

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The	)	
Dayton Power and Light Company for an	)	Case No. 15-1830-EL-AIR
Increase in its Electric Distribution Rates	)	

In the Matter of the Application of The	)	
Dayton Power and Light Company for	)	Case No. 15-1831-EL-AAM
Accounting Authority	)	

In the Matter of the Application of The	)	
Dayton Power and Light Company for	)	Case No. 15-1832-EL-ATA
Approval of Revised Tariffs	)	

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**TESTIMONY  
OF  
JONATHAN J. BORER  
RESEARCH AND POLICY DIVISION  
RATES AND ANALYSIS DEPARTMENT**

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**STAFF EXHIBIT NO. \_\_\_\_\_**

**Dated: July 16, 2018**

**TESTIMONY OF JONATHAN J. BORER**

1. Q. Please state your name and business address.

A. My name is Jonathan J Borer. My business address is 180 East Broad Street, Columbus, Ohio 43215-3793.

2. Q. By whom are you employed and in what capacity?

A. I am employed by the Public Utilities Commission of Ohio (PUCO or Commission) as a Utility Auditor 2 in the Research and Policy Division of the Rates and Analysis Department. My duties include conducting investigations of assigned phases of rate case applications and other financial audits of public utility companies subject to the jurisdiction of the PUCO.

3. Q. Would you briefly state your educational background?

A. I earned a Bachelor of Science in Accounting and a Bachelor of Science in Management from Purdue University in 2014. In 2017, I attended the Annual Regulatory Studies Program offered by the Institute of Public Utilities as well as the National Association of Regulatory Utility Commissioners (NARUC) Utility Rate School.

1 4. Q. **Please briefly outline your work experience.**

2 A. I have been with the PUCO since November 2016 with my entire time  
3 spent in the Rates and Analysis Department. Prior to working at the PUCO,  
4 I was employed with Morgan Stanley within the Global Wealth  
5 Management Group.  
6

7 5. Q. **What is the purpose of your testimony in this proceeding?**

8 A. The purpose of my testimony is to address various objections to the Staff  
9 Report of Investigation (Staff Report). More specifically, this testimony  
10 will address the various objections related to the reduction in the federal  
11 income tax rate associated with the Tax Cuts and Jobs Act of 2017 (TCJA).  
12

13 6. Q. **The Retail Energy Supply Association's (RESA) Objection 3<sup>1</sup> relates to**  
14 **the tax effects of the reduction in the federal income tax rate from 35%**  
15 **to 21%. RESA objects to the fact that the revenue requirement as**  
16 **calculated in the Staff Report does not account for the reduction in the**  
17 **federal income tax rate associated with the TCJA. How do you**  
18 **respond?**

19 A. The Staff of the PUCO (Staff) acknowledges that the Staff Report did not  
20 include an adjustment for reduced income tax expense to reflect the new

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<sup>1</sup> *DP&L Rate Case*, Objections to the Staff Report and Summary of Major Issues of Retail Energy Supply Association at 1 (April 11, 2018).

1 21% rate, nor did the report include a reduction to the Gross Revenue  
2 Conversion Factor (GRCF) to reflect the lower rate. Additionally, Staff  
3 acknowledges that no adjustment was made in the Staff Report to amortize  
4 excess Accumulated Deferred Income Taxes (ADIT), which represent  
5 money that must be returned to customers since it is no longer owed to the  
6 IRS. Although the Staff Report did not include these changes associated  
7 with the TCJA, the objections have been rendered moot because the  
8 Stipulation and Recommendation (Stipulation) incorporates the tax  
9 reductions associated with the TCJA.

10  
11 7. Q. **What tax reductions associated with the TCJA have been addressed in**  
12 **the Stipulation?**

13 A. The Stipulation addresses four aspects of the TCJA: a reduction to the  
14 federal income tax expense and GRCF; amortization and refund of  
15 distribution-related, eligible unprotected excess ADIT (unprotected excess  
16 ADIT); amortization and refunds of distribution-related, eligible protected  
17 excess ADIT (protected excess ADIT); and the amortization and refund of  
18 the regulatory liability ordered by the Commission effective January 1,  
19 2018 in Case No. 18-0047-AU-COI (Regulatory Liability).<sup>2</sup> As part of the  
20 Stipulation, the Dayton Power and Light Company (DP&L or the

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<sup>2</sup> See *In the Matter of the Commission's Investigation of the Financial Impact of the Tax Cuts and Jobs Act of 2017 on Regulated Ohio Utility Companies*, Case No. 18-47-AU-COI, Entry at 2 (Jan. 10, 2018).

