

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
The Dayton Power and Light Company	)	
For Certification as an Eligible Ohio	)	Case No. 09-891-EL-REN
Renewable Energy Resource Generating	)	
Facility	)	

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Renewable Energy Resource Generating	)	
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**THE DAYTON POWER AND LIGHT COMPANY  
REPLY IN OPPOSITION TO  
MOTION TO INTERVENE AND MEMORANDUM OF  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Dayton Power and Light Company ("DP&L" or the "Company"), pursuant to Ohio Administrative Code ("OAC") § 4901-1-12(B)(1), hereby submits its reply in opposition to the Motion to Intervene and Comments of the Office of the Ohio Consumers' Counsel ("OCC").

I. Introduction.

DP&L is subject to a legislative mandate to gradually shift the sources of its electricity from being based today almost exclusively on fossil fuel to a mix by 2025 that includes renewable and advanced energy resources equaling 25% of its load.<sup>1</sup> To that end, DP&L has taken steps to determine whether or not it is technologically and economically feasible to co-fire its existing generation facilities with a mix of fossil fuels and renewable fuels. Among the most critical steps has been obtaining temporary permits from the Ohio Environmental Protection Agency to allow test burns at the Killen Station of wood cellulose pellets and biodiesel (together

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<sup>1</sup> Ohio Revised Code ("RC") § 4928.64(B).

“bio-fuels”). In order to co-fire bio-fuels and fossil fuels, DP&L must continue to conform to all air, water and waste disposal environmental requirements.

Before and during the environmental permitting process, work was performed to identify the potential types of biomass that could be combusted, to determine whether there could be sufficient supplies of the candidate fuels over a multi-year period, and to negotiate with potential suppliers. For the test burns, efforts have been made to minimize the changes that would have to be made over the longer run in fuel handling, fuel injection into the boilers and waste disposal. Assuming the test burns prove that the bio-fuels can be used consistent with environmental requirements, more permanent changes to storage, drying, fuel handling and blending processes may be necessary for the longer-term use of the wood cellulose pellets.<sup>2</sup> For both the short term and the longer term, up to 20% of diesel fuel can be displaced with bio-diesel with few or no significant changes in processes or equipment needed on-site.

In undertaking this effort, DP&L was guided by a fundamental premise that there are two ways to generate electricity that qualify under the statutory requirements for Renewable Energy Certificates (“RECs”). First, one could build a wholly-new or retrofitted generator to produce electricity from a renewable resource. New solar installations or new wind turbines fit neatly within that category. Second, one could take an existing generator and begin using fuels that are themselves within the definition of a renewable resource. Biomass and methane gas from landfills fall within this category. For this second category of renewable energy resources, co-firing the renewable fuels along with the pre-existing fuel source is recognized as a means to

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<sup>2</sup> The wood cellulose pellets are themselves a blend of miscanthus grass and wood waste. The processes involved in making the pellets are proprietary to the third party producer, but involve growing and harvesting or otherwise obtaining the grass, obtaining a supply of wood waste, chopping and drying the grass and wood to the extent necessary, blending, and compression into pellet form.

comply with the legislative mandates. O.A.C § 4901:1-40-01(G) defines a “renewable energy resource” in connection with “co-firing” as follows:

“Co-firing” means simultaneously using multiple fuels in the generation of electricity. In the event of co-firing, the proportion of energy input comprised of a renewable energy resource shall dictate the proportion of electricity output from the facility that can be considered a renewable energy resource.

## II. Response to OCC Concerns.

The OCC in a motion to intervene and comments filed on October 21, 2009, has taken issue with two aspects of DP&L’s filings.

### A. Percentage of Renewable Fuels Versus Non-Renewable Fuels to be Consumed.

OCC requests that the Commission not approve the applications until DP&L reveals what proportion of the fuel in the plant will actually be renewable versus non-renewable. OCC Memorandum at 5-6. DP&L, on October 29, 2009, refiled the applications to specify “up to” percentages that may be used in the test burns and thereafter if the test burns are successful and the projects move forward on a longer-term basis.

In its refiled application in Case No. 09-891-EL-REN, DP&L has specified that the modification made is the use of wood cellulose pellets blended with coal of up to 20% (on a Btu basis). For the test burn, the percentage is expected to be closer to 5%.

