BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Dayton Power and Light Company for Approval of its Energy Efficiency and Peak Demand Reduction Program Portfolio Plan for 2018 through 2020	))))	Case No. 17-1398-EL-POR Case No. 17-1399-EL-WVR

OBJECTIONS TO DAYTON POWER & LIGHT'S ENERGY EFFICIENCY AND PEAK DEMAND REDUCTION PORTFOLIO PLAN FOR 2018-2020 AND RECOMMENDATIONS FOR CONSUMER PROTECTION
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

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I. INTRODUCTION[1]

The Dayton Power & Light Company's ("DP&L" or the "Utility") proposed energy efficiency and peak demand reduction portfolio[2] could benefit consumers (primarily those participating in programs) by helping them reduce their energy usage and lower their electric bills. But the portfolio is flawed. The fundamental flaw is that DP&L's proposal is too expensive for consumers: consumers could pay **$150 million**[3] or more over three years for energy efficiency program costs and Utility profits—and many of those consumers do not participate in the programs.

The Public Utilities Commission of Ohio ("PUCO") should not approve the portfolio without changes to protect consumers:

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[1] *See* Ohio Administrative Code ("OAC") 4901:1-39-04(D) ("any person may file objections within sixty days after the filing of an electric utility's program portfolio plan").

[2] The "2018-2020 Portfolio Plan," attached to the Application of the Dayton Power and Light Company for Approval of its Energy Efficiency and Peak Reduction Program Portfolio Plan (June 15, 2017) (the "Application").

[3] 2018-2020 Portfolio Plan, Table 2 ($84,120,768 in program costs); Ex. 2 (DP&L response to OCC INT-11 showing estimated shared savings of $42,829,390 after taxes, which is over $66.8 million in actual consumer payments assuming a 36% tax rate).

1. $21 Million Annual Cost Cap. DP&L should be permitted to charge customers a maximum of $21 million per year in combined program costs and utility profits (often called "shared savings" in Ohio). This will allow DP&L to run programs that exceed its statutory energy savings benchmarks[4] while protecting consumers from paying too much for energy efficiency.

2. $2.3 Million Annual Cap on Utility Profits. In addition to $28 million a year for program costs, DP&L wants to charge customers $22 million a year in utility profits (shared savings)—a 79% surcharge. This is excessive. Customers should pay a maximum of $2.3 million (pre-tax) per year for profits.

3. No Utility Profits From Energy Savings that Customers Achieve on Their Own. DP&L wants to charge customers over $20 million in profits based on energy reductions that customers achieve on their own—that is, with no help from DP&L. The PUCO recently rejected a similar proposal by FirstEnergy and should reject DP&L's unfair proposal here.

4. No Utility Profits for Poor Performance. DP&L proposes that it profit from its energy efficiency programs even if it achieves less than 55% of the portfolio's projected energy savings. This is unfair to customers and should not be approved.

5. Non-Low-Income Programs Must be Cost-Effective. With the exception of its low-income program, DP&L's portfolio should not include programs

[4] Ohio Revised Code ("R.C.") 4928.66.

that cost more than they save. This violates the PUCO's rules, and these programs should be removed from the portfolio.

6. No Blank Check for Pilot Program. DP&L asks for authority to charge customers $1.8 million for a Pilot Program. But DP&L has not developed the program and provides no information about what this program consists of, who can participate, how much energy it might save, whether it will be cost-effective, or any other details about the program. The PUCO should not allow DP&L to spend customer money without more information about the proposed Pilot Program.

7. Rental Property Owner Contributions. When energy efficiency equipment is installed at a rental property, the property owner should pay a portion of the cost. This will reduce program costs and allow more customers to participate in DP&L's programs.

8. Future Legislation. The PUCO should not pre-authorize DP&L to modify its portfolio in the future if new energy efficiency legislation is passed. The General Assembly can address portfolio modification if it passes such legislation.

With these consumer-protection recommendations, the Office of the Ohio Consumers' Counsel ("OCC" or the "Consumers' Counsel") supports DP&L's efforts to provide customers with an opportunity to participate in energy efficiency programs, reduce their energy usage, and lower their bills. Without the Consumers' Counsel's proposed consumer-protection modifications, DP&L's portfolio is unfair to customers (especially to the many customers that pay the charges but do not participate in

programs), and DP&L's portfolio would result in customers paying too much for energy efficiency program costs and utility profits.

II. OBJECTIONS AND RECOMMENDATIONS

A. DP&L's proposed energy efficiency portfolio violates the Ohio Administrative Code because it requires customers to pay over $9.8 million for programs that are not cost-effective.

DP&L's proposed energy efficiency portfolio violates the Ohio Administrative Code because it requires customers to pay $9.8 million dollars[5] for programs that cost more than they save. OAC 4901:1-39-04(B) requires all programs in an electric utility's energy efficiency portfolio to be cost-effective. There is one exception to this rule: a program need not be cost effective if it "provides substantial nonenergy benefits."[6]

DP&L's proposed portfolio includes three residential programs that will cost more money than they will save for consumers: HVAC Equipment, Home Audit, and Smart Thermostats.[7] In fact, these programs are not even close to being cost-effective. Under the HVAC Equipment program, for every dollar of customer money spent, customers will save 83 cents.[8] Under the Home Audit program, DP&L expects customers to pay $1 so that they can save 60 cents.[9] And the Smart Thermostat Program will save customers just 55 cents for every dollar spent.[10]

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[5] *See* 2018-2020 Portfolio Plan, Table 2 (sum of program costs for HVAC Equipment, Home Audit, and Smart Thermostats).

[6] OAC 4901:1-39-04(B).

[7] *See* 2018-2020 Portfolio, Table 3.

[8] *Id.*

[9] *Id.*

[10] *Id.*

The HVAC Equipment, Home Audit, and Smart Thermostat programs do not provide nonenergy benefits, let alone *substantial* nonenergy benefits, as is required by OAC 4901:1-39-04(B). In response to an OCC discovery request, DP&L contends that these programs may provide the following benefits, which DP&L characterizes as nonenergy benefits: benefits to all members of a customer class, potential for broad participation, reduction in utility arrearages, equity among customer classes, integration with other utilities' programs, supply chain engagement, leveraging partners, and market transformation.[11] These are not nonenergy benefits under the Ohio Administrative Code.

Instead, they are criteria that DP&L was required to consider in designing its programs. OAC 4901:1-39-03(B) provides that a utility shall consider certain criteria when developing programs. Each of the things that DP&L identified as a "nonenergy benefit" is actually a mandatory criterion for general portfolio planning. OAC 4901:1-39-03(B) requires a utility to consider the "benefit to all members of a customer class," "potential for broad participation within a targeted customer class," "equity among customer classes," "potential to integrate the proposed program with similar programs offered by other utilities," "the degree to which the program design engages the energy efficiency supply chain and leverages partners in program delivery," and "the degree to which the program promotes market transformation." These are not the same thing as nonenergy benefits.

The Ohio Administrative Code separately defines nonenergy benefits as "societal benefits that do not affect the calculation of program cost-effectiveness pursuant to the total resource cost test including but not limited to benefits of low-income customer

[11] *See* Ex. 3 (DP&L response to OCC INT-12).

participation in utility programs; reductions in greenhouse gas emissions, regulated air emissions, water consumption, natural resource depletion to the extent the benefit of such reductions are not fully reflected in cost savings; enhanced system reliability; or advancement of any other state policy enumerated in section 4928.02 of the Revised Code."[12] Had the PUCO intended to include the planning criteria under OAC 4901:1-39-03(B) as "nonenergy benefits," it could have done so. Instead, its rules include two distinct provisions—one identifying planning criteria and one identifying nonenergy benefits, with no overlap between them.

If the mandatory planning requirements found in OAC 4901:1-39-03(B) count as nonenergy benefits, as DP&L suggests, then the rule requiring programs to be cost-effective would be swallowed by the nonenergy benefits exception. In effect, every conceivable program would result in "substantial nonenergy benefits," and that cannot have been the PUCO's intent in requiring programs to be cost effective under OAC 4901:1-39-04(B).

HVAC Equipment, Home Audit, and Smart Thermostats are standard energy efficiency programs with a goal of reducing energy usage. Because DP&L projects that they will not be cost-effective, and because they do not result in substantial nonenergy benefits, the PUCO should not approve them.

[12] OAC 4901:1-39-01(Q).

B. The PUCO should not authorize DP&L to use customer money for a "Pilot Program" that has not yet been developed and for which DP&L has provided no details.

The PUCO should reject DP&L's proposal to spend $1.8 million of customer money on an undefined[13] Pilot Program because DP&L's proposal violates the Ohio Administrative Code. Under OAC 4901:1-39-04(C)(5), DP&L is required to provide a detailed description of each program. DP&L must include: (i) a narrative describing the program and why the program is recommended, (ii) the targeted customer sector, (iii) the proposed duration of the program, (iv) an estimate of the level of participation in the program, (v) program participation requirements, (vi) a description of the marketing approach, (vii) a description of the program implementation approach, (viii) a program budget with projected expenditures, (ix) participant costs, (x) proposed market transformation activities, and (xi) a description of the plan for EM&V.[14]

DP&L's application includes a request for approval to charge customers for a Pilot Program. But DP&L includes virtually no information for the Pilot Program. It does not state:

- what this program might be,
- who might be able to participate,
- what measures it might include,
- how many customers might participate,
- how much energy it might save,
- what types of rebates or incentives it might offer,

[13] *See* Ex. 4 (DP&L response to OCC INT-28, stating that DP&L "is not proposing specific pilot programs as part of its Application").

[14] OAC 4901:1-39-04(C)(5)(a)-(l).

- whether the program will be cost-effective,
- how the program might be marketed,
- what the participant costs might be,
- how the program will be evaluated, or
- how the program might be implemented.[15]

Instead, DP&L simply states that this information will be "dependent on the specific pilot programs being implemented."[16]

In short, DP&L is asking for free rein to run a new program without the benefit of PUCO review and approval. The PUCO's rules exist for a reason—so that programs can be assessed in advance to make sure that they are properly designed and that customer money is spent reasonably. The PUCO should not allow DP&L to sidestep the PUCO's rules by approving an undefined Pilot Program with no parameters.

C. DP&L should not be permitted to charge customers over $20 million in profits based on energy efficiency that customers perform on their own with their own money.

DP&L's proposed portfolio includes a new "program" called Non-Programmatic Savings. This is not really a program. Rather, under this offering, DP&L will count, for purposes of its energy savings benchmarks, energy savings that customers achieve on their own with their own money and without any assistance from DP&L.[17] Not only does

[15] 2018-2020 Portfolio at 75-77. *See also* Ex. 4 (DP&L response to OCC INT-28).

[16] 2018-2020 Portfolio Plan at 75-77.

[17] *See* 2018-2020 Portfolio Plan at 83-85 (describing Non-Programmatic Savings).

DP&L plan to count these savings toward its statutory energy efficiency benchmarks, it wants to profit from these savings—to the tune of **$20 million** over three years.[18]

For example, if a residential customer buys ten new LED light bulbs with her own money and without any rebate from her utility, installs them in her home herself, and saves money on her electric bill as a result, DP&L could then charge her (and all other customers) a profit surcharge in the form of "shared savings." This makes no sense. There is no justification for DP&L to be rewarded shareholder profits based on energy efficiency that customers achieve on their own. Shared savings is designed to give a utility an incentive to offer cost-effective energy efficiency programs that maximize consumer benefits. It is not intended to give a utility free money for doing nothing.

Indeed, the PUCO recently rejected an identical proposal by FirstEnergy. FirstEnergy has a "Customer Action Program," which serves the same purpose as DP&L's proposed Non-Programmatic Savings offering. In FirstEnergy's most recent electric security plan case, the PUCO concluded that FirstEnergy "may not receive shared savings for energy savings under the Customer Action Program" because the PUCO "has never allowed shared savings for programs. . . which involve[] no action by the [utility] to achieve the energy savings."[19] The PUCO should reach the same conclusion for DP&L's Non-Programmatic Savings. It should deny DP&L's request to charge consumers $20 million for nothing.

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[18] *See* Ex. 5 (DP&L response to OCC INT-6); Ex. 2 (DP&L response to OCC INT-11) ($13.4 million in after tax shared savings from Non-Programmatic Savings, which is over $20 million before taxes assuming a 36% tax rate).

