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VIA OVERNIGHT DELIVERY

**CINERGY**

March 27, 2000

Ohio Power Siting Board  
180 East Broad Street, 10<sup>th</sup> Floor  
Columbus, OH 43215-3793

ATTN: Docketing Division

Re: Case No. 00-232-EL-BLN

Dear Sir or Madam:

Enclosed please find an original and 12 copies of Memorandum in Support of Cinergy Services, Inc. of Proposed Foster-Bath 345 kV Transmission Line Project. Please date-stamp the extra two copies and return to me in the overnight-mail envelope provided.

Should you have any questions, please call me at (513) 287-3075.

Sincerely,

*Michael J. Pahutski*

Michael J. Pahutski  
Counsel

cc: Kim Wissman  
Edward N. Rizer  
Christopher R. Schraff  
Duane W. Luckey  
R. Russell Gooden

Enclosures

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Technician *Joan Schaeffer* Date Processed *3-29-00*

**BEFORE THE  
OHIO POWER SITING BOARD**

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In the matter of: Letter of Notification     )  
Filed by Dayton Power and Light         )     Case No. 00-232-EL-BLN  
Company for the Foster-Bath 345 kV       )  
Transmission Line Project                 )

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**Memorandum in Support of Cinergy Services, Inc.  
of Proposed Foster-Bath 345 kV Transmission Line Project**

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Cinergy Services, Inc. ("Cinergy"), as agent for and on behalf of The Cincinnati Gas & Electric Company ("CG&E"), by counsel, hereby respectfully submits this Memorandum in Support of Dayton Power and Light Company's ("DP&L") proposed Foster-Bath 345 kV Transmission Line Project. In support of its Memorandum in Support, Cinergy states as follows:

On February 1, 2000, DP&L filed a Letter of Notification ("LON") with the Ohio Power Siting Board proposing to establish a new 345 kV circuit between Foster Substation near Maineville in Warren County, Ohio and Bath Substation near Beavercreek in Greene County, Ohio as an expansion to the existing Cincinnati-Columbus-Dayton ("CCD") transmission line (the "Foster-Bath 345 kV Transmission Line Project"). By its proposal, DP&L seeks to reduce the loading on the existing Foster-Sugarcreek 345 kV circuit and ensure the continued reliability of the transmission system.

On March 6, 2000, Columbus Southern Power Company (d/b/a American Electric Power) ("CSP/AEP") filed an objection to DP&L's proposed Foster-Bath 345 kV

Transmission Line Project. CSP/AEP is a partner in the ownership and operation of the CCD transmission system in that it jointly owns transmission right-of-way, towers and cable on the Foster-Sugarcreek 345 kV circuit. In its objection, CSP/AEP stated that it had not given DP&L authority to use its right-of-way, towers or cable for the proposed circuit. CSP/AEP also asserted the proposed Foster-Bath 345 kV circuit would not provide transmission loading relief or contribute to the reliability of the CSP/AEP system.

The Basic Transmission Agreement by and between CG&E, DP&L and CSP/AEP, dated as of October 1, 1964, regarding the Beckjord-Greene Line (“CCD Agreement”) sets forth the parties’ basic agreement regarding the ownership, construction and use of the 345 kV transmission line between DP&L’s Green Substation, CG&E’s Foster Substation, Ohio Valley Electric Corporation’s Pierce Substation and Unit 6 at the Walter C. Beckjord Station (excerpts of which are attached as Exhibit A). The term of the CCD Agreement is for 50 years, extending from October 1, 1964, and thereafter for successive periods of five years, unless notice of cancellation by any party is served on the others at least two years prior to the original termination date or to the end of any then current extension period. (CCD Agreement, p. 11.)

The CCD Agreement provides for DP&L, on behalf of itself and as agent for CG&E and CSP/AEP as to the respective interests of each, to operate and maintain that portion of the Beckjord-Greene Line located north of the Foster Substation site. (CCD Agreement, p. 9.) In addition, CG&E, on behalf of itself and as agent for CSP/AEP and DP&L as to the respective interests of each, shall operate and maintain the remaining portion of the Beckjord-Green line. (CCD Agreement, p. 9.) Accordingly, DP&L and

CG&E have authority pursuant to the terms of the CCD Agreement to operate and maintain the Beckjord-Green Line according to industry standards.