In its refiled application in Case No. 09-892-EL-REN, DP&L has specified that the modification made is the use of bio-diesel fuel, which will be blended with fuel oil up to 20% for start up and flame stabilization purposes. Because start up and flame stabilization diesel fuel usage is only a tiny fraction of the coal that is consumed annually at Killen, the Btu-input from bio-diesel will be no more than about 0.1% of the total Btu-input at Killen.

The range of actual usage of biofuels over time may be from 0% to about 10%. Ranges are expressed because DP&L cannot guarantee that fuel will be available, physically or economically, at the same percentage throughout any given period of time. Additionally, the reason for having a test burn is to obtain the information necessary to establish the optimal percentages that can be consumed consistent with operational and environmental requirements, costs, and compliance with the statutory mandates for renewable energy use.

The RECs earned from the “renewable resource” will be tied to the Btus in the renewable fuel as a percent of overall Btus consumed. DP&L is not seeking to make some fixed percentage of the physical asset known as Killen Station a renewable facility, but rather is seeking to qualify the percentage of the output of Killen Station that is produced from renewable fuels.

B. “Placed-In-Service Date.”

The OCC has also expressed the view that the Killen Station does not qualify as a renewable energy source because it was constructed prior to January 1, 1998, and because the applications did not identify the modifications and retrofits that were made to the Killen Station that would make it eligible. OCC Memorandum at 5-6.

In its refiled application for wood cellulose pellets, Case No. 09-891-EL-REN, DP&L has identified the modification at the Killen Station as a modification in fuel type. This modification in fuel type also necessitates changes in fuel handling processes. Even for the test burn, it was necessary to execute an agreement with the producer of the fuel and a third party coal handling facility to do fuel blending, so that the fuel that is delivered to the Killen Station is, on a Btu basis, about 5% wood cellulose pellets and 95% coal. This blend would then be delivered to the plant for injecting into the coal pulverizers and then into the existing boilers for combustion. Assuming the test burn is successful, additional steps for a more long-term use may

include separate wood cellulose pellet storage, weather protection, drying, conveyor facilities for blending and injection, or other plant modifications.

To the extent that the Commission believes that some physical change needs to be demonstrated to qualify the percentage output of a facility that is co-firing bio-fuels and fossil fuels, DP&L requests that the Commission find that the refiled application in Case No. 09-891-EL-REN provides an adequate demonstration in that it identifies the change in fuel handling processes to blend the wood cellulose pellets with coal.

But DP&L urges the Commission to make a broader ruling than that. DP&L urges the Commission to establish this clear and unambiguous standard:

The new use of renewable fuels in an existing power plant is the modification that qualifies the electric output from that fuel for REC purposes and there is no requirement that there be some physical modification to the power plant.

The alternative, that there must be physical modifications to the generation facility, makes no sense when applied to the use of certain new renewable fuels that are explicitly promoted by S.B. 221. Bio-diesel fuel involves a new fuel type but, at the percentages that are contemplated for use, there would be little or no physical modifications to the Killen Station needed. In fact, that is a primary benefit that most would ascribe to the use of bio-diesel – it can be a substitute for a significant amount of regular diesel fuel with essentially no modifications needed to the equipment used to burn diesel fuel.<sup>3</sup>

III.     The Use of New Renewable Fuel Resources Was  
          Intended to Qualify Toward Alternative Energy Targets.

An unambiguous standard that the new use of renewable fuels in an existing facility qualifies a percentage of the output for Renewable Energy Certificate purposes is necessary to

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<sup>3</sup> At percentages above 20% and during cold weather, bio-diesel may require some changes in processes including heating the pipes used to deliver the fuel from tanks to the boilers to prevent the fuel from congealing.

fulfill the purposes of S.B. 221 with respect to certain fuels that the legislature clearly intended to promote. As examples, bio-diesel and methane from landfills are clearly renewable resources under R.C. § 4928.01(A)(35) as “biomass energy” and “biologically derived methane gas.” A key beneficial attribute of each of those fuels is that they can be collected and burned in existing electric generation facilities with limited modifications to the oil/gas turbine or boiler or any other part of the electric generating station. For bio-diesel, there is of course the need for someone to collect the fuel and run it through a filter to remove non-oil solids. But that is typically done by the company providing the product. It can then be transported by truck to the generation facility and pumped directly into existing tanks designed for diesel fuel storage. For landfill gas, there is the collection system at the landfill (sometime with, but often without, some clean-up of non-methane components), and a compressor and pipe to transport it to the generator. But again, outside of a connection of that transporting pipe to the generation facility’s gas lines, there are no modifications necessary at the plant to use this fuel.