[19] *In re Application of [FirstEnergy] for Authority to Provide for a Standard Serv. Offer Pursuant to R.C. 4928.143 in the Form of an Elec. Sec. Plan*, Case No. 14-1297-EL-SSO, Fifth Entry on Rehearing ¶ 324 (Oct. 12, 2016).

D. DP&L should not be permitted to modify its portfolio based on changes in legislation because this impinges on the General Assembly's authority to decide when legislation justifies portfolio modification.

In its Application, DP&L states that it is "seeking the authority to file a new or amended Program Portfolio if there are changes in legislation during the 2018-2020 Program Portfolio period."[20] DP&L does not elaborate on what types of legislative changes might trigger this provision, whether other parties would have a right to seek amendments to DP&L's portfolio based on legislative changes, or what types of amendments to the portfolio would be permitted.

DP&L's responses to discovery on this issue shed very little light. In response to an OCC interrogatory asking for additional details, DP&L responded (after making several baseless rote objections): "any legislative changes that affect energy efficiency and/or the associated incentives and/or associated cost recovery would permit DP&L to file a new or amended Program Portfolio."[21] This discovery response provides minimal insight on DP&L's proposal.

Regardless, the PUCO should reject DP&L's request to modify its portfolio based on legislative changes. In 2014, the General Assembly passed Substitute Senate Bill 310 ("SB 310"), which made modifications to the statutory requirements for energy efficiency and peak demand reduction.[22] In SB 310, the General Assembly provided detailed procedures for when and how a utility could amend its portfolio.[23] Thus, the General Assembly is aware of the potential need to modify an energy efficiency portfolio as a

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[20] Application at 9.

[21] *See* Ex. 6 (DP&L response to OCC INT-7).

[22] SB 310 is available at http://archives.legislature.state.oh.us/bills.cfm?ID=130_SB_310.

[23] *See* SB 310 § 6.

result of legislative changes, and it has demonstrated that it will include an option to modify if necessary. There is no need for the PUCO to pre-authorize DP&L to amend its plan in the absence of legislative direction on this issue.

E. Rental property owners should be required to contribute to the cost of energy efficiency measures installed on their properties.

When energy efficiency measures are installed at rental properties, the property owner should be required to contribute to the cost of the equipment and installation. In the Application, DP&L states with respect to the Residential Income Eligible Efficiency program that "landlords *may* be required to pay for a portion of the measures installed."[24] OCC sought clarification of this provision through discovery, but to no avail. In response to OCC's request for more information about the criteria that would be used to determine whether a property owner would pay for a portion of the measures installed, how much, and who would be making that decision, DP&L stated that it could not provide any more information because OCC's request "seeks information about future events" and because "final implementation plans will be determined with the selected vendor."[25]

The PUCO should not allow DP&L to defer this decision until a later unspecified date and based on unspecified implementation plans with an unspecified vendor. Instead, the PUCO should require DP&L to provide specific metrics identifying the criteria that it will use to determine how much a property owner will be required to contribute toward the installation of energy efficiency and peak demand reduction measures at its property.

While OCC agrees that low-income customers should generally receive energy efficiency measures at no cost to the customer, the property owner should be required to

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[24] Application at 30 (emphasis added).

[25] *See* Ex. 7 (DP&L response to OCC INT-23).

fund a portion of the cost, just as non-low-income customers are required to pay a portion of the cost of measures installed under DP&L's energy efficiency programs. Requiring property owners to contribute (i) is equitable because the property owner benefits from upgrades to its property, and (ii) will reduce the cost to consumers of administering the low-income program, thereby increasing the number of customers that can participate.

F. DP&L's portfolio targets 264,000 MWh in energy savings per year. Customers should not pay profit (shared savings) to DP&L if the Utility's programs achieve only the statutory benchmark savings of 145,000 MWh.

Under R.C. 4928.66(A)(1)(a), DP&L is required to achieve an annual savings benchmark of 1% of its baseline in each of 2018, 2019, and 2020. DP&L's benchmarks for 2018 through 2020 are projected to be around 145,000 MWh per year.[26] DP&L's proposed programs are projected to achieve energy savings of around 264,000 MWh per year from 2018-2020.[27] DP&L, however, proposes that it be eligible for profit (shared savings) for reaching the 145,000 MWh statutory minimum, not the 264,000 MWh target.[28] This is unreasonable.

If DP&L's portfolio is approved as filed, customers will pay higher program costs to target 264,000 MWh in annual energy savings instead of the statutory benchmark of 145,000 MWh. Customers should not pay higher program costs for a portfolio that targets savings substantially above the statutory benchmark but then pay profits when DP&L merely achieves the benchmark.

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[26] *See* Ex. 1 (DP&L response to OCC INT-68) (average baseline of 14,502,713 MWh for 2018-2020; benchmark is 1.0% of baseline).

[27] 2018-2020 Portfolio Plan, Table 1.

[28] *See* Application at 5-7.

Shared savings (profits) should only reward exemplary performance.[29] DP&L's proposal would reward DP&L for poor performance. Under DP&L's proposal, it could charge customers for the full amount of its projected program costs, achieve energy savings of less than 55% of its target, and still be eligible to collect profits from customers. In fact, DP&L would qualify for the highest level of profits by reaching less than 65% of its target.[30] The PUCO should not allow DP&L to profit from energy efficiency unless it achieves at least 100% of its budgeted savings target.[31]

G. DP&L's proposed energy efficiency portfolio does not adequately protect consumers from paying too much for energy efficiency.

Consumers that participate in energy efficiency and peak demand reduction programs can benefit by reducing the amount of energy that they use and lowering their monthly electric bills. All consumers—those who participate in the programs and those who don't—pay for the programs. And while there may be some system-wide benefits for all customers (potential price suppression and deferred building of power plants, for example), it is impossible to quantify these benefits. In short, there is no way to know exactly what customers are getting for their money, especially those who don't or can't participate in a utility's offerings.

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[29] *See In re Application of [FirstEnergy] for Approval of [Its] Energy Efficiency & Peak Demand Reduction Program Portfolio Plans for 2017 through 2019*, Case No. 16-743-EL-POR, Supplemental Direct Testimony of Richard F. Spellman at 24:9-11 (Jan. 10, 2017).

