

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of The Dayton Power and Light    )  
Company's Environmental Control Plan.            )  
  )

Case No. 10-491-EL-ECP

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**THE DAYTON POWER AND LIGHT COMPANY'S ENVIRONMENTAL CONTROL  
PLAN**

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Pursuant to section 4901:1-41-03 of the Ohio Administrative Code, The Dayton Power and Light Company hereby submits the attached Environmental Control Plan, addressing current conditions, goals, and potential actions for resource planning or environmental compliance.

Respectfully submitted,



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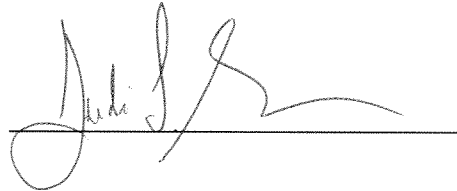
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Attorneys for The Dayton Power and Light  
Company

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been served both electronically and via Federal Express, postage prepaid, this 15<sup>th</sup> day of April, 2010 upon the following:

Chris Korleski, Director  
Ohio Environmental Protection Agency  
50 West Town Street, Suite 700  
Columbus, OH 43215

A handwritten signature in black ink, appearing to read "Chris Korleski", is written over a solid horizontal line. The signature is cursive and stylized.

# **The Dayton Power and Light Company**

## **Environmental Control Plan Report April 15, 2010**

Pursuant to Ohio Administrative Code (OAC) Section 4901:1-41-03, the Dayton Power and Light Company (DP&L or the Company) hereby submits its Environmental Control Plan Report. DP&L is an electric distribution utility as defined by Ohio Revised Code (ORC) Section 4928.01(A)(6) and a public utility as defined by OAC Section 4901:1-41-01(F). The purpose of this Report is to provide the Public Utilities Commission of Ohio (PUCO), a status update on the Company's resource planning and environmental compliance activities.

#### **4901:1:41:03 (A) The Climate Registry**

DP&L became a participating member of The Climate Registry in December of 2009. The Company is tracking greenhouse gas emissions in 2010 and plans to provide a report to The Climate Registry during the 2<sup>nd</sup> quarter of 2011, in accordance with the Climate Registry's protocols.

#### **4901:1-41-03 (B)&(C) Environmental Control Plan, Including Carbon Dioxide Control Planning**

DP&L has lengthy and detailed Title V Air Permits for each generation station it owns and operates. These permits contain all applicable requirements associated with air emissions. Their provisions are verifiable and compliance with these documents is the core of the DP&L environmental control plans (air) for the foreseeable future.

DP&L has lengthy and detailed National Pollutant Discharge Elimination System (NPDES) Water Permits for each station owned or operated. These permits contain the applicable requirements associated with water discharges. Their provisions are verifiable and compliance with these documents is the core of the DP&L environmental control plans (water) for the foreseeable future.

Each of DP&L's electric generating units (other than the new solar facility) combusts fossil fuels and emits carbon dioxide. Currently the DP&L share of carbon dioxide emissions is approximately 16 million tons per year. There are currently no Ohio or Federal regulations requiring reductions in CO<sub>2</sub> or other greenhouse gas emissions. However, DP&L is closely following many aspects of this broad issue.

Although there are no currently effective requirements to reduce CO<sub>2</sub> or other GHG emissions, as well documented in other proceedings before this Commission, DP&L is currently implementing certain programs and taking actions that will have positive effects on the amount of emissions relative to electric service requirements of customers:

- DP&L engaged in test burns in 2009 and plans additional and more extensive test burns in 2010 regarding the feasibility of co-firing coal-fired units with biomass.
- DP&L has constructed a 1.1 MW solar array that became operational March 24, 2010.
- DP&L has implemented extensive energy efficiency and demand response programs that will reduce the demand for electricity and should therefore over time, reduce the level of CO<sub>2</sub> and other GHG emissions per customer served.