The public policy objectives set forth in the S.B. 221 require Ohio utilities to meet customers’ needs using a blend of conventional generation resources with new cost-effective renewable resources. There is no requirement, nor should there be, that bio-fuels be used only in the most expensive way possible, i.e., in newly constructed or heavily retrofitted power plants. The use of new fuel sources in existing power plants is the most cost effective means to create a bio-fuels industry in Ohio. That is not only cost-effective, but by displacing the coal and diesel fuels that would otherwise be consumed in these existing power plants, other salutary public purpose objectives are furthered such as a reduction in carbon emissions.

The OCC, in another part of its pleading, notes its view that “residential customers should not have to pay a premium for renewable energy resources that do not provide the benefits

contemplated under R.C. 4928.01(A)(35).” OCC Memorandum at 2. In response, DP&L would note first that renewable energy resources are, in general, more expensive and more difficult to use than fossil fuels. If they were not, they would not need to be so heavily promoted through federal and state tax incentives and grant programs and statutory mandates on utilities. Second and more to the point, through these filings DP&L is proposing to takes steps towards meeting the alternative energy target in one of the most cost-effective ways the Company has identified thus far. Any suggestion that biofuels must only be burned in a newly constructed or heavily retro-fitted generation facilities goes against OCC’s stated objective of keeping cost to consumers down while still meeting the alternative energy targets of SB 221.

DP&L further notes that OAC § 4901:1-40-04 (A)(10) does not supersede or modify the separate subpart of OAC § 4901:1-40-04(A)(6). Subpart (A)(10) refers to a modification or retrofit of a facility placed in service prior to January 1, 1998, but, as the Commission recognized in promulgating these regulations, that provision provides an additional category of renewable resources and was added to conform to a legislative amendment that created a formula for more than a one-for-one REC per mega-watt hour generated for the benefit of a facility that is planned for a substantial retrofit.<sup>4</sup> This requirement for a modification or retrofit does not apply to subpart (A)(6) which provides that biomass energy is a qualified resource. The more general “placed in service” requirement of OAC § 4901:1-40-04(A) and R.C. § 4928.64(A)(1) is a requirement that the resource be placed in service after January 1, 1998. In this instance, it is the bio-fuel that is the resource, not the facility burning the bio-fuel.

DP&L urges the Commission to find that the percentage output of the Killen Station equal on a Btu-input basis to the electricity generated by wood cellulose pellets and bio-diesel relative to overall Btu-input qualifies for RECs.

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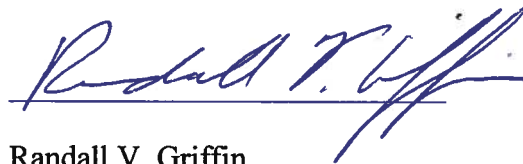
<sup>4</sup> Entry on Rehearing, Case No. 88-888-EL-ORD (June 17, 2009) at 19-20.

III. Conclusion.

The Dayton Power and Light Company, for the foregoing reasons, requests that the Commission issue a ruling finding that:

- (a) the wood cellulose pellets and bio-diesel fuels described in the applications in Case Nos. 09-891-EL-REN and 09-892-EL-REN are renewable resources within the meaning of S.B. 211;
- (b) the bio-fuels will be consumed after January 1, 1998;
- (c) The new use of renewable fuels in an existing power plant is the modification that qualifies the electric output from that fuel for REC purposes and there is no requirement that there be some physical modification to the power plant;
- (d) consistent with the Commission's rules on co-firing, "the proportion of energy input comprised of a renewable energy resource shall dictate the proportion of electricity output from the facility that can be considered a renewable energy resource;" and
- (e) the applications in 09-891-EL-REN and 09-892-EL-REN are approved with RECs certified based on the percentage of electricity output from the Killen Station that is generated by a renewable resource.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been served via first class mail, postage prepaid, this 30<sup>th</sup> day of October, 2009 upon the following:

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Summary: Reply The Dayton Power and Light Company Reply in Opposition to Motion to Intervene and Memorandum of The Office of the Ohio Consumers' Counsel electronically filed by Mrs. Karen M Boman on behalf of Griffin, Randall V. Mr.