[30] *See* Application at 6 (proposing that DP&L achieve the highest level of shared savings if it achieves 115% of the 1.0% benchmark). 115% of the 145,000 MWh benchmark is about 167,000 MWh. And 167,000 MWh is about 63% of the 264,000 MWh budgeted savings target.

[31] As discussed below, the Consumers' Counsel recommends that the budget be reduced to target the statutory benchmark of 1.0%. See section II.G.2 below. Thus, the shared savings calculation should be based on the Consumers' Counsel's proposed budget.

To properly balance the benefits of energy efficiency and peak demand reduction programs with the costs that consumers pay, the PUCO should place limits on the annual charges to consumers. This should be done two ways:

- First, there should be a cap on the amount of shared savings that the utility can collect from customers each year. This prevents the utility from earning excessive profits (paid by customers) from its energy efficiency and peak demand reduction programs. The pre-tax shared savings cap should be $2.3 million per year.
- Second, there should be an overall cost cap that applies to both profits (shared savings) and program costs. This would protect customers by placing an upper limit on the total amount that they pay to their utility for energy efficiency. The cost cap should be $21 million per year.

1. Shared Savings Cap: There should be a $2.3 million limit on the amount that customers can be charged for utility profits each year.

There should be an annual cap on the amount of profit that DP&L can charge its customers for energy efficiency programs. Under DP&L's Application, DP&L proposes program spending of about $84 million over three years.[32] But DP&L also proposes that on top of this, customers pay an additional **$66 million**[33] or more[34] for profits (shared savings), effectively a 79% surcharge on energy efficiency spending.

[32] 2018-2020 Portfolio Plan, Table 2 (total program costs of $84,120,768 over three years).

[33] *See* Ex. 2 (DP&L response to OCC INT-11) (showing projected post-tax shared savings of $42,829,391, which is about $66.8 million using an estimated tax rate of 36%).

[34] *Id.* (DP&L stating that there is no cap on shared savings).

A shared savings mechanism should give the utility the incentive to reduce costs and spend customer money wisely, producing the maximum amount of net benefits for customers. It should not be an opportunity for the utility to gouge its customers and profit at an unconscionable rate. In 2015, DP&L's customers paid $18.0 million for energy efficiency program costs.[35] But then they paid another $7.0 million in shared savings[36]—effectively a 39% surcharge—money that goes directly to DP&L's shareholders as profit.

DP&L now seeks to more than double the already excessive surcharge from 39% to 79% or more. The PUCO should place an annual pre-tax limit on shared savings of 12% of DP&L's program cost budget. This annual limit would be more in line with limits approved in other jurisdictions and would protect customers from paying unreasonable surcharges on energy efficiency.[37] Based on the Consumers' Counsel's recommendations below for a reduced budget of about $18.3 million per year in program costs,[38] customers should not pay more than $2.3 million per year, before taxes, for shared savings.

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[35] Application, Schedule B-1, B-2, Case No. 16-329-EL-RDR (Mar. 14, 2016).

[36] *Id.*

[37] *See, e.g., In re the Narragansett Elec. Co. d/b/a Nat'l Grid Energy Efficiency Program Plan for 2017*, Docket No. 4654 (R.I. Pub. Utilities Comm'n), Energy Efficiency Program Plan for 2017 at 30 (Oct. 17, 2016) (maximum shareholder incentive of 6.25% of annual spending budget for achieving 125% of the savings goal), *available at* http://www.ripuc.org/eventsactions/docket/4654-NGrid-EEPP-2017(10-17-16).pdf; *In re Matter of the Consideration of Innovative Approaches to Ratebase Rate of Return Ratemaking*, Docket No. 08-137-U (Arkansas Pub. Serv. Comm'n), Order Regarding Utility Energy Efficiency Incentives at 17 (Dec. 10, 2010) (maximum shareholder incentive of 7% of proposed program budget); Eversource Connecticut 2017 Management Incentive Performance Indicators and Incentive Matrix at 184 (maximum pre-tax shareholder incentive of 8.00% for achieving 137.5% of targeted energy savings), *available at* https://www.energizect.com/sites/default/files/2017%20Plan%20Update%20for%203-1-17%20filing.pdf; New Hampshire Statewide Energy Efficiency Plan (2017) at 30 (performance incentive capped at 6.875% of actual program cost spending), *available at* https://www.puc.nh.gov/Electric/NH%20EnergyEfficiencyPrograms/14-216/14-216_2016-12-12_Rev_NH_UTILITIES_2017_NH_STATEWIDE_EE_PLAN.PDF.

[38] *See* section II.G.2.b below.

2. Cost Cap: There should be a $21 million annual limit on the total amount that customers can be charged for energy efficiency program costs and utility profits.

a. A cost cap is good policy for Ohioans.

DP&L's application in this case does not propose an annual cost cap on program costs and utility profits[39]—but it should. Without an annual cost cap, customers do not have enough protection from paying too much for energy efficiency.

In its Opinion and Order approving a settlement in AEP Ohio's most recent energy efficiency portfolio case, the PUCO highlighted the importance of controlling the costs that customers pay for energy efficiency:

> The addition of an annual cost cap is a reasonable response to concerns which have been raised regarding potential increases in the costs of the EE/PDR programs, and the annual cost cap should incent AEP Ohio to manage the costs of the programs in the most efficient manner possible. In light of the importance of the annual cost cap, the Commission notes that we will be reluctant to approve stipulations in other EE/PDR program portfolio cases which do not include a similar cap on EE/PDR program costs.[40]

This is consistent with OCC's and the PUCO Staff's advocacy in recent energy efficiency portfolio cases.

For example, in FirstEnergy's most recent case, PUCO Staff witness Patrick Donlon testified that the costs of energy efficiency "have been escalating to the point that the rider in which energy efficiency costs are collected has become one of the highest

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[39] *See* Ex. 8 (DP&L's response to OCC INT-30).

