

BEFORE  
THE PUBLIC UTILITIES COMMISSION  
OF OHIO

In the Matter of the Application of The Dayton	:	
Power and Light Company's Implementation of	:	Case No. 19-0572-EL-UNC
Certain Matters Relating to the Tax Cuts and Jobs	:	
Act of 2017	:	
	:	
In the Matter of the Application of The Dayton	:	Case No. 19-0568-EL-ATA
Power and Light Company to Establish the Tax	:	
Savings Credit Rider	:	

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**JOINT STIPULATION AND RECOMMENDATION**

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Rule 4901-1-30, Ohio Administrative Code (OAC), provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. This document sets forth the understanding and agreement of the parties who have signed below ("Signatory Parties") and jointly present to the Public Utilities Commission of Ohio ("Commission") this Joint Stipulation and Recommendation ("Stipulation") as a settlement resolving all of the issues in all of the above-captioned proceedings involving Dayton Power and Light Company ("DP&L" or the "Company").

This Stipulation is a product of lengthy, serious, arm's-length bargaining among the Signatory Parties and those parties who chose not to sign but agree not to oppose this Stipulation ("Non-Opposing Parties") (all of whom are capable, knowledgeable parties), which negotiations were undertaken by the Signatory Parties to settle this proceeding. All intervenors were invited to discuss and negotiate this Stipulation and it was openly negotiated among those stakeholders who responded and chose to participate. This Stipulation is supported by adequate data and information; as a package, the Stipulation benefits customers and the public interest; provides direct benefits to residential and low-income customers; represents a just and reasonable resolution of all issues in this

proceeding; violates no regulatory principle or practice; and complies with and promotes the policies and requirements of Title 49 of the Ohio Revised Code. This Stipulation represents an accommodation of the diverse interests represented by the Signatory Parties and, though not binding, is entitled to careful consideration by the Commission. For purposes of resolving the issues raised by these proceedings, the Signatory Parties agree to fully support adoption of the Stipulation without modification in this proceeding.

WHEREAS, the Tax Cuts and Jobs Act of 2017 (TCJA) was enacted in December 2017;

WHEREAS, the Commission opened Case No. 18-47-AU-COI to address the impacts of federal tax reductions on Ohio public utilities and to pass benefits of the tax reductions on to customers;

WHEREAS, certain of the Stipulating Parties<sup>1</sup> in these proceedings also filed or agreed not to oppose a Stipulation and Recommendation in Case No. 15-1830-EL-AIR (“Rate Case Stipulation”) agreeing that DP&L’s current revenue requirement includes necessary adjustments to implement the TCJA with regard to the federal income tax (“FIT”) expenses and the gross revenue conversion factor;

WHEREAS, the Rate Case Stipulation also stated that all excess accumulated deferred income taxes (“EDIT”) resulting from the TCJA and the full balance of the regulatory liability ordered by the Commission effective January 1, 2018 in Case No. 18-47-AU-COI (“Regulatory Liability”) will be resolved in their entirety in a subsequent proceeding;

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<sup>1</sup> Signatory and Non-Opposing Parties in these proceedings who were also Signatory Parties or Non-Opposing Parties to the Stipulation and Recommendation filed in Case No. 15-1830-EL-AIR, are: Staff of the Public Utilities Commission of Ohio, Industrial Energy Users-Ohio, The Kroger Company, The Office of the Ohio Consumer’s Counsel, Ohio Energy Group, and Ohio Manufacturers’ Association Energy Group. The Ohio Cable Telecommunications Association was not a party in Case No. 15-1830-EL-AIR.

WHEREAS, DP&L agreed in the Rate Case Stipulation to file an application in a subsequent proceeding for the sole purpose of returning monies associated with EDIT and the Regulatory Liability.

WHEREAS, DP&L agreed in the Rate Case Stipulation that the distribution-related eligible protected excess ADIT (“the Protected EDIT”) will be returned to customers in accordance with Federal law under the average rate assumption method (“ARAM”).

