

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the                    )  
Dayton Power and Light Company for                    )  
Approval of its Electric Security Plan                    )            Case No. 16-395-EL-SSO

In the Matter of the Application of the                    )  
Dayton Power and Light Company for                    )  
Approval of Revised Tariffs                                )            Case No. 16-396-EL-ATA

In the Matter of the Application of the                    )  
Dayton Power and Light Company for                    )  
Approval of Certain Accounting Authority                )  
Pursuant to Ohio Rev. Code § 4905.13                 )            Case No. 16-397-EL-AAM

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**INITIAL POST-HEARING BRIEF OF PEOPLE WORKING COOPERATIVELY, INC.**

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**I. INTRODUCTION**

People Working Cooperatively, Inc. (“PWC”) is a non-profit organization that has served low-income customers for over forty (40) years. PWC has decades of experience providing weatherization and energy management services for at-risk populations in Duke Energy Ohio’s and Dayton Power and Light Company’s (“DP&L”) service territories. Because of its unique interest in serving at-risk customers and helping these customers control their utility costs, PWC intervened in this proceeding.

On March 3, 2017, DP&L filed an Amended Stipulation and Recommendation (“Amended Stipulation”)<sup>1</sup>, which represents a reasonable resolution of all issues in this proceeding. The Amended Stipulation satisfies the Public Utilities Commission of Ohio’s (“Commission”) three-prong test, and also advances a number of state policies set forth in R.C. 4928.02. In particular, consistent with the policy goal of R.C. 4928.02(L), the Amended

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<sup>1</sup> Amended Stipulation (“Joint Ex 1”).

Stipulation protects at-risk populations by providing funding for PWC. This funding will allow PWC to continue providing valuable services to low-income, elderly, and disabled customers in DP&L's territory. As such, PWC respectfully requests that the Commission approve and adopt the Amended Stipulation.

## **II. LAW AND ARGUMENT**

Pursuant to O.A.C. 4901-1-30(A), parties to Commission proceedings may enter into stipulations to resolve contested issues. Although stipulations are not binding on the Commission, the terms of these agreements are given substantial weight by the Commission. In considering the reasonableness of stipulations, the Commission often relies on the following three-prong test:

1. Is the settlement a product of serious bargaining among capable, knowledgeable parties?
2. Does the settlement, as a package, benefit ratepayers and the public interest?
3. Does the settlement package violate any important regulatory principle or practice?<sup>2</sup>

The Amended Stipulation in this case should be adopted by the Commission because it satisfies the three-prong test.

### **A. The Amended Stipulation is the product of serious bargaining among capable and knowledgeable parties.**

The record clearly demonstrates that the Amended Stipulation is the product of serious bargaining among capable and knowledgeable parties. The Amended Stipulation has the support of the signatory parties, which includes DP&L, Commission Staff, Interstate Gas Supply, Inc./IGS Energy, Retail Energy Supply Association, Edgemont Neighborhood Coalition ("Edgemont"), PWC, Ohio Hospital Association, Ohio Energy Group, Ohio Partners for

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<sup>2</sup> See *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm'n*, 68 Ohio St.3d 559, 629 N.E.2d 423 (1994).

Affordable Energy (“OPAE”), and The Kroger Company.<sup>3</sup> In addition, Enernoc, Inc., Industrial Energy Users-Ohio, Ohio Manufactures’ Association-Energy Group, and Honda of America, MFG., Inc. agreed not to oppose the Amended Stipulation.<sup>4</sup>

All of the signatory parties and non-opposing parties were represented by attorneys, most of whom have years of experience in regulatory matters before this Commission.<sup>5</sup> Before the Amended Stipulation was filed, numerous settlement conferences were held which included all parties that had timely intervened.<sup>6</sup> The Amended Stipulation was signed by a diverse group of parties that represent a wide variety of interests. This diverse group includes representatives of residential low-income customers, the largest municipality in DP&L’s service territory, large industrial customers, manufacturers, hospitals, one of the largest supermarket chains in the country, and retail energy suppliers.<sup>7</sup> These facts demonstrate that the Stipulation is the product of serious bargaining among capable, knowledgeable parties.