1 Company) has agreed that all excess ADIT and the Regulatory Liability  
2 constitute monies that will be owed to customers. The Company has agreed  
3 to calculate the net impact of the TCJA by no later than January 1, 2019.<sup>3</sup>  
4

5 8. Q. **Please describe each of the aforementioned TCJA aspects included in**  
6 **the Stipulation, and quantify the adjustment where applicable.**

7 A. Each component is identified and described at length below.  
8

9 *The reduction to the Federal income tax expense and Gross Revenue*  
10 *Conversion Factor.*

11 Generally speaking, reducing the Federal Income Tax rate (FIT) from 35%  
12 to 21% affects the income tax expense and the GRCF. All else being equal,  
13 reducing the FIT had the effect of lowering the stipulated revenue  
14 requirement by approximately \$7.5 million. As part of my testimony, I have  
15 included an updated Schedule C-4, Adjusted Jurisdictional Income Taxes  
16 and Schedule A-2, Computation of Gross Revenue Conversion Factor,  
17 which reflect the reduced Federal income tax rate. These schedules are  
18 included as Attachment JJB-1-3.

19 *Amortization and refund of protected excess ADIT.*

20 The balance of the protected excess ADIT is required to be amortized

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<sup>3</sup> DP & L Rate Case, Stipulation and Recommendation at 3-5 (June 18, 2018).

1 according to the Average Rate Assumption Method (ARAM). Put simply,  
2 this means the excess is amortized over the remaining lives of the  
3 underlying assets. Since there is no discretion as to how quickly this is  
4 returned, then as part of the Stipulation, the Company agrees to return the  
5 protected excess ADIT in accordance with Federal law. By no later than  
6 March 1, 2019, the Company will address this refund by filing an  
7 application to commence a proceeding (TCJA Application).<sup>4</sup>

8  
9 *Amortization and refund of unprotected excess ADIT and Regulatory*  
10 *Liability*

11 The unprotected excess ADIT represents monies owed to customers for  
12 which the excess is not required to be amortized according to ARAM.  
13 Essentially, this means the excess can be amortized and refunded over a  
14 purely discretionary time period. Broadly speaking, the Regulatory  
15 Liability represents the savings resulting from a reduced Federal income tax  
16 rate, which the Commission ordered to be booked as a deferred liability.<sup>5</sup>  
17 As part of the Stipulation, the Company has agreed to refund both the  
18 unprotected excess ADIT and the Regulatory Liability as part of the TCJA  
19 Application. Additionally, the Company has agreed to refund the

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<sup>4</sup> *Id.*

<sup>5</sup> “[The] Commission ordered utilities to record the savings from the TCJA as a deferred liability on their books. This liability would include in part, the savings resulting from a reduced federal income tax expense and the “excess” accumulated deferred income taxes. Staff believes the savings resulting from a reduced federal income tax expense will be deferred from January 1, 2018 until rates are adjusted to reflect the reduced income tax rate.”

1 unprotected excess ADIT and Regulatory Liability over a period no greater  
2 than ten years. Furthermore, the Company has agreed that the aggregated  
3 refund of the unprotected excess ADIT and Regulatory Liability will be no  
4 less than \$4.0 million in each of the first five years. Any remaining balance  
5 after the first five years will be refunded to customers over a maximum of  
6 five additional years.<sup>6</sup>

7  
8 9. Q. **Are there any additional aspects of the TCJA included in the**  
9 **Stipulation?**

10 A. Yes. The Company has agreed to withdraw and waive arguments that it is  
11 unlawful to refund or credit the deferred amounts in Case No. 18-0047-AU-  
12 COI, the TCJA Application, and any other proceeding addressing a return  
13 of the tax savings from the TCJA to DP&L's customers for any of the  
14 following reasons:

- 15 1. Retroactive ratemaking or the filed-rate doctrine;
- 16 2. That the refund or credit would constitute an unlawful refund;
- 17 3. The Company's Return on Equity is too low; and
- 18 4. That the issue can be addressed only in a rate case.<sup>7</sup>

19  
20  

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

<sup>7</sup> *DP&L Rate Case*, Stipulation and Recommendation at 5 (June 18, 2018).

