

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application)
The Dayton Power and Light Company)
For the Creation of a Rate Stabilization) Case No. 05-276-EL-AIR
Surcharge Rider and Distribution)
Rate Increase.)

INDUSTRIAL ENERGY USERS-OHIO'S
OBJECTIONS TO STAFF REPORT OF INVESTIGATION
AND
SUMMARY OF MAJOR ISSUES

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September 23, 2005

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Users-Ohio

(C18918:)

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**INDUSTRIAL ENERGY USERS-OHIO'S
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Pursuant to Section 4909.19, Revised Code, and Rule 4901-1-28, Ohio Administrative Code, IEU-Ohio hereby files its Objections and Summary of Major Issues to the Staff Report of Investigation ("Staff Report") in the above-captioned matter. The Staff Report was filed with the Public Utilities Commission of Ohio ("Commission") on August 26, 2005, setting forth its findings regarding DP&L's application for the creation of a Rate Stabilization Surcharge Rider and Distribution Rate Increase that was submitted on April 4, 2005. In submitting the Objections listed below, IEU-Ohio specifically reserves the right to contest, through presentation of documentary evidence, testimony or cross-examination, issues on which the Staff's position changes, or which are newly raised, between the issuance of the Staff Report and the closing of the record.

I. OBJECTIONS

IEU-Ohio objects to the Staff Report in the following particulars:

{C18918:}

A. REVENUE REQUIREMENT

1. IEU-Ohio objects to the revenue increase range of \$97,752,527 to \$98,319,648 calculated by Staff at page 31 of the Staff Report. The jurisdictional revenue requirement proposed by Staff overstates the magnitude of the calculated increase. This objection is somewhat academic in view of the limitation established by the Rate Stabilization Plan ("RSP") Stipulation ("Stipulation") adopted by the Commission in Case No. 02-2779-EL-ATA. As more fully described in the objections to follow, the calculated increase is the product of erroneous determinations.

B. RATE BASE

IEU-Ohio objects to the inclusion by Staff of a working capital allowance of \$10,076,064 in rate base, as shown on Summary Schedule A-2. It is not clear if working capital was a category of costs identified in the RSP Stipulation in Docket No. 02-2779-EL-ATA, for which DP&L was permitted to seek cost increases.

C. RATES AND TARIFFS

3. Staff erred on pages 2 and 29 of the Staff Report in indicating that the 11% increase over current generation revenues represented an increase of 6.81% over current total revenues. The 6.81% figure should be 7.3%. The fifth column of the chart on page 29, that purports to show the percentage increase over current total revenues, understates the increases in this column by utilizing "proposed total revenue" as the divisor, rather than using "total current revenue" as the divisor. Thus, the appropriate calculation should result in a determination

that the 11% increase over current generation revenues represents an increase of 7.3% over current total revenues.

D. BIGGER PICTURE

4. In view of ongoing issues concerning the maturation (or lack thereof) of the wholesale electric market, other stresses more broadly affecting energy markets and the relationship of these issues and stresses to the development of the retail market in Ohio, Staff erred in not recommending that this proceeding be used to explore an extension of DP&L's RSP accompanied by such other modifications as may be appropriate. As things presently stand, it is reasonable to expect that December 31, 2008 will arrive while Ohio and other states are still struggling to identify and address electric restructuring issues.

In addition, Staff erred by not inserting a recommendation in the Staff Report supporting consideration by the General Assembly of legislation to address the significant mismatch between expectations held at the time when Ohio's electric restructuring legislation was adopted and the actual results since. Current Ohio law creates opportunities for wasteful case-by-case litigation over questions of fundamental policy best considered by the General Assembly. Moreover, the Commission has held that it has no ability to approve a rate stabilization plan absent support from the electric distribution utility. *In the Matter of the Application for Approval of a Standard Service Offer and Competitive Bidding Process for Monongahela Power Company*, Case No. 04-1047-EL-ATA, Finding and Order at 4 (April 6, 2005); See also *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of*

a *Post Market Development Period Rate Stabilization Plan*, Case No. 04-169-EL-UNC, Opinion and Order at 18 (January 26, 2005). The trend line suggests that customers will increasingly be confronting prices based on the higher of market-based or cost-based methods. Allowing the uncertainty and instability to propagate further will, in the long run, hurt suppliers as such uncertainty and instability are presently hurting customers.

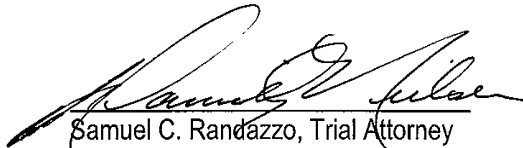
II. SUMMARY OF MAJOR ISSUES

IEU-Ohio has identified below the major issues it has currently identified to exist for the limited purpose of assisting the Commission in preparing the public notice required pursuant to Section 4903.083, Revised Code. The issues presented involve public policy principles as well as economic issues. IEU-Ohio reserves the right to pursue all of the issues raised in the Staff Report, these objections, and the objections of all other intervening parties. Subject to the foregoing, IEU-Ohio submits the following list of major issues:

- 1) Staff's failure to recommend that this proceeding be used to explore an extension of DP&L's RSP accompanied by other as-appropriate modifications;
- 2) Staff's failure to insert a recommendation in its Staff Report supporting consideration by the General Assembly of legislation addressing the significant mismatch between expectations held at the time Ohio's restructuring legislation was adopted and the actual results since;

- 3) Staff's calculation of the revenue increase range of \$97,752,527 to \$98,319,648 as calculated at page 31 of the Staff Report overstates the magnitude of the calculated increase;
- 4) Staff's inclusion of a working capital allowance of \$10,076,064 in rate base as shown on Summary Schedule A-2 may not be eligible as a category of cost identified for recovery in the RSP Stipulation;
- 5) Staff's indication that the 11% increase over current generation revenues represented an increase of 6.81% over current total revenues inasmuch as the 6.81% figure is miscalculated and should be 7.3%.

Respectfully Submitted,

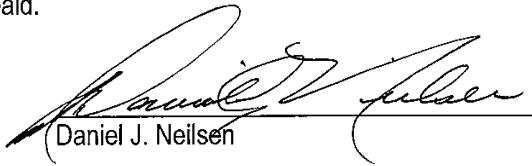


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Industrial Energy Users-Ohio's Objections to Staff Report of Investigation and Summary of Major Issues* were served upon the following parties of record this 23rd day of September, 2005, via first class mail, postage prepaid.



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