**B. The Stipulation, as a package, benefits ratepayers and the public interest.**

The record demonstrates that the Amended Stipulation will benefit ratepayers and the public interest. In her testimony, DP&L witness Schroder explained that customers will receive various benefits as a result of the Amended Stipulation, including: (1) a continuation of safe and reliable service by DP&L; (2) increased investment by DP&L in distribution system reliability and grid modernization; (3) the provision of a competitively priced standard service offer (“SSO”); (4) promotion of economic development in DP&L’s territory; (5) promotion of

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<sup>3</sup> Joint Ex 1 at 39-40; Prefiled Testimony of Patrick Donlon (“Staff Ex. 2”) at 3.

<sup>4</sup> Joint Ex 1 at 41; Staff Ex. 2 at 3.

<sup>5</sup> Direct Testimony of Sharon Schroder (“DP&L Ex. 3”) at 5.

<sup>6</sup> *Id.* at 7.

<sup>7</sup> Joint Ex. 1 at 39-40; DP&L Ex. 3 at 8.

competition in DP&L's territory; and (6) funding for programs that assist low-income customers.<sup>8</sup>

Although PWC believes all of these benefits indicate that the Amended Stipulation is just and reasonable, PWC is especially supportive of the benefits for low-income and at-risk customers. The Amended Stipulation contains a provision that will provide funding for PWC's programs, which will support PWC's efforts to assist low-income, elderly, and disabled customers in DP&L's territory.<sup>9</sup> As Edgemont/OPAE's witness Cronmiller testified, nearly one in five people in Montgomery County were living below poverty in 2014.<sup>10</sup> In addition, Ms. Cronmiller testified that utility costs are one of the primary concerns of low-income customers.<sup>11</sup> The Amended Stipulation contains crucial benefits for low-income customers that will help reduce these customers' utility costs and provide much needed assistance to at-risk populations living in DP&L's territory.

**C. The settlement package does not violate any important regulatory principle or practice.**

The Amended Stipulation does not violate any important regulatory principle or practice. When considering a proposed electric security plan ("ESP"), the primary question before the Commission is whether the terms and conditions of the proposed ESP are more favorable in the aggregate than the results expected under a market rate offer ("MRO").<sup>12</sup> The record demonstrates that DP&L's proposed ESP is more favorable in the aggregate than the MRO.<sup>13</sup>

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<sup>8</sup> DP&L Ex. 3 at 9.

<sup>9</sup> Joint Ex. 1 at 36; DP&L Ex. 3 at 16; Direct Testimony of R. Jeffery Malinak ("DP&L Ex. 2B") at 17.

<sup>10</sup> Direct Testimony of Cherish Cronmiller ("Edgemont/OPAE Ex. 1") at 3.

<sup>11</sup> *Id.*

<sup>12</sup> R.C. 4928.143(C)(1).

<sup>13</sup> DP&L Ex. 2B at 4-5; Staff Ex. 2 at 5-6.

Further, the Amended Stipulation advances a number of state policies under R.C. 4928.02.<sup>14</sup> In particular, the Amended Stipulation is consistent with the policy goal of R.C. 4928.02(L) because it protects at-risk populations by providing funding for PWC.<sup>15</sup> This funding will assist PWC's efforts in the Dayton area and provide direct benefits for low-income, elderly, and disabled customers.

### III. CONCLUSION

The Amended Stipulation satisfies the Commission's three-prong test, and also provides benefits to a wide array of parties. Because it is the result of full and open negotiations, the Amended Stipulation represents a just and reasonable result. Further, the Amended Stipulation aligns with and furthers the policy goals of R.C. 4928.02. Therefore, PWC respectfully requests that the Commission approve and adopt the Amended Stipulation.

Respectfully submitted on behalf of  
PEOPLE WORKING COOPERATIVELY, INC.



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<sup>14</sup> DP&L Ex. 3 at 21-22.

<sup>15</sup> Joint Ex. 1 at 36.

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing brief was served via electronic mail upon the following, this 5<sup>th</sup> day of May 2017.



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Summary: Text Initial Post Hearing Brief of People Working Cooperatively, Inc. electronically filed by Teresa Orahod on behalf of Parram, Devin D.