1    10.    Q.    **Does this conclude your testimony?**

2            A.    Yes it does. However, I reserve the right to submit supplemental testimony  
3                    as described herein, as new information subsequently becomes available or  
4                    in response to positions taken by other parties.



## CERTIFICATE OF SERVICE

This is to certify that the foregoing **Testimony of Jonathan J. Borer** has been served upon all of the parties of record in Case No. 15-1830-EL-AIR by electronic and/or U.S. mail, postage pre-paid mail this 16th day of July, 2018.

/s/Thomas W. McNamee

**Thomas W. McNamee**

Assistant Attorney General

### **PARTIES OF RECORD:**

Michael J. Schuler  
Dayton Power & Light Company  
1065 Woodman Drive  
Dayton, OH 45432  
[michael.schuler@aes.com](mailto:michael.schuler@aes.com)

Ellis Jacobs  
Advocates for Basic Legal Equality  
130 West Second Street, Suite 700 East  
Dayton, OH 45402  
[ejacobs@ablelaw.org](mailto:ejacobs@ablelaw.org)

Trent A. Dougherty  
Ohio Environmental Council  
1145 Chesapeake Avenue, Suite 1  
Columbus, OH 43212  
[tdougherty@theoec.org](mailto:tdougherty@theoec.org)

Robert Dove  
The Law Office of Robert Dove  
P.O. Box 13442  
Columbus, OH 43213  
[rdove@attorneydrove.com](mailto:rdove@attorneydrove.com)

Charles J. Faruki  
Jeffrey S. Sharkey  
Faruki Ireland & Cox  
500 Courthouse Plaza, S.W.  
10 North Ludlow Street  
Dayton, OH 45402  
[cfaruki@ficlaw.com](mailto:cfaruki@ficlaw.com)  
[jsharkey@ficlaw.com](mailto:jsharkey@ficlaw.com)

Colleen L. Mooney  
Ohio Partners for Affordable Energy  
231 West Lima Street  
P.O. Box 1793  
Findlay, OH 45839-1793  
[cmooney@ohioipartners.org](mailto:cmooney@ohioipartners.org)

David F. Boehm  
Boehm, Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, OH 45202  
[dboehm@bklawfirm.com](mailto:dboehm@bklawfirm.com)

David D. Parram  
Taft Stettinius & Hollister  
65 East State Street, Suite 100  
Columbus, OH 43215  
[dparram@taftlaw.com](mailto:dparram@taftlaw.com)

Kimberly W. Bojko  
Carpenter Lipps & Leland  
280 North High Street, Suite 1300  
Columbus, OH 43215  
[bojko@carpenterlipps.com](mailto:bojko@carpenterlipps.com)

Joseph E. Olikier  
IGS Energy  
6100 Emerald Parkway  
Dublin, OH 43016  
[joliker@igsenergy.com](mailto:joliker@igsenergy.com)

Justin Vickers  
Environmental Law and Policy Center  
35 East Wacker Drive, Suite 1600  
Chicago, IL 60601  
[jvickers@elpc.org](mailto:jvickers@elpc.org)

Matthew R. Pritchard  
Frank P. Darr  
McNees Wallace & Nurick  
21 East State Street, #1700  
Columbus, OH 43215  
[mpritchard@mwncmh.com](mailto:mpritchard@mwncmh.com)  
[fdarr@mwncmh.com](mailto:fdarr@mwncmh.com)

Madeline Fleisher  
Environmental Law and Policy Center  
21 West Broad Street, Suite 500  
Columbus, OH 43215  
[mfleisher@elpc.org](mailto:mfleisher@elpc.org)

John Finnigan  
Environmental Defense Fund  
128 Winding Brook Lane  
Terrace Park, OH 45174  
[jfinnigan@edf.org](mailto:jfinnigan@edf.org)

Stephen M. Chmiel  
Michael Austin  
Thompson Hine  
41 South High Street, Suite 1700  
Columbus, OH 43215  
[stephanie.chmiel@thompsonhine.com](mailto:stephanie.chmiel@thompsonhine.com)  
[michael.austin@thompsonhine.com](mailto:michael.austin@thompsonhine.com)