In addition, DP&L's Environmental Control Plan includes a close monitoring of the development of significant environmental regulations, and the impact of those regulations on DP&L's efforts to enhance environmental controls and to reduce carbon dioxide emissions. Specifically, DP&L is monitoring the following proceedings:

#### Mercury Emission Regulations

On February 8, 2008, a three-judge panel of the Court of Appeals, D.C. Circuit, struck down the USEPA regulations that were designed to establish a trading program for mercury emissions, finding that the USEPA had not complied with statutory requirements applicable to

“de-listing” mercury as a hazardous air pollutant and that a cap-and-trade approach was not authorized by law for “listed” hazardous air pollutants. The USEPA and a group representing utilities filed a request for rehearing en banc (i.e., a rehearing before all the D.C. Circuit judges). That request was denied on May 20, 2008. A petition for a writ of certiorari was filed with the U.S. Supreme Court October 17, 2008. On February 23, 2009, the U.S. Supreme Court denied the petition. The USEPA is expected to move forward on setting Maximum Available Control Technology (MACT) standards for coal and oil fired electric generating units. A MACT standard is likely to include the regulation of other hazardous air pollutants (HAPs) in addition to mercury. Upon publication in the federal register following finalization, affected electric generating units will have three years to come into compliance with the new requirements. At this time, DP&L is unable to determine the overall impact of promulgation of new MACT standards on its existing plants; however, a MACT standard could have substantial impact on unscrubbed units.

#### Nitrogen Oxide and Sulfur Dioxide Emission Regulations

On December 17, 2003, the USEPA proposed the Interstate Air Quality Rule (IAQR) to reduce and permanently cap SO<sub>2</sub> and NO<sub>x</sub> emissions from electric utilities. The proposed rule focused on states, including Ohio, whose power plant emissions were believed to be significantly contributing to fine particle and ozone pollution in downwind states in the eastern United States. The IAQR was renamed the Clean Air Interstate Rule (CAIR) on June 10, 2004 and was finalized by USEPA on March 10, 2005. CAIR created interstate trading programs for annual nitrogen oxide (NO<sub>x</sub>) emission allowances and made modifications to an existing trading program for sulfur dioxide (SO<sub>2</sub>) that were to take effect in 2010. On July 11, 2008, the United States Court of Appeals for the District of Columbia Circuit issued a decision that struck down

the USEPA's CAIR and its associated Federal Implementation Plan. The USEPA and a group representing utilities filed a request for a rehearing en banc on September 24, 2008. In December of 2008, the court remanded CAIR to the USEPA directing that multiple deficiencies be addressed in a timely manner. The court's decision, in part, invalidated the new NO<sub>x</sub> annual emission allowance trading program and the modifications to the SO<sub>2</sub> emission trading program. The USEPA and a group representing utilities filed a request on September 24, 2008 for a rehearing that permits CAIR to remain in effect until the USEPA issues new regulations that would conform to the Court's July 11, 2008 decision. It is expected that the USEPA will propose new rules to replace CAIR in 2010. The implications of the new rules will not be known until the rules are finalized.

#### Greenhouse Gas Emission Regulations

In response to a U.S. Supreme Court decision that the USEPA has the authority to regulate CO<sub>2</sub> emissions from motor vehicles, the USEPA made a finding that CO<sub>2</sub> and certain other gases are pollutants under the Clean Air Act (CAA). The USEPA has not yet identified the specifics of how these newly designated pollutants will be regulated. In April 2009, the USEPA issued a proposed endangerment finding under the CAA. The proposed finding determined that CO<sub>2</sub> and other Greenhouse Gases (GHGs) from motor vehicles threaten the health and welfare of future generations by contributing to climate change. This finding was finalized in December 2009 and became effective in January of 2010. It is likely that this finding will lead to the regulation of CO<sub>2</sub> and other GHGs from sources other than motor vehicles, including coal-fired plants that we own and operate. Recently, several bills have been introduced at the federal level to regulate GHG emissions. In June 2009, the U.S. House of Representatives passed H.R. 2454, the American Clean Energy and Security Act (ACES). This proposed legislation targets a

reduction in the emission of GHGs from large sources by 80% in 2050 through an economy-wide cap and trade program. ACES also includes energy efficiency and renewable energy initiatives. Future GHG legislation is expected to have a significant effect on DP&L's operations. However, due to the uncertainty associated with such proposed legislation, it is difficult to predict the final outcome of this legislation.