[40] *In re Application of Ohio Power Co. for Approval of its Energy Efficiency & Peak Demand Reduction Program Portfolio Plan for 2017 through 2020*, Case No. 16-574-EL-POR, Opinion & Order ¶ 32 (Jan. 18, 2017).

riders on residential customers' bills."[41] Mr. Donlon stated further that "a cost cap will provide price assurances to customers while still supporting energy efficiency and allowing the utilities to meet or exceed their statutory mandate levels."[42]

In the same case, OCC expert witness Richard Spellman testified that a cost cap (a) "will encourage [the utility] to spend customer funds as wisely as possible while still achieving the statutory savings goals," (b) "will allow substantial financial support for energy efficiency measures and programs," and (c) "would provide an upper limit to rate impacts on customers of utility-administered energy efficiency programs, providing some stability in rates."[43]

OCC expert witness Colleen Shutrump concluded, in a similar case involving Duke Energy, that customers "should have the protection of a cap on the costs they can be charged for utility energy efficiency programs."[44] In support of this conclusion, Ms. Shutrump cited the difference between benefits received by program participants and those who don't or can't participate, noting that non-participating customers "are experiencing higher rates (and not necessarily lower bills) to pay for these programs."[45]

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[41] *In re Application of [FirstEnergy] for Approval of their Energy Efficiency and Peak Demand Reduction Program Portfolio Plans*, Case No. 16-743-EL-POR, Amended Testimony of Patrick Donlon at 5 (Jan. 10, 2017). *See also In re Application of Duke Energy Ohio, Inc. for Approval of its Energy Efficiency and Peak Demand Reduction Portfolio of Programs*, Case No. 16-576-EL-POR, Prefiled Direct Testimony of Patrick Donlon at 6-7 (Feb. 6, 2017).

[42] *Id.*

[43] *In re Application of [FirstEnergy] for Approval of their Energy Efficiency & Peak Demand Reduction Program Portfolio Plans*, Case No. 16-743-EL-POR, Supplemental Direct Testimony of Richard F. Spellman at 15 (Jan. 10, 2017).

[44] *In re Application of Duke Energy Ohio, Inc. for Approval of its Energy Efficiency and Peak Demand Reduction Portfolio of Programs*, Case No. 16-576-EL-POR, Direct Testimony of Colleen Shutrump at 8 (Feb. 6, 2017).

[45] *Id.*

DP&L's current case is no different. The PUCO should protect consumers by limiting the amount of program costs and profits that DP&L can charge its customers.

b. A $21 million annual cost cap is reasonable.

DP&L can provide robust energy efficiency programs for the benefit of consumers and can meet its statutory energy efficiency mandates under a $21 million annual cost cap.

In its Application, DP&L proposes an annual program budget of about $28 million per year.[46] This budget is too high for two primary reasons. First, the cost of non-cost-effective programs (HVAC Equipment, Home Audit, and Smart Thermostats) and the Pilot Program unnecessarily drives up the total program costs. As OCC recommends above, these programs should be removed from the portfolio.

Eliminating the HVAC Equipment, Home Audit, and Smart Thermostat programs would reduce the cost to consumers by about $9.8 million over three years, an 11.6% decrease in total program costs.[47] At the same time, removing these programs would only reduce three-year energy savings by 4.4%.[48] An 11.6% cost savings is a fair tradeoff for reduced energy savings of just 4.4%.

DP&L should also remove the Pilot Program, thereby saving another $1.8 million for consumers.[49] Again, the PUCO should not approve this program because DP&L's

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[46] 2018-2020 Portfolio, Table 2 ($84,120,768 budget over three years, or an average of $28,040,256 per year).

[47] *See* 2018-2020 Portfolio Plan, Table 2 ($3.95 million for HVAC Equipment, $4.05 million for Home Audit, and $1.80 million for Smart Thermostats).

[48] *See* 2018-2020 Portfolio Plan, Table 1 (791,167 MWh for all programs, 756,551 MWh once the HVAC Equipment, Home Audit, and Smart Thermostats programs are removed).

[49] *Id.*

proposal for it violates the PUCO's rules.[50] Plus, removing this program does not reduce the projected energy savings from the portfolio because DP&L does not project any savings from this program.

Second, DP&L's budget is inflated because DP&L is targeting energy savings substantially in excess of the statutory benchmark. Under the law, DP&L is required to achieve an energy savings benchmark in each of 2018, 2019, and 2020 of 1.0% of its energy baseline.[51] DP&L's benchmark for 2018, 2019, and 2020 is projected to be around 145,000 MWh per year.[52] But DP&L's portfolio is budgeted to save over 260,000 MWh per year.[53] In other words, rather than targeting a benchmark of 1.0%, DP&L is targeting savings of around 1.8%—and increasing the cost to consumers necessary to achieve the higher target.

In a recent case involving FirstEnergy, the PUCO rejected the utility's similar proposal to target savings substantially in excess of the 1.0% benchmark and to charge customers for the utility's expanded portfolio. The PUCO ordered the utility to reduce the scope of its portfolio, ruling that the utility is "expected in the energy efficiency program portfolio plans to budget for the annual statutory energy efficiency mandate rather than" a much higher savings target.[54]

OCC recognizes that DP&L's proposed Non-Programmatic Savings account for significant projected energy savings: 175,609 MWh over three years, or 22% of all

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[50] *See* section II.B above.

[51] R.C. 4928.66(A)(1)(a).

[52] *See* Ex. 1 (showing benchmarks of around 145,000 MWh per year, and acknowledging that this does not reflect mercantile opt outs, which would reduce the benchmarks).

[53] 2018-2020 Portfolio Plan, Table 1 (showing total savings of 791,169 MWh over three years)

[54] *In re Application of [FirstEnergy] for Authority to Provide a Standard Serv. Offer Pursuant to R.C. 4928.143 in the Form of an Elec. Sec. Plan*, Case No. 14-1297-EL-SSO, Fifth Entry on Rehearing ¶ 325 (Oct. 12, 2016).

savings under the portfolio. And while DP&L may be permitted to count these savings toward compliance with energy efficiency mandates under the law, counting savings that consumers achieve on their own is not an added benefit to consumers under the Utility's programs. Therefore, OCC recommends that DP&L's portfolio target energy savings of 1.0% of its baseline, above and beyond those savings counted under the Non-Programmatic Savings initiative.

After removing the three non-cost-effective programs and the Pilot Program, and excluding the cost of Non-Programmatic Savings, the remaining portfolio has a budget of about $71.8 million[55] and projected energy savings of about 581,000 MWh over three years.[56] Thus, DP&L's actual programs would be projected to achieve energy savings at a cost of about 12.4 cents per kWh.[57] DP&L's annual benchmark is about 145,000 MWh per year. At a cost of $12.4 cents per kWh saved, therefore, DP&L should be able to achieve its 1.0% benchmark, even without Non-Programmatic Savings, at a cost of about $18.0 million per year.[58]

OCC's recommended annual cost cap is therefore $21 million, calculated as follows: $18.0 million for programs other than Non-Programmatic Savings, plus $250,000 for Non-Programmatic Savings,[59] plus a maximum of $2.3 million in shared

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[55] *See* 2018-2020 Portfolio, Table 2 ($84,120,768 total budget - $3,950,616 for HVAC Equipment, $4,051,541 for Home Audit, $1,802,727 for Smart Thermostats, $1,788,713 for Pilot Program, and $757,026 for Non-Programmatic Savings = $71,770,145).

[56] *See* 2018-2020 Portfolio, Table 1 (791,167 total MWh – 23,265 MWh for HVAC Equipment, 5,126 MWh for Home Audit, 6,225 MWh for Smart Thermostats, and 175,609 MWh for Non-Programmatic Savings = 580,942 MWh).

[57] $71,770,145/580,942,000 kWh = $0.1235.

[58] 145,000,000 kWh * 0.124 = $17,980,000.

[59] *See* 2018-2020 Portfolio, Table 2 ($757,026 over three years for Non-Programmatic Savings, or an average of $252,342 per year).

savings (pre-tax), for a total of $20.55 million, which is then rounded up to the nearest million.

This recommended cost cap properly balances the interests of all parties. It allows DP&L to administer substantial energy efficiency programs that can easily meet its benchmarks. It supports actual energy efficiency programs, and not just counting customers' own savings, at the 1.0% statutory benchmark level. And it protects consumers from paying too much for energy efficiency programs.

The PUCO should adopt the Consumers' Counsel's recommended annual cost cap of $21 million.

III. CONCLUSION

The Consumers' Counsel's recommendations will improve DP&L's energy efficiency programs for consumers. DP&L will be able to run substantial energy efficiency programs. DP&L will be able to achieve its statutory benchmark energy savings. And customers will benefit from a portfolio that reasonably balances their interests in participating in energy efficiency programs while not paying too much for them. The PUCO should approve DP&L's proposed energy efficiency and peak demand reduction programs, as modified by the Consumers' Counsel's recommendations.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these Objections was served on the persons stated below via electronic transmission, this 14th day of August 2017.

/s/ Christopher M. Healey
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INT-68. Please provide the projected "baseline" for each of 2018, 2019, and 2020 as that term is used in Ohio Revised Code 4928.66(A)(2)(a).

RESPONSE: General Objections Nos. 2 (unduly burdensome), 3 (privileged and work product information), 5 (inspection of business records), 7 (publicly available), 9 (vague and undefined), 11 (calls for a legal conclusion), 12 (seeks information that DP&L does not know at this time). DP&L further objects that this request is unduly burdensome and can be performed by OCC. DP&L further objects that this question is vague and undefined because it requires assumptions that have not been provided by OCC. Subject to all general objections, DP&L states that using the Company's most recent Long-Term Forecast Report ("LTFR") the projected energy efficiency baselines are as follows:

Year	**17-928-EL-FOR Form FE-D1, Col 6**	**Calculated Baseline 3-Year Average**
2015	13,920,987	
2016	14,241,625	
2017	14,641,515	
2018	14,727,375	14,268,042
2019	14,740,890	14,536,838
2020		14,703,260

These projected numbers do not include adjustments for weather normalization or mercantile opt-outs.

Witness Responsible: Tyler A. Teuscher

INT-11. On page 5-7 of the Application, DP&L describes its proposed shared savings mechanism.

a) Does DP&L propose that there be any annual cap or limit on the amount of shared savings that it can earn? If so, what is DP&L's proposed cap?

b) What is the projected or estimated amount of shared savings that customers will pay under the 2018-2020 Portfolio Plan? Include separate projections for the residential and nonresidential classes. State whether the amount in your response is a pre-tax or post-tax number. If it is a post-tax number, please provide an estimate of the pre-tax number.

c) Please explain how shared savings costs will be allocated between residential and nonresidential customer classes. Include all data, assumptions, methodologies, and calculations.

RESPONSE: General Objections Nos. 2 (unduly burdensome), 3 (privileged and work product information), 5 (inspection of business records), 6 (calls for a narrative response), 7 (publicly available), 9 (vague and undefined), 11 (calls for a legal conclusion), 12 (seeks information that DP&L does not know at this time). DP&L further objects because the request is unduly burdensome, and can be performed by OCC. Subject to all general objections, DP&L states:

(a) No.

(b) Please see OCC 1st Set INT-11 Attachment 1.

(c) The allocation will be consistent with how shared savings has been allocated in the past, which is based on the amount of net benefits each class' programs create.

