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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the AES)
Corporation, Dolphin Sub, Inc., DPL Inc. and)
The Dayton Power and Light Company for)
Consent and Approval for a Change of Control)
of The Dayton Power and Light Company)

Case No. 11-3002-EL-MER

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THE CITY OF DAYTON'S REPLY COMMENTS

The City of Dayton ("Dayton") submits these Reply comments to reaffirm position that the Public Utilities Commission of Ohio ("Commission") should allow for a period of discovery, the submission of testimony, and a public hearing in this merger proceeding. Without these mechanisms, it is not possible to determine whether the contemplated merger between AES Corporation ("AES"), Dolphin Sub, Inc., DPL Inc. and The Dayton Power & Light Company ("DP&L") (collectively the "Applicants") promotes the public convenience and would result in the provision of adequate service at reasonable rates, as is required of a merger under O.R.C. § 4905.402(B).

Dayton cited five primary areas of concern in its initial comments, filed on July 18, 2011. These areas of concern were: (i) workforce and employment concerns; (ii) headquarters and decision making concerns; (iii) rates and services concerns; (iv) community contribution and economic development concerns; and (iv) real property concerns.

The Commission Staff also addressed these issues in their initial comments, and Dayton agrees with Staff on a majority of its comments. Dayton additionally contends though that the Applicants' filing itself does not adequately address the concerns of the

Dayton and the commenters collectively. This merger as proposed could have a material impact on Dayton's economy and the services being provided to Dayton, and due to the gravity of these possible effects of the merger, Dayton respectfully requests that the intervenors in this case be given the right to take discovery, submit testimony, and partake in a full public hearing.

Workforce and Employment Concerns

The Applicants state in the Application that "following the merger through December 31, 2013, AES has committed to cause DPL Inc. and DP&L not to implement any involuntary workforce reductions that would result in DPL Inc. and DP&L employing *substantially fewer* individuals in the aggregate than are employed immediately before the merger."¹

Dayton restates its position that the *substantially fewer* language provided in the Applicants' application must be further defined with specificity by the Applicants. Dayton, not unlike many cities in Ohio, has experienced economic turbulence during this recent recession. Dayton must be given the opportunity to understand how many jobs it stands to lose, and the impact of those lost jobs on its economy. Without this information, it is difficult to conjure how the Commission could make a determination that the merger promotes the public convenience.

Headquarters and Decision Making Concerns / Service / Real Property

Dayton restates its position that it should be given the opportunity to examine, in detail, the ramifications of the possible migration of DP&L's headquarters and decision making authority from the Dayton region.

¹ Application, page 3, #5.

Along with a loss of jobs, migration of DP&L's headquarters and decision making authority could have a substantial and adverse impact on the services provided to Dayton's citizens by DP&L, due simply to a diminution of accountability to Dayton and its citizens. Dayton should be given the opportunity to understand how DP&L will maintain and guarantee the current level of service being provided to Dayton's citizens after the migration.

Dayton should also be given the opportunity to understand the Applicants' plans with the real property currently occupied by DP&L's headquarters and other DP&L facilities. Dayton, again, has experienced its share of difficulty in this economy, and additional vacant commercial property would only serve to further negatively impact Dayton's current image in the region, and possibly burden Dayton with additional costs and responsibilities. Dayton would like to the opportunity to understand whether the Applicants plan to permanently vacate any structures and real property. This will provide Dayton with an opportunity to ensure that the vacancies will be filled as soon as practicable, and to obtain guarantees from DP&L that the property will be properly managed and maintained.

Rates

Dayton must also be given the opportunity to understand how the merger will affect rates. It is unclear as to whether: (i) the Applicants will attempt to recover the costs of the merger through its rates; (ii) whether cost savings that occur as a result of the merger will pass through to Dayton's rate payers; and (iii) whether the Applicants will attempt to recover costs from Dayton for activities that occur out of state, including the Applicants' acquisition of other power companies, generating stations, etc. These are

issues that are not explained in any detail within the Applicants' application, and Dayton should be given the opportunity to investigate these issues through reasonable discovery. Again, it is difficult to understand how the merger would "result in the provision of adequate service at reasonable rates" without this information.

Community Contribution and Economic Development

Dayton restates its position that it should be given the opportunity to examine how the DP&L Foundation will continue to provide support to the Dayton region. DP&L has committed to having the Foundation contribute in levels *substantially consistent* with its current levels of charitable contributions. Dayton appreciates the DP&L Foundation greatly, but Dayton is without the requisite information to determine whether the Foundation will continue to support the Dayton region as it has in the past. Furthermore, the Application does not explore if DP&L will continue to partner with Dayton in economic development opportunities.

Economics of the Merger

Further, Dayton agrees with those commenters that have expressed concern over the economic details of the proposed merger and the potential capitalization structure. Dayton remains concerned about the economic leverage issues regarding the proposed future combined entity. The Commission, Dayton and other commenters should be given the opportunity to fully examine the effect of the merger's financing, the *mechanics of capital use and the subsequent economic structure of the proposed business operations model* and the effect those issues may have on competitive choice, future rates, service, and a host of other concerns.

Conclusion

The Commission is tasked with determining whether the merger contemplated herein will promote the public convenience, and would result in the provision of adequate service at reasonable rates. Dayton contends that at present, it simply isn't possible to make either of those determinations in the affirmative. The Application itself leaves many questions unanswered, and Dayton, for the benefit of the city and its citizens, must be given the opportunity to have its concerns addressed.

Dayton and DP&L have long been partners within the City of Dayton. Dayton does not, by any means, desire to hinder a corporate opportunity for DP&L. However, *for the good of its citizenry, Dayton must gather as much information as possible to brace* for whatever impact this merger will have on Dayton as well as its corporate and residential citizens. As such, Dayton renews its request that the Commission allow for discovery to ensue, along with the filing of testimony, culminating in a full public hearing.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Reply Comments were served upon the parties of record listed below this 18th day of August, 2011 via first class mail and electronic mail.



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