**Before**

**The Public Utilities Commission of Ohio**

|  |  |  |
| --- | --- | --- |
| In the Matter of the Application of  The Dayton Power and Light Company for Approval of Its Market Rate Offