	\$0.0203742
2,500 Lumens Incandescent	Per lamp, Per month	\$0.0073344	\$0.0084672
7,000 Lumens Fluorescent	Per lamp, Per month	\$0.0075636	\$0.0087318
4,000 Lumens PT Mercury	Per lamp, Per month	\$0.0049278	\$0.0058889
School			
Energy Charge	Per kWh	\$0.0001146	\$0.0001323
Street Lighting			
Energy Charge	Per kWh	\$0.0001146	\$0.0001323

Notes: ^1 2010 AER will reflect actual costs, true up costs and recovery from 2009.

Case No. 08-1094-EL-SSO
Energy Efficiency Rider, 2009-2010

Description: This is a non-bypassable charge (except if the customer qualifies for a mercantile opt out exemption) intended to recover the costs associated with meeting the energy efficiency and peak demand reduction targets set forth in Section 4928.66 of the Ohio Revised Code.

		Tariff Charges	
		2009	2010
Residential			
Energy Charge (0-750 kWh)	Per kWh	\$0.0019710	\$0.0020875
Energy Charge (over 750kWh)	Per kWh	\$0.0019710	\$0.0020875
Residential Heating - Rate A			
Energy Charge (0-750 kWh)	Per kWh	\$0.0019710	\$0.0020875
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.0019710	\$0.0020875
Energy Charge (over 750 kWh) Winter	Per kWh	\$0.0019710	\$0.0020875
Residential Heating - Rate B			
Energy Charge (0-750 kWh)	Per kWh	\$0.0019710	\$0.0020875
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.0019710	\$0.0020875
Energy Charge (over 750 kWh but less than the first 150 kWh per kW of Billing Demand) Winter	Per kWh	\$0.0019710	\$0.0020875
Energy Charge (all kWh over 150 kWh per kW of Billing Demand) Winter	Per kWh	\$0.0019710	\$0.0020875
Secondary			
Energy Charge (0-1,500 kWh)	Per kWh	\$0.0004761	\$0.0006284
Energy Charge (1,501-125,000 kWh)	Per kWh	\$0.0004761	\$0.0006284
Energy Charge (over 125,000 kWh)	Per kWh	\$0.0004761	\$0.0006284
Primary			
Energy Charge	Per kWh	\$0.0004761	\$0.0006284
Primary-Substation			
Energy Charge	Per kWh	\$0.0004761	\$0.0006284
High Voltage			
Energy Charge	Per kWh	\$0.0004761	\$0.0006284
Private Outdoor Lighting			
7,000 Lumens Mercury	Per lamp, Per month	\$0.0357075	\$0.0471300
21,000 Lumens Mercury	Per lamp, Per month	\$0.0733194	\$0.0967736
2,500 Lumens Incandescent	Per lamp, Per month	\$0.0304704	\$0.0402176
7,000 Lumens Fluorescent	Per lamp, Per month	\$0.0314226	\$0.0414744
4,000 Lumens PT Mercury	Per lamp, Per month	\$0.0204723	\$0.0270212
School			
Energy Charge	Per kWh	\$0.0004761	\$0.0006284
Street Lighting			
Energy Charge	Per kWh	\$0.0004761	\$0.0006284

Case No. 08-1094-EL-SSO
Economic Development Rider, 2009-2010

Description: This is a non-bypassable charge intended to recover delta revenue associated with economic development, unique, or reasonable arrangements. This rate is initially established at zero unless or until such time that an economic development, unique or reasonable arrangement is approved by the PUCO and implemented by the Company.

		Tariff Charges	
		2009	2010
Residential			
Energy Charge (0-750 kWh)	Per kWh	\$0.0000000	\$0.0000000
Energy Charge (over 750kWh)	Per kWh	\$0.0000000	\$0.0000000
Residential Heating - Rate A			
Energy Charge (0-750 kWh)	Per kWh	\$0.0000000	\$0.0000000
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.0000000	\$0.0000000
Energy Charge (over 750 kWh) Winter	Per kWh	\$0.0000000	\$0.0000000
Residential Heating - Rate B			
Energy Charge (0-750 kWh)	Per kWh	\$0.0000000	\$0.0000000
Energy Charge (over 750 kWh) Summer	Per kWh	\$0.0000000	\$0.0000000
Energy Charge (over 750 kWh but less than the first 150 kWh per kW of Billing Demand) Winter	Per kWh	\$0.0000000	\$0.0000000
Energy Charge (all kWh over 150 kWh per kW of Billing Demand) Winter	Per kWh	\$0.0000000	\$0.0000000
Secondary			
Energy Charge (0-1,500 kWh)	Per kWh	\$0.0000000	\$0.0000000
Energy Charge (1,501-125,000 kWh)	Per kWh	\$0.0000000	\$0.0000000
Energy Charge (over 125,000 kWh)	Per kWh	\$0.0000000	\$0.0000000
Primary			
Energy Charge	Per kWh	\$0.0000000	\$0.0000000
Primary-Substation			
Energy Charge	Per kWh	\$0.0000000	\$0.0000000
High Voltage			
Energy Charge	Per kWh	\$0.0000000	\$0.0000000
Private Outdoor Lighting			
7,000 Lumens Mercury	Per lamp, Per month	\$0.0000000	\$0.0000000
21,000 Lumens Mercury	Per lamp, Per month	\$0.0000000	\$0.0000000
2,500 Lumens Incandescent	Per lamp, Per month	\$0.0000000	\$0.0000000
7,000 Lumens Fluorescent	Per lamp, Per month	\$0.0000000	\$0.0000000
4,000 Lumens PT Mercury	Per lamp, Per month	\$0.0000000	\$0.0000000
School			
Energy Charge	Per kWh	\$0.0000000	\$0.0000000
Street Lighting			
Energy Charge	Per kWh	\$0.0000000	\$0.0000000