WHEREAS, DP&L agreed in the Rate Case Stipulation that the distribution-related, eligible unprotected portion of the EDIT (“Unprotected EDIT”) and the Regulatory Liability relating to the January 10, 2018 Commission Order in Case No. 18-47-AU-COI will be returned to customers by the Company over an amortization period no greater than 10 years; however, the Company agreed that it will provide customers an aggregate refund of no less than \$4.0 million per year for the first five years of the amortization period unless the refund of the Unprotected EDIT and the aforementioned Regulatory Liability is fully returned within the first five years. If any balance remains after the first five years of the amortization period, such remainder shall be returned to customers over a maximum of an additional five years;

WHEREAS, DP&L initiated Case No. 19-0572-EL-UNC to address the TCJA refund;

WHEREAS, DP&L filed Case No. 19-0568-EL-ATA to establish the Tax Savings Credit Rider (TSCR) for purposes of returning monies to customers;

WHEREAS, the Signatory Parties agree on the approach for the Company to convey the remaining TCJA savings back to customers.

NOW, THEREFORE, the Signatory Parties stipulate, agree, and recommend as follows.

## **I. Signatory Parties**

1. The Dayton Power and Light Company, The Staff of the Public Utilities Commission of Ohio (“Staff”), The Kroger Co. (“Kroger”), the Ohio Cable Telecommunications Association (“OCTA”), the Ohio Energy Group (“OEG”), the Office of the Ohio Consumers’ Counsel (“OCC”), and the Ohio Manufacturers’ Association Energy Group (“OMAEG”) are entering into this Stipulation as Signatory Parties and Industrial Energy Users Ohio (“IEU”) as a Non-Opposing Party.

## **II. Joint Recommendations of Signatory Parties**

1. The Signatory Parties agree that, for purposes of settlement, the Commission should approve this Stipulation and the terms hereof as promptly as possible without modification as set forth herein:

2. As modified by this Stipulation, DP&L's Application filed in this proceeding should be approved to provide the benefits of the federal tax cuts to consumers. As a result of this Stipulation, customers will receive millions of dollars in credits on their monthly electric bills, thus lowering the amount that they pay for electric service.

3. The Signatory Parties agree to the establishment of the Tax Savings Credit Rider (“TSCR”) as proposed by the Company in its Application.

4. The TSCR will be allocated to customer classes based on a percentage of base distribution revenues as set forth in Exhibit 5 of DP&L’s most recently approved Rate Case Stipulation and will be trued-up annually.

5. The Signatory Parties agree that the Regulatory Liability created by Case No. 18-47-AU-COI, for the FIT savings for period of January 2018 through September 2018, is \$1.17 million. The Signatory Parties agree that the refund of the Regulatory Liability will also include carrying charges at DP&L’s most recent cost of debt (4.8%)

from January 1, 2018 through the date the amount is fully returned to customers. This collective amount will be credited back to customers through the TSCR over a period of twelve months, commencing with the first billing cycle of the next month after the approval of the Stipulation, and will include a gross revenue conversion factor of 1.2751 established in the Rate Case Stipulation resulting in a total refund of \$1.625 million for the Regulatory Liability as set forth in Exhibit A.

6. Consistent with the Rate Case Stipulation and approval Order in Case No. 15-1830-EL-AIR, the Company will return the Unprotected EDIT commencing with the first billing cycle after the approval of the Stipulation. The Signatory Parties agree that the Unprotected EDIT balance as of December 31, 2017 is \$15.0 million. This amount will be credited back to customers through the TSCR and will include a gross revenue conversion factor of 1.2751 established in the Rate Case Stipulation, resulting in a total refund of \$19.2 million.

7. Consistent with the Rate Case Stipulation and approval Order in Case No. 15-1830-EL-AIR, the Unprotected EDIT will be returned to customers in an amount of no less than \$4.0 million per year for the first five years of the amortization period. Any remaining balance will be returned in the sixth year of the amortization period.