#### Cooling Water Intake Regulations

On July 9, 2004, the USEPA issued final rules pursuant to the Clean Water Act governing existing facilities that have cooling water intake structures. The rules require an assessment of impingement and/or entrainment of organisms as a result of cooling water withdrawal. A number of parties appealed the rules to the Federal Court of Appeals for the Second Circuit in New York and the Court issued an opinion on January 25, 2007 remanding several aspects of the rule to USEPA for reconsideration. Several parties petitioned the U.S. Supreme Court for review of the lower court decision. On April 14, 2008, the Supreme Court elected to review the lower court decision on the issue of whether USEPA can compare costs with benefits in determining the best technology available for minimizing adverse environmental impact at cooling water intake structures. In April 2009, the U.S. Supreme Court ruled that the USEPA did have the authority to compare costs with benefits in determining best technology available. The USEPA is developing proposed regulations which it hopes to issue for public comment in 2010. At present, it is difficult to predict the impact that this rulemaking will have on DP&L's operations.



## Coal Ash Regulations

During 2008, a major spill occurred at an ash pond owned by the Tennessee Valley Authority (TVA) as a result of a dike failure. The spill generated a significant amount of national news coverage, and support for tighter regulations for the storage and handling of coal combustion products. DP&L has ash ponds at the Killen, O.H. Hutchings and J.M. Stuart stations which it operates, and also at generating stations operated by others in which DP&L has an ownership interest. We frequently inspect our ash ponds and do not anticipate any similar failures. It is widely expected that the federal government will propose new regulations covering ash generated from the combustion of coal including additional monitoring, testing, or construction standards with respect to ash ponds and ash landfills. During March 2009, the USEPA, through a formal Information Collection Request, collected information on ash pond facilities across the country, including those at Killen and J.M. Stuart stations. Subsequently the USEPA collected similar information for O.H. Hutchings Station. In addition, during August and October 2009, representatives of the USEPA visited J.M. Stuart Station to collect information on plant operations relative to the production and handling of by-products. In March 2010 USEPA issued a final report from the inspection including recommendations relative to the J.M. Stuart Station ash ponds and has requested a response. DP&L is reviewing the report and will be providing a reply to the agency. At this time, it is difficult to predict the possible outcomes of future regulations related to ash ponds and ash landfills.

In addition, as a result of the TVA ash pond spill, there has been increasing advocacy to regulate coal combustion byproducts as hazardous waste under the Resource Conservation Recovery Act, Subtitle C. On October 15, 2009, the USEPA provided a draft rule to the Office

of Management and Budget for interagency review. The draft rule proposed to regulate coal ash as a hazardous waste, with limited beneficial reuse. It is expected that future regulation for the management of coal combustion byproducts will be proposed in 2010. If coal combustion byproducts are regulated as hazardous waste, it is expected to have a substantial impact on DP&L operations.

#### Addressing Uncertainty

The above information indicates that the federal government may embark on multiple initiatives over the next ten years to reduce utility air emissions of NO<sub>x</sub>, SO<sub>2</sub>, CO<sub>2</sub>, and hazardous air pollutants, including mercury. Fortunately, DP&L has invested heavily in modern air pollution control systems. The Selective Catalytic Reduction (SCR) and Flue Gas Desulfurization (FGD) systems at the Stuart and Killen stations may meet any future NO<sub>x</sub> and SO<sub>2</sub> obligations. The FGD scrubbers in conjunction with SCR operation may also meet any new mercury removal obligations without the installation of additional technology.

DP&L will continue to participate in studies to assess the impact of cooling water withdrawal on the Ohio River organisms within the area of Stuart Station. Killen station, which already uses a cooling tower, will not be affected.

#### **CONCLUSION**

DP&L is actively addressing the provisions of S.B. 221, which have the potential to reduce carbon dioxide emissions. DP&L continues to monitor federal and state laws, as well as, technological advances; and will implement carbon dioxide reduction strategies that are viable and prudent.

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**4/15/2010 3:45:31 PM**

**in**

**Case No(s). 10-0491-EL-ECP**

Summary: Report for the Dayton Power and Light Company electronically filed by Mr. Robert J Adams on behalf of The Dayton Power and Light Company