Pursuant to the terms of the CCD Agreement, on or before the first day of each December throughout the term of the CCD Agreement, CG&E and DP&L shall submit to the other parties a schedule of the estimated operation and maintenance expenses, including applicable overheads, of the Beckjord-Greene Line (including a summary of the nature of the work to be done, *i.e.*, additions, retirements and replacements, that each party shall incur each calendar year thereafter). (CCD Agreement, p. 9.) The terms of the CCD Agreement provide that, upon approval of each such schedule by the other parties, which approval shall not be unreasonably withheld, each party shall operate and maintain its assigned portion of the Beckjord-Greene Line substantially in accordance with the approved schedule. (CCD Agreement, p. 10.) In the event of emergencies or of the inability to obtain such approval, DP&L and CG&E are each authorized, without further approval of the other parties, including CSP/AEP, to take such action as is reasonably necessary under the circumstances with respect to its assigned portion of the Beckjord-Green Line. (CCD Agreement, p. 10.) Cinergy has concerns surrounding the constricted energy flows in the Midwestern region these past several summers and encourages DP&L to proceed with the Foster-Bath 345 kV Transmission Line Project as a solution for addressing overload of the CCD transmission system.

Also pursuant to the CCD Agreement, DP&L, CG&E and CSP/AEP acknowledged that with changing concepts and circumstances, it may be necessary or desirable to make improvements in the design or arrangement of the Beckjord-Greene Line. (CCD Agreement, p. 11.) In addition, the parties also acknowledged that the

benefits from such changes or improvements may result in significantly different cost responsibilities and ownership interests. (CCD Agreement, p. 12.) To that end, the CCD Agreement contains an arbitration provision, which states that, in the event the parties cannot effectively reach an agreement within a reasonable amount of time, they will submit their differences to an arbitrator. (CCD Agreement, p. 12.) It is Cinergy's position that, pursuant to the CCD Agreement, the proper forum for addressing contractual disputes between DP&L, CG&E and CSP/AEP concerning the Beckjord-Green Line is not with the Ohio Power Siting Board, but instead, with an arbitrator.

In its objection, CSP/AEP has proposed an alternative proposal to DP&L's proposed Foster-Bath project (*i.e.*, installing series reactors on the Foster-Sugarcreek 345 kV circuit). CG&E and DP&L have evaluated CSP/AEP's proposed alternative and agree that it does not ensure compliance with the reliability standards of the North American Electric Reliability Council ("NERC"), East Central Area Reliability Coordination Agreement ("ECAR") or meet the reliability criteria set out in the CCD Agreement (*i.e.*, 345 kV facilities would exceed their emergency ratings during double contingency conditions). As outlined in DP&L's March 13, 2000 correspondence to the Ohio Power Siting Board, DP&L also specifically stated that CSP/AEP's proposed alternative would not create any additional CCD transmission capacity but would, instead, push the power from the Foster-Sugarcreek 345 kV circuit to other already heavily loaded CCD 345 kV circuits and will not provide a long-term solution for ensuring compliance with single contingency criteria. Accordingly, Cinergy does not consider CSP/AEP's proposal to be a viable alternative.

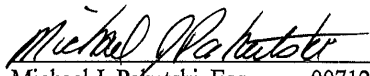
As DP&L contends, Cinergy agrees that the additional transmission capacity provided by the proposed Foster-Bath 345 kV Transmission Line Project is essential to the success of the State of Ohio's deregulation efforts and provides a much needed expansion of the CCD bulk transmission network to accommodate the free flow of power transactions in Ohio and the region as a whole on behalf of all entities, including CSP/AEP. The CCD Foster-Sugarcreek 345 kV circuit is an essential element of the existing CCD transmission system and provides a network solution for the potential overload of the CCD transmission system.

With the addition of new generation in the area, the Foster-Bath 345 kV Transmission Line Project provides a solution for the additional stress on the CCD transmission system. It is Cinergy's belief that there needs to be a remedy in place for potential regional transmission constraints. As documented in DP&L's LON, DP&L is concerned with recurring Transmission Loading Relief Requests ("TLRs") for the Foster-Sugarcreek 345 kV circuit, and Cinergy agrees with DP&L that there is an immediate need to have the Foster-Bath 345 kV Transmission Line Project in service as soon as possible.

WHEREFORE, for the reasons stated above, Cinergy's concern lies with the remedies that may ensue from this proceeding. By submitting its Memorandum in Support of the proposed Foster-Bath 345 kV Transmission Line Project, Cinergy seeks to ensure that all pertinent evidence is presented to the Commission before a remedy is fashioned so as to further ensure that such remedy does not disrupt the market in terms of Cinergy's contractual performance obligations with other market participants and,

further, that all provisions of the CCD Agreement are enforced and represent the obligations of the parties.

Respectfully submitted,



Michael J. Panutski, Esq. 0071248  
Attorney for Cinergy Services, Inc.,  
as Agent for and on behalf of  
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Telephone (513) 287-3075  
Facsimile (513) 287-3810

**CERTIFICATE OF SERVICE**

I hereby certify that on this 27<sup>th</sup> day of March, 2000, a copy of the foregoing was served via overnight delivery, postage prepaid upon:

Kim Wissman,  
Siting Officer  
Ohio Power Siting Board  
180 East Broad Street, 3<sup>rd</sup> Floor  
Columbus, Ohio, 43215-3793

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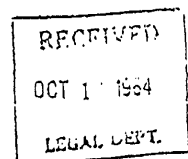
  
Michael J. Pakutski



BASIC TRANSMISSION AGREEMENT  
BETWEEN  
THE CINCINNATI GAS & ELECTRIC COMPANY  
THE DAYTON POWER AND LIGHT COMPANY  
AND  
COLUMBUS AND SOUTHERN OHIO ELECTRIC COMPANY

RE  
BECKJORD-GREENE LINE

DATED AS OF OCTOBER 1, 1964



ART. THREE  
ART. FOUR

16. During the period of construction of the Beckjord-Greene Line and until the date of its operation, taxes applicable thereto shall be borne by the parties in the ratio of the undivided ownership interests set forth in section 2 of this ARTICLE THREE, regardless of the name or names in which the tax bills are rendered.

ARTICLE FOUR

Operation and Maintenance

1. The Beckjord-Greene Line shall be operated and maintained in a manner consistent with good utility practice throughout the term of this Agreement. Each party shall be responsible for its share of the costs relative to Part I and Part II of such Line in proportion to its undivided interest in such Parts as set forth in section 2 of ARTICLE THREE. To carry out the obligation to operate and maintain the Beckjord-Greene Line, (a) Dayton will, on behalf of itself and as agent for Cincinnati and Columbus as to the respective interest of each, operate and maintain that portion thereof located north of the Foster Substation site and (b) Cincinnati will, on behalf of itself and as agent for Columbus and Dayton as to the respective interests of each, operate and maintain the remaining portion thereof. Within thirty days after the date of operation of Part I of the Beckjord-Greene Line and on or before the first day of each December thereafter throughout the term of this Agreement, Cincinnati and Dayton will each submit to the other parties a schedule of the estimated operation and maintenance expense, including applicable overheads, of the Beckjord-Greene Line, including a summary of the nature of the work to be done (which may include additions, retirements and replacements), which each respectively proposes to incur during the remainder of the calendar year in which the operation of Part I is commenced and during each calendar year thereafter. Upon approval of each such schedule by the

ART. FOUR

other parties, which approval shall not be unreasonably withheld, each party will, in accordance with the aforesaid agency arrangement, operate and maintain its assigned portion of the Beckjord-Greene Line substantially in accordance with the approved schedule. In the event of emergencies or of inability to obtain such approval, Dayton and Cincinnati are each authorized, without further approval of the other parties, to take such action as is reasonably necessary under the circumstances with respect to its assigned portion. Within twenty days after the end of each month, Dayton and Cincinnati will each bill the other parties for their respective share of such operation and maintenance expenses, including applicable overheads, incurred in such month and within ten days thereafter the other parties shall reimburse Dayton and Cincinnati respectively therefor. Each such billing shall also include any amount paid, or to be paid, by the billing party as excise, or similar, taxes with respect to any other items in the bill. The parties may agree to purchase or contract for additions or replacements, or any portions thereof, under the procedure as to construction provided for in ARTICLE THREE.