8. Consistent with the Rate Case Stipulation and approval Order in Case No. 15-1830-EL-AIR, the Company will begin returning the amortization of the Protected EDIT back to customers commencing with the first billing cycle of the next month after approval of the Stipulation. The Signatory Parties agree that the Protected EDIT balance as of December 31, 2017 is \$48.9 million. This amount will be credited back to customers through the TSCR and will include a gross revenue conversion factor of 1.2751 established in the Rate Case Stipulation, resulting in a total refund of \$62.4

million. The Protected EDIT will be amortized and returned to customers in accordance with Federal law under the average rate assumption method.

9. The Company will recognize a reduction to the Distribution Investment Rider's ("DIR") rate base. Specifically, the Company will revise its DIR calculations to include unamortized balances of DIR-related excess deferred income taxes as a reduction to the DIR rate base using an allocation factor. The allocation factor will be 88%, which is based upon the gross DIR plant from Exhibit 3 of the Rate Case Stipulation (attached hereto) divided by total gross plant in service from Exhibit 2 of the Rate Case Stipulation (attached hereto). This revision will occur in the first quarterly DIR filing after approval of this Stipulation.

10. Regarding pole attachment rates, the Signatory Parties agree as follows:

a. The Company agrees to include an adjustment in its pole attachment and conduit occupancy rate calculations beginning with the next rate adjustment filing to reflect an allocated portion of EDIT resulting from the TCJA, as follows:

1.) The amounts of Protected and Unprotected EDIT as set forth in paragraphs 6 and 8 shall be further adjusted to reflect any amortizations that occur up to and including December 31 of the cost year used to calculate the adjustment to pole attachment and conduit occupancy rates. The amortization method used for this further adjustment for Protected EDIT will be consistent with the method in paragraph 8 above. The accounting entry includes debits to accounts 254 and 282 and credits to accounts 190, 282, and 411. The amortization method for this further adjustment for

Unprotected EDIT will be consistent with the method set forth in paragraphs 6-7 above. The accounting entry includes debits to accounts 254, 282, and 283 and credits to accounts 190, 282, 283, and 411.

- 2.) The calculations used to compute the net cost of a bare pole or conduit will comply with Chapter O.A.C. 4901:1-3 and shall also include a reduction in the net pole (or conduit) investment of an allocated portion of the remaining unamortized amounts of the Protected and Unprotected EDIT with respect to Acct. 364 (poles) or Acct. 366 (conduit). The allocated portion shall be based on the ratio of Gross Pole Investment (Acct. 364 or for conduit, Acct. 366) divided by Gross Distribution Plant as shown on DP&L's FERC Form 1. The calculations used to compute the Administrative Carrying Charge and the Taxes Carrying Charge shall reflect a reduction in investment costs equal to the remaining unamortized balance of Protected and Unprotected EDIT. The calculations used to compute the Maintenance Carrying Charge for poles shall reflect a reduction in investment costs equal to the remaining unamortized balance of Protected and Unprotected EDIT associated with Accts. 364, 365, and 369; and, for conduit Acct. 366 (based on the ratio of Gross Investment in these accounts divided by Gross Distribution Plant as shown on DP&L's FERC Form 1).
- 3.) The above adjustments to the pole attachment and conduit

occupancy rates shall be applied with the same effective date as other rate changes to the pole attachment and conduit occupancy rates arising out of the same proceeding.

- b. The FIT savings resulting from the TCJA (reflected in the FERC Form 1 being used to perform the rate calculation) will be reflected when calculating the pole attachment and conduit occupancy rates.
- c. DP&L agrees that, prior to filing an application to adjust its pole attachment rate (currently at \$8.05 per pole per year), it will bring its continuing property records (“CPR”) up to date so they accurately reflect the number of poles reflected in FERC Account 364 investments, as ordered by the Commission in Case No. 15-971-EL-ATA (Finding and Order dated September 7, 2016, at paragraph 29). DP&L agrees to meet and communicate regularly with Staff and the OCTA regarding its aforementioned CPR updating.
- d. The Company will serve the OCTA with a copy of its next application to adjust its pole attachment rate, and at that same time provide to the OCTA the following year-end data for the year prior to the next rate adjustment filing:
  - 1.) Amortization schedules for the refund of the Protected and Unprotected EDIT resulting from the TCJA as of the year end prior to the year in which the next pole rate adjustment filing is made, and if not otherwise shown, the identification of all remaining unamortized amounts of Protected and Unprotected EDIT;