Witness Responsible: Tyler A. Teuscher

OCC 1st Set INT-11 - Attachment 1

Residential Programs	Program Costs			Utility Cost Test (UCT) Net Benefits			Shared Savings (SS) (Net Benefits * 13%) [1]		
	2018	2019	2020	2018	2019	2020	2018	2019	2020
Efficient Products	$ 3,223,155	$ 3,217,175	$ 3,216,769	$ 25,369,222	$ 25,369,222	$ 25,369,222	$ 3,297,999	$ 3,297,999	$ 3,297,999
HVAC Equipment	$ 1,303,023	$ 1,316,731	$ 1,330,862	$ 4,240,587	$ 4,240,587	$ 4,240,587	$ 551,276	$ 551,276	$ 551,276
Appliance Recycling	$ 627,674	$ 628,869	$ 630,112	$ 592,729	$ 592,729	$ 592,729	$ 77,055	$ 77,055	$ 77,055
Income Eligible Efficiency	$ 1,292,086	$ 1,293,580	$ 1,295,134	$ (717,443)	$ (717,443)	$ (717,443)	$ (93,268)	$ (93,268)	$ (93,268)
School Education	$ 385,988	$ 394,042	$ 402,490	$ 596,070	$ 596,070	$ 596,070	$ 77,489	$ 77,489	$ 77,489
Home Audit	$ 1,214,101	$ 1,327,722	$ 1,509,718	$ (472,837)	$ (567,405)	$ (680,886)	$ (61,469)	$ (73,763)	$ (88,515)
Behavior Change	$ 576,471	$ 577,851	$ 579,285	$ 621,016	$ 1,427,410	$ 1,733,283	$ 80,732	$ 185,563	$ 225,327
Energy Savings Kits	$ 399,662	$ 400,558	$ 401,481	$ 1,129,362	$ 1,129,362	$ 1,129,362	$ 146,817	$ 146,817	$ 146,817
Multi-Family Direct Install	$ 648,358	$ 656,622	$ 662,372	$ 617,123	$ 624,618	$ 629,615	$ 80,226	$ 81,200	$ 81,850
Smart Thermostats	$ 600,000	$ 600,900	$ 601,827	$ 290,360	$ 290,360	$ 290,360	$ 37,747	$ 37,747	$ 37,747
Residential Total	**$ 10,270,518**	**$ 10,414,050**	**$ 10,630,050**	**$ 32,266,189**	**$ 32,985,510**	**$ 33,182,899**	**$ 4,194,605**	**$ 4,288,116**	**$ 4,313,777**
Business Programs				2018	2019	2020	2018	2019	2020
Prescriptive	$ 7,575,108	$ 7,775,458	$ 8,062,584	$ 29,470,791	$ 30,473,096	$ 31,525,516	$ 3,831,203	$ 3,961,502	$ 4,098,317
Custom	$ 3,910,255	$ 4,396,854	$ 4,907,728	$ 9,536,674	$ 12,014,786	$ 14,595,852	$ 1,239,768	$ 1,561,922	$ 1,897,461
Small Business Direct Install	$ 987,693	$ 1,027,201	$ 1,027,729	$ 2,357,646	$ 2,357,646	$ 2,357,646	$ 306,494	$ 306,494	$ 306,494
Mercantile Self-Direct	$ 197,547	$ 181,442	$ 184,256	$ 2,471,578	$ 1,977,262	$ 1,977,262	$ 321,305	$ 257,044	$ 257,044
Business Total	**$ 12,670,603**	**$ 13,380,955**	**$ 14,182,297**	**$ 43,836,689**	**$ 46,822,790**	**$ 50,456,276**	**$ 5,698,770**	**$ 6,086,963**	**$ 6,559,316**
				2018	2019	2020	2018	2019	2020
Total Residential and Business	**$ 22,941,121**	**$ 23,795,005**	**$ 24,812,347**	**$ 76,102,878**	**$ 79,808,300**	**$ 83,639,175**	**$ 9,893,374**	**$ 10,375,079**	**$ 10,873,093**
Total removing excluded programs	**$ 20,851,488**	**$ 21,719,083**	**$ 22,731,130**	**$ 74,058,383**	**$ 78,258,121**	**$ 82,088,996**	**$ 9,627,590**	**$ 10,173,556**	**$ 10,671,569**
Portfolio Level Costs				2018	2019	2020	2018	2019	2020
Evaluation, Measurement, & Verification	$ 1,045,723	$ 1,080,732	$ 1,122,443	$ (1,045,723)	$ (1,080,732)	$ (1,122,443)	$ (135,944)	$ (140,495)	$ (145,918)
Customer Education	$ 1,628,418	$ 1,628,419	$ 1,628,420	$ (1,628,418)	$ (1,628,419)	$ (1,628,420)	$ (211,694)	$ (211,694)	$ (211,695)
Pilot	$ 573,528	$ 594,875	$ 620,309	$ (573,528)	$ (594,875)	$ (620,309)	$ (74,559)	$ (77,334)	$ (80,640)
Stakeholder Initiatives	$ 1,000,000	$ 1,000,000	$ 1,000,000	$ (645,000)	$ (645,000)	$ (645,000)	$ (83,850)	$ (83,850)	$ (83,850)
Non-Programmatic	$ 310,257	$ 248,205	$ 198,564	$ 42,289,141	$ 33,831,313	$ 27,065,050	$ 5,497,588	$ 4,398,071	$ 3,518,457
RES TOTAL Net Benefits & SS	**$ 10,324,483**	**$ 10,507,690**	**$ 10,690,427**	**$ 49,607,284**	**$ 47,004,739**	**$ 44,024,386**	**$ 6,448,947**	**$ 6,110,616**	**$ 5,723,170**
BUS TOTAL Net Benefits & SS	**$ 15,084,931**	**$ 15,763,624**	**$ 16,610,439**	**$ 64,066,099**	**$ 62,375,544**	**$ 62,378,797**	**$ 8,328,593**	**$ 8,108,821**	**$ 8,109,244**
PLAN TOTAL Net Benefits & SS	**$ 25,409,414**	**$ 26,271,314**	**$ 27,300,866**	**$ 113,673,383**	**$ 109,380,283**	**$ 106,403,183**	**$ 14,777,540**	**$ 14,219,437**	**$ 13,832,414**

Portfolio Level Cost Allocation [2]	2018	2019	2020
Residential Energy (MWh) Savings Total	81,142	90,164	93,830
Business Energy (MWh) Savings Total	108,904	116,286	125,232
Residential Allocation	42.70%	43.67%	42.83%
Business Allocation	57.30%	56.33%	57.17%

1 Assumes Incremental Energy Savings Achievement >115%

2 Portfolio Level Costs are allocated based on projected savings for Residential and Non-Residential Programs for purposes of estimating Shared Savings Incentive

INT-12. On page 14 of the 2018-2020 Portfolio Plan, DP&L states that "DP&L considered non-energy benefits beyond cost effectiveness when designing its portfolio."

a) For each residential and cross-sector program, please identify all non-energy benefits, if any, that the program provides. Please provide your answer on a program-by-program basis.

b) For each such non-energy benefit identified in your response to part (a), please provide any analysis that DP&L did to determine whether those benefits are "substantial" as that term is used in OAC 4901:1-39-04(B). Please provide your answer on a program-by-program basis.

c) For each such non-energy benefit identified in your response to part (a), please state the monetary value of such benefits to customers. Please provide your answer on a program-by-program basis.