2. Dayton and Cincinnati respectively will keep the other parties adequately informed of any adverse operating conditions on the portion of the Beckjord-Greene Line which it is to operate and maintain as provided for in section 1. above, and each of them shall keep their respective portions of the Line in continuous service, and, except for emergencies, will not remove their respective portions of the Line from such service without the prior consent of the other parties.

3. In order that the Beckjord-Greene Line may continue to be devoted to its intended transmission purpose, no taps, except for the Foster Substation, shall be made to it other than such as are agreed to by the parties.

ART. FIVE

ARTICLE FIVE

General

1. This Agreement shall be for a term of 50 years extending from October 1, 1964, and thereafter for successive periods of 5 years, unless notice of cancellation by any party is served on the others at least 2 years prior to the original termination date or to the end of any then current extension period. Upon satisfactory completion of appropriate tests, Dayton and Cincinnati, respectively, shall give written notice to the other parties of the dates of operation of Part I and Part II of the Beckjord-Greene Line.

2. Each of the parties shall observe the following accounting principles relative to the Beckjord-Greene Line:

- (a) Except as to the treatment of liberalized tax depreciation, investment tax credit and such other issues, as may arise from time to time in the future, each party shall follow the provisions of the Uniform System of Accounts prescribed by the Federal Power Commission for Public Utilities and Licensees, as such provisions may be in effect from time to time; provided that any party may, in its use of the same, substitute its own, or appropriate Public Utilities Commission of Ohio, account numbers for the F.P.C. account numbers.
- (b) Each party shall employ uniform procedures as to the capitalization of interest during construction, including the use of a rate of 6% per annum.
- (c) All overheads shall be capitalized on the basis of Dayton's and Cincinnati's experienced costs, as applicable.
- (d) Each party shall use its best efforts to agree upon and employ from time to time uniform rates for determining the annual provision for depreciation.

3. The parties appreciate that changing concepts and circumstances may indicate the desirability of changes or improvements in the design or arrangement of the Beckjord-Greene Line, as the same will exist upon

ART. FIVE

completion pursuant to the provisions of this Agreement, and, further, that the benefits from such changes or improvements may be such as to indicate materially different cost responsibilities and ownership interests than will result from performance of this Agreement. Desiring to accommodate one another in the pursuit of their respective purposes of efficiently transmitting power, the parties agree (a) to use their best efforts to arrive at agreements regarding these matters which will be fair to each party and (b), in the event that such agreements are not arrived at within a reasonable time, to submit their differences to arbitration.

4. All notices under this Agreement shall be in writing, and shall be sufficient in all respects if delivered in person to the President or Vice-President of any party, or sent by registered mail or certified mail addressed to it, in care of its President, at its head office.

5. Any controversy, claim, counterclaim, dispute, difference or misunderstanding arising out of, or relating to this Agreement or the breach thereof, or the instruments executed and delivered pursuant to the provisions of section 1 of ARTICLE TWO, shall be submitted to arbitration upon the request of any party or parties hereto in the manner hereinafter provided.

The party or parties submitting such request shall serve notice in writing upon the other parties or party setting forth in detail the subject or subjects to be arbitrated, and the parties thereupon shall endeavor to agree upon and appoint one person to act as sole arbitrator. If the parties fail to agree upon such an arbitrator within fifteen days from the receipt of such notice, any one or more of the parties may apply within five days thereafter to the Chief Judge of the United States Court of Appeals for the Sixth Circuit for the appointment of the sole arbitrator. In the event that the Chief Judge does not within 30 days make such appointment, any one or more of the parties may request the American Arbitration Association to appoint the sole arbitrator pursuant to its rules then obtaining.

The arbitration shall be conducted in accordance with the rules of the American Arbitration Association then in effect. The findings and