- 2.) The filed FERC Form 1 for the year end prior to the year in which the next pole rate adjustment filing is made; and
- 3.) A copy of the CPR for utility Account 364 as of the year end prior to the year in which the next pole rate adjustment filing is made, inclusive of all pole and appurtenance investment costs booked to account 364 and associated units of investment, and the CPR for the number and types (e.g. transmission vs. distribution) of poles. The CPR shall contain enough detail to show all subaccounts and other breakdowns available that would permit the calculation of the actual percentage of appurtenance investment booked to Account 364. The Company may include a summary sheet in addition.
- 4.) The number and types (e.g. transmission vs. distribution) of poles from the Company's Geographic Information System (GIS) mapping system as of the year end prior to the year in which the next pole rate adjustment filing is made; and to the extent the GIS data is relied upon for the formula rate, an explanation of the nature of the differences to the CPR provided in paragraph 10(d)(3).
- 5.) The cost amounts (if any) and the FERC accounts to which those costs were booked, that are associated with the Company bringing its CPR up to date as ordered by the Commission in Case No. 15-971-EL-ATA (Finding and Order dated September 7, 2016, at paragraph 29) and

included in the next rate adjustment calculation.

- e. The Company will work with the OCTA in good faith to timely provide access to any additional information reasonably needed in its next Commission proceeding involving an application to adjust its pole attachment rate, including identification of the specific sources of the formula inputs, workpapers, and any company-specific records/data underlying the formula inputs.
- f. Nothing in this paragraph 10 modifies the amount of the EDIT agreed to in paragraphs 6 through 8.

11. The Signatory Parties agree that this Stipulation, in addition to the resolution already set forth in the Rate Case Stipulation fully resolve all issues relating to the enactment of the TCJA.

### **III. Procedural Matters**

1. The Signatory Parties respectfully ask the Commission to render a decision adopting the Stipulation as soon as possible, in order to expedite the financial benefits to customers and the Company relating to the Stipulation.

2. The Signatory Parties will support the Stipulation if the Stipulation is contested, and no Signatory Party will oppose an application for rehearing designed to defend the terms of this Stipulation. If the Stipulation is adopted by the Commission, the Signatory Parties will support the Stipulation in any appeal of the decision in which they participate.

3. DP&L will rely on the Staff Report and may offer its testimony and exhibits as evidentiary support of this Stipulation. DP&L will file supplemental testimony in support of this Stipulation. As modified by this Stipulation, DP&L's

Application in this proceeding should be approved. Nothing in this subsection prohibits any Signatory Party from filing testimony or submitting evidence in support of the Stipulation.

4. This Stipulation is a consensus among the Signatory Parties of an overall approach to ratemaking in this proceeding. It is submitted for the purposes of this case alone and should not be understood to reflect the positions that an individual Signatory Party may have taken as to any individual provision of the Stipulation standing alone, nor the position a Signatory Party may have taken if all of the issues in this proceeding had been litigated. Nothing in this Stipulation shall be used or construed for any purpose to imply, suggest or otherwise indicate that the results produced through the compromise reflected herein represent fully the objectives of any Signatory Party. This Stipulation is submitted for purposes of this proceeding only, and is not deemed binding in any other proceeding, except as expressly provided herein, nor is it to be offered or relied upon in any other proceedings, except as necessary to enforce the terms of this Stipulation. The willingness of the Signatory Parties to sponsor this document currently is predicated on the reasonableness of the Stipulation taken as a whole.

5. This Stipulation is conditioned upon adoption of the Stipulation by the Commission in its entirety and without material modification. Each Signatory Party and Non-Opposing Party has the right, in its sole discretion, to determine whether the Commission's approval of this Stipulation constitutes a "material modification" thereof. If the Commission rejects or materially modifies all or any part of this Stipulation, any Signatory Party or Non-Opposing Party shall have the right to apply for rehearing. If the Commission does not adopt the Stipulation without material modification upon rehearing, or if the Commission makes a material modification to any Order adopting the Stipulation pursuant to any reversal, vacation and/or remand by the Supreme Court

of Ohio, then within thirty (30) days of the Commission's Entry on Rehearing or Order on Remand any Signatory Party or Non-Opposing Party may withdraw from the Stipulation by filing a notice with the Commission ("Notice of Withdrawal"). No Signatory Party or Non-Opposing Party shall file a Notice of Withdrawal without first negotiating in good faith with the other Signatory Parties to achieve an outcome that substantially satisfies the intent of the Stipulation. If a new agreement achieves such an outcome, the Signatory Parties and Non-Opposing Parties will file the new agreement for Commission review and approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are unsuccessful, and a Signatory Party or Non-Opposing Party files a Notice of Withdrawal, then the Commission will convene an evidentiary hearing to afford that Signatory Party or Non-Opposing Party the opportunity to contest the Stipulation by presenting evidence through witnesses, to cross examine witnesses, to present rebuttal testimony, and to brief all issues that the Commission shall decide based upon the record and briefs. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are successful, then some or all of the Signatory Parties or Non-Opposing Parties shall submit the amended Stipulation to the Commission for approval after a hearing if necessary.

6. Unless the Signatory Party exercises its right to terminate its Signatory Party status or withdraw as described above, each Signatory Party agrees to and will support the reasonableness of this Stipulation before the Commission, and to cause its counsel to do the same, and in any appeal it participates in from the Commission's adoption and/or enforcement of this Stipulation.

#### **IV. Conclusion**

For the reasons stated above, the Stipulating Parties respectfully request an expedited Order from the Commission approving this Stipulation without the need for a

hearing.

IN WITNESS WHEREOF, this Joint Stipulation and Recommendation has been signed by the authorized agents of the undersigned Signatory Parties as of this 12<sup>th</sup> day of September 2019.

*/s/ Thomas McNamee (via telephone authority)*

Thomas McNamee (0017352)  
**On Behalf of the Staff of the Public Utilities Commission of Ohio**

*/s/ Michael J. Schuler*

Michael J. Schuler (008239)  
**On Behalf of the Dayton Power and Light Company**

*/s/ Christopher Healey (via telephone authority)*

Christopher Healey (0086027)  
**On Behalf of the Office of the Ohio Consumers' Counsel**

*/s/ Angela Paul Whitfield (via email authority)*

Angela Paul Whitfield (0068774)  
**On Behalf of The Kroger Co.**

*/s/ Michael L. Kurtz (via email authority)*

Michael L. Kurtz (0033350)  
**On Behalf of the Ohio Energy Group**

*/s/ Gretchen Petrucci (via email authority)*

Gretchen Petrucci (0046608)  
**On Behalf of Ohio Cable Telecommunications Association**

*/s/ Kimberly Bojko (via email authority)*

Kimberly Bojko (0069402)  
**On Behalf of Ohio Manufacturer's Association Energy Group**

IN WITNESS THEREOF, the undersigned Non-Opposing Party agrees not to challenge this Joint Stipulation and Recommendation this 12<sup>th</sup> day of September, 2019.

*/s/ Matthew Pritchard (via email  
authority)*

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Matthew Pritchard (0088070)  
**On Behalf of Industrial Energy Users –  
Ohio**

### **CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been served via electronic mail upon the following counsel of record, this 12th day of September, 2019.

ambrosia.logsdon@occ.ohio.gov  
amy.botschner.obrien@occ.ohio.gov  
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*/s/ Michael J. Schuler*

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Michael J. Schuler (0082390)

## Exhibit A

### Dayton Power and Light

Case No. 19-572-EL-UNC

#### TCJA Stub Period - 2018 Income (January-September)

Stipulated Operating Income*	\$23,424,847
Stipulated Rate Base*	\$643,528,823
Debt %	52.48%
Cost of debt	4.80%
Interest Expense	\$16,210,748
Operating Income less interest expense	\$7,214,099
Pre-tax income @ 35%	\$11,098,613
Tax @ 35%	\$3,884,515
Tax @ 21%	\$2,330,709
Savings from lower tax rate	\$1,553,806
Annual Savings grossed up to revenue line	<b>\$1,981,253</b>
January - September 2018 (Stub)	<b>\$1,485,940</b>
Carrying Costs (Total)	\$139,577
<b>Total amount to refund incl carrying costs through August 2019</b>	<b>\$1,625,517</b>

# **EXHIBIT 2**



**The Dayton Power and Light Company**  
**Case No. 15-1830-EL-AIR**

**Jurisdictional Rate Base Summary**  
**As of September 30, 2015**

Schedule B-1  
Page 1 of 1

Line No.	Description (B)	Stipulated Amount (C)
(A)		
1	Plant in Service	
2	Production	\$ -
3	Transmission	\$ -
4	Distribution	\$ 1,494,435,485
5	General	\$ 9,639,952
6	Other: Intangible	\$ 25,305,660
7	Total Plant In Service	\$ 1,529,381,097
8		
9	Reserve for Accumulated Depreciation	
10	Production	\$ -
11	Transmission	\$ -
12	Distribution	\$ 695,057,490
13	General	\$ (4,970,577)
14	Other: Intangible	\$ 11,715,900
15	Total Reserve for Accumulated Depreciation	\$ 701,802,813
16		
17	Net Plant In Service	\$ 827,578,284
18		
19	Construction Work In Progress 75% Complete	\$ -
20		
21	Working Capital Allowance	\$ 2,240,507
22		
23	Customers' Advances for Construction	\$ (466,036)
24		
25	Other Rate Base Items	\$ (185,833,933)
26		
27	Jurisdictional Rate Base	\$ 643,518,823

# **EXHIBIT 3**

**The Dayton Power and Light Company**  
Case No. 15-1830-EL-AIR  
Distribution Investment Rider  
Revenue Requirement Calculation

Line No.	Description	Stipulated Amounts as of		
(A)	(B)	September 30, 2015 (C)	March 31, 2018 (D)	
<u>Rate Base</u>				
1	Gross Distribution Plant	\$ 1,345,230,954	\$ 1,422,599,647	Line 1 - Line 2
2	Accumulated Depreciation on Distribution Plant	\$ 642,166,933	\$ 717,388,560	
3	Net Distribution Plant In Service	\$ 703,064,021	\$ 705,211,087	
4				
5	Accumulated Deferred Income Taxes on Distribution Plant	\$ (147,941,796)	\$ (84,657,529)	Line 3 + Line 5
6				
7	Distribution Rate Base for DIR	\$ 555,122,225	\$ 620,553,558	
8				
9	Return on Rate Base	8.58%	8.58%	Line 7 * Line 9
10	Return on Rate Base	\$ 47,629,487	\$ 53,243,495	
11				
12	Incremental Return on Rate Base		\$ 5,614,008	Line 10, Col (D) - Col (C)
13				
14	<u>Depreciation, Taxes Other than Income and O&amp;M</u>			
15	Depreciation Expense	\$ 38,359,093	\$ 40,280,597	Line 15 + 16
16	Property Tax Expense	\$ 44,978,513	\$ 49,594,872	
17				
18	Total Depreciation, Other Taxes and O&M Before CAT	\$ 83,337,606	\$ 89,875,469	Line 18 Col D - Col C
19				
20	Incremental Depreciation, Taxes Other than Income and O&M (Pre Tax)		\$ 6,537,863	
21	Incremental Commercial Activities Tax		<u>1,0026</u>	Line 20 * Line 21
22				
23	Incremental Depreciation, Taxes Other than Income and O&M (Post Tax)		\$ 6,554,861	
24				
25	<u>Revenue Requirement</u>			Line 12 + Line 23
26	Total DIR Revenue Requirement		\$ 12,168,870	

# **EXHIBIT 5**

## Exhibit 5

Current Distribution Revenue 12 months April 2018 (Distribution & Decoupling)

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

**Commission of Ohio Docketing Information System on**

**9/12/2019 5:16:00 PM**

**in**

**Case No(s). 19-0572-EL-UNC, 19-0568-EL-ATA**

Summary: Stipulation and Recommendation electronically filed by Mrs. Jessica E Kellie on behalf of The Dayton Power and Light Company