RESPONSE: General Objections Nos. 2 (unduly burdensome), 3 (privileged and work product information), 5 (inspection of business records), 6 (calls for a narrative response), 9 (vague and undefined), 11 (calls for a legal conclusion), 12 (seeks information that DP&L does not know at this time), 13 (mischaracterization). Subject to all general objections, DP&L states:

a) The non-energy benefits of each residential and cross-sector program include but are not limited to those set forth in OCC 1st Set INT-12 Attachment 1.

b) DP&L did not perform a quantitative analysis; however, DP&L considered the non-energy benefits set forth in 4901:1-39-03 and in OCC 1st Set INT-12 Attachment 1 as substantial in order to warrant inclusion of the select few individual programs that are not cost-effective.

c) Please see the Company's response to sub-part "b."

Witness Responsible: Thomas Tatham

Non-Energy Benefits

OCC 1st Set INT-12 Attachment 1

	Benefit to all members of a customer class, potential for broad participation	Reduction in utility arrearages	Equity among customer classes	Integration with other utilities' programs	Supply chain engagement, leveraging partners	Market Transformation
Residential Programs						
Efficient Products	X	X	X	X	X	X
HVAC Equipment	X	X	X		X	X
Appliance Recycling	X	X	X	X	X	
Income Eligible Efficiency		X	X	X	X	
School Education	X	X	X	X	X	X
Home Audit	X	X	X		X	
Behavior Change	X	X	X	X		X
Energy Savings Kits		X	X		X	X
Multi-Family Direct Install	X	X	X		X	X
Smart Thermostats		X	X	X	X	X
Cross-Sector Programs						
Customer Education and Marketing	X	X	X	X	X	X
Pilot Programs			X	X	X	X
Stakeholder Intitiatives	X	X	X		X	X
T&D Infrastructure Improvement	X		X			
Smart Grid	X	X	X		X	X
Non-Programmatic Savings	X	X	X			

INT-28. Page 75 of the 2018-2020 Portfolio Plan identifies prior "Pilot Programs," including Appliance Rebates and Energy Savings Kits. What are DP&L's proposed Pilot Programs for 2018-2020?

RESPONSE: General Objections Nos. 2 (unduly burdensome), 3 (privileged and work product information), 6 (calls for a narrative response), 12 (seeks information that DP&L does not know at this time), 13 (mischaracterization). DP&L further objects because this request seeks information about future events. Subject to all general objections, DP&L states that the Company is not proposing specific pilot programs as part of its Application.

Witness Responsible: Thomas Tatham

INT-6. With respect to the Non-Programmatic Savings program:

a) Will the energy savings from this program be counted for purposes of determining the Incremental Energy Savings Achievement in the table on page 6 of the Application when calculating shared savings?

b) Will any net benefits from this program count for purposes of calculating shared savings?

RESPONSE: General Objections Nos. 3 (privileged and work product information), 7 (publicly available), 9 (vague and undefined), 11 (calls for a legal conclusion), 12 (seeks information that DP&L does not know at this time). DP&L also objects because it seeks information about future events as the Company's portfolio has not yet been approved. Subject to all general objections, DP&L states, as proposed in the Company's Application:

(a) Yes.

(b) Yes.

Witness Responsible: Tyler A. Teuscher

INT-7. On page 9 of the Application, DP&L states that it is "also seeking authority to file a new or amended Program Portfolio if there are changes in legislation during the 2018-2020 Program Portfolio period." Please describe what types of legislative "changes" would trigger this provision, thereby permitting DP&L to file a new or amended Program Portfolio.

RESPONSE: General Objections Nos. 2 (unduly burdensome), 3 (privileged and work product information), 6 (calls for a narrative response), 9 (vague and undefined), 11 (calls for a legal conclusion), 12 (seeks information that DP&L does not know at this time), 13 (mischaracterization). DP&L also objects because it seeks information about future events. Subject to all general objections, DP&L states that, as requested in the Company's Application, any legislative changes that affect energy efficiency and/or the associated incentives and/or associated cost recovery would permit DP&L to file a new or amended Program Portfolio.

Witness Responsible: Tyler A. Teuscher

INT-23. On page 30 of the 2018-2020 Portfolio Plan, DP&L states, with respect to the Residential Income Eligible Efficiency program: "Property landlords may be required to pay for a portion of the measures installed."

a) What criteria are used to determine whether the landlord is required to pay for a portion of the measures installed?

b) What criteria are used to determine how much the landlord is required to pay for a portion of the measures installed?

c) What person or entity is making the decision about whether the landlord is required to pay a portion of the measure installed and how much?

RESPONSE: General Objections Nos. 2 (unduly burdensome), 3 (privileged and work product information), 4 (proprietary), 6 (calls for a narrative response), 9 (vague and undefined), 12 (seeks information that DP&L does not know at this time), 13 (mischaracterization). DP&L further objects because this request seeks information about future events. Subject to all general objections, DP&L states that final implementation plans will be determined with the selected vendor.

Witness Responsible: Thomas Tatham

INT-30. In Case No. 16-649-EL-POR, DP&L signed a stipulation that provided: "For 2017, a cap on costs associated with DP&L's energy efficiency programs and any shared savings resulting from these programs will be set at 4% of DP&L's revenue for 2015, as reported on DP&L's 2015 FERC Form 1, page 300, line 1, total sales to ultimate consumers." *See* http://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=9240b242-e140-4888-8ba6-4354679cf591. Does DP&L propose an annual cap on energy efficiency programs and shared savings for 2018, 2019, and 2020? If so, what is the proposed cap?

RESPONSE: General Objections Nos. 3 (privileged and work product information), 7 (publicly available), 9 (vague and undefined), 12 (seeks information that DP&L does not know at this time), 13 (mischaracterization). DP&L further objects because this requests information that can be attained by OCC. Subject to all general objections, DP&L states no.

Witness Responsible: Tyler A. Teuscher

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Case No(s). 17-1398-EL-POR, 17-1399-EL-WVR

Summary: Objection Objections to Dayton Power & Light's Energy Efficiency and Peak Demand Reduction Portfolio Plan for 2018-2020 and Recommendations for Consumer Protection by The Office of the Ohio Consumers' Counsel electronically filed by Ms. Jamie Williams on behalf of Healey, Christopher Mr.