John R. Doll  
Doll Jansen & Ford  
111 West First Street, Suite 1100  
Dayton, OH 45402-1156  
[jdoll@djflawfirm.com](mailto:jdoll@djflawfirm.com)

Beren S. Argetsinger  
Keyes Fox & Wiedman  
401 Harrison Oaks Boulevard  
Suite 100  
Cary, NC 27513  
[bargetsinger@kfvlaw.com](mailto:bargetsinger@kfvlaw.com)

Jacob Schlesinger  
Keyes Fox & Wiedman  
1580 Lincoln Street, Suite 880  
Denver, CO 80203  
[jschlesinger@kfvlaw.com](mailto:jschlesinger@kfvlaw.com)

Thomas A. Jernigan  
AFCEC/JA-ULFSC  
139 Barnes Drive, Suite 1  
Tyndall AFB, FL 32403  
[thomas.jernigan.3@us.af.mil](mailto:thomas.jernigan.3@us.af.mil)

Lisa M. Hawrot  
Spilman Thomas & Battle  
Century Centre Building  
1233 Main Street, Suite 4000  
Wheeling, WV 26003  
[lhawrot@spilmanlaw.com](mailto:lhawrot@spilmanlaw.com)

Steven D. Lesser  
James F. Lang  
N. Trevor Alexander  
Calfee, Halter & Griswold  
41 South High Street  
1200 Huntington Center  
Columbus, OH 43215  
[slesser@calfee.com](mailto:slesser@calfee.com)  
[jang@calfee.com](mailto:jang@calfee.com)  
[talexander@calfee.com](mailto:talexander@calfee.com)

**Attorney Examiners:**

Greg Price  
[gregory.price@puco.ohio.gov](mailto:gregory.price@puco.ohio.gov)

Derrick Price Williamson  
Spilman Thomas & Battle  
1100 Bent Creek Boulevard, Suite  
101  
Mechanicsburg, PA 17050  
[dwilliamson@spilmanlaw.com](mailto:dwilliamson@spilmanlaw.com)

Carrie M. Harris  
Spilman Thomas & Battle  
310 First Street, Suite 1100  
P.O. Box 90  
Roanoke, VA 24002-0090  
[charris@spilmanlaw.com](mailto:charris@spilmanlaw.com)

Dylan F. Borchers  
Bricker & Eckler  
100 South Third Street  
Columbus, OH 43215-4291  
[dborchers@bricker.com](mailto:dborchers@bricker.com)

# ATTACHMENT JJB-1

**The Dayton Power and Light Company**  
**Case No. 15-1830-EL-AIR**  
**Computation of Gross Revenue Conversion Factor**  
**For the Twelve Months Ended May 31, 2016**

**Schedule A-2**

**Page 1 of 1**

**Work Paper Reference No(s): None**

Line No.	Description	% of Incremental Gross Revenues
1	Operating Revenues	100.0000%
2		
3	Less: Commercial Activities Tax (CAT)	0.2600%
4		
5	Percentage of Income After CAT	99.7400%
6		
7	Less: Ohio Municipal Income Tax Return	
8	Municipal Income Tax Due	\$390,875
9	Federal Taxable Income	\$83,432,860
10	Effective Ohio Municipal Tax Rate	0.4685%
11	Effective Ohio Municipal Tax Rate as a Percent of Line 15	0.4673%
12		
13	Percentage of Income Before Federal Income Tax	99.2727%
14		
15	Less: Federal Income Tax (FIT)	
16	FIT Marginal Rate	21.0000%
17	Effective Marginal Rate	20.8473%
18		
19	Net Operating Income Percentage	78.4254%
20		
21	Gross Revenue Conversion Factor	1.275097

**The Dayton Power and Light Company**  
**Case No. 15-1830-EL-AIR**  
**Adjusted Jurisdictional Income Taxes**  
**For the Twelve Months Ended May 31, 2016**

**Schedule C-4**  
**Page 1 of 2**

**Work Paper Reference No(s): Schedule C-4.1, WPC-4**

Line No.	Description	At Current Rates			At Proposed Rates	
		Unadjusted Jurisdictional	Schedule C-3 Adjustments	Adjusted	Adjustments	Pro Forma
(A)	(B)	(C)	(D)	(E) = (C) + (D)	(F)	(G) = (E) + (F)
1	Operating Income Before State & Local Income Taxes	\$ 33,651,267	\$ (9,263,317)	\$ 24,387,950	\$ 65,600,719	\$ 89,988,669
2						
3	Current State & Local Income Tax Expense	144,630	(153,006)	(8,376)	309,045	300,669
4						
5	Operating Income Before Federal Income Taxes	33,506,637	(9,110,311)	24,396,326	65,291,674	89,688,000
6						
7	Reconciling Items:					
8	Interest Charges	(7,021,928)	(9,188,569)	(16,210,497)	-	(16,210,497)
9						
10	Schedule M Reconciling Items:					
11	Tax Accelerated Depreciation	31,066,838	-	31,066,838	-	31,066,838
12	Book Depreciation	55,607,708	(8,172,443)	47,435,264	-	47,435,264
13	Excess of Book Over Tax Depreciation	24,540,870	(8,172,443)	16,368,426	-	16,368,426
14						
15	Other Reconciling Items	(20,469,804)	(5,854,163)	(26,323,967)	-	(26,323,967)
16						
17	Total Schedule M Reconciling Items	4,071,065	(14,026,606)	(9,955,540)	-	(9,955,540)
18						
19	Federal Taxable Income	\$ 30,555,774	\$ (32,325,485)	\$ (1,769,711)	\$ 65,291,674	\$ 63,521,963
20						
21	Federal, State, Local Income Taxes					
22	Federal @ 35% Statutory Rate					
23	State & Local @ Various Effective Tax Rates					

**The Dayton Power and Light Company**  
**Case No. 15-1830-EL-AIR**  
**Adjusted Jurisdictional Income Taxes**  
**For the Twelve Months Ended May 31, 2016**

**Schedule C-4**  
**Page 2 of 2**

**Work Paper Reference No(s): Schedule C-4.1, WPC-4**

Line No.	Description	At Current Rates			At Proposed Rates	
		Unadjusted Jurisdictional	Schedule C-3 Adjustments	Adjusted	Adjustments	Pro Forma
(A)	(B)	(C)	(D)	(E) = (C) + (D)	(F)	(G) = (E) + (F)
1	Current Federal Income Tax @ Statutory Rates	\$ 6,416,713	\$ (6,788,352)	\$ (371,639)	\$ 13,711,252	\$ 13,339,613
2	Adjustments	-	-	-	-	-
3						
4	Current Federal Income Tax Expense	<u>6,416,713</u>	<u>(6,788,352)</u>	<u>(371,639)</u>	<u>13,711,252</u>	<u>13,339,613</u>
5						
6	Deferred Income Tax Expense (Net):					
7	Depreciation Related	(5,153,583)	1,716,213	(3,437,370)	-	(3,437,370)
8	Excess DFIT Reversal - Depreciation	(653,418)	-	(653,418)	-	(653,418)
9	Other Temporary Differences	<u>4,336,100</u>	<u>1,229,374</u>	<u>5,565,474</u>	<u>-</u>	<u>5,565,474</u>
10						
11	Total Deferred Federal Income Taxes (Net)	<u>(1,470,900)</u>	<u>2,945,587</u>	<u>1,474,687</u>	<u>-</u>	<u>1,474,687</u>
12						
13	Amortization of Deferred Investment Tax Credits	<u>(169,278)</u>	<u>-</u>	<u>(169,278)</u>	<u>-</u>	<u>(169,278)</u>
14						
15	Total Federal Income Tax Expense	<u>4,776,535</u>	<u>(3,842,765)</u>	<u>933,770</u>	<u>13,711,252</u>	<u>14,645,022</u>
16						
17	Current State & Local Income Tax Expense	144,630	(153,006)	(8,376)	309,045	300,669
18	Deferred State & Local Income Tax Expense	<u>(14,494)</u>	<u>52,203</u>	<u>37,709</u>	<u>-</u>	<u>37,709</u>
19						
20	Total State & Local Income Tax Expense	<u>130,136</u>	<u>(100,803)</u>	<u>29,333</u>	<u>309,045</u>	<u>338,378</u>
21						
22	Total Income Tax Expense	<u>\$ 4,906,671</u>	<u>\$ (3,943,568)</u>	<u>\$ 963,103</u>	<u>\$ 14,020,297</u>	<u>\$ 14,983,400</u>

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Summary: Testimony of Jonathan Borer electronically filed by Ms. Tonnetta Scott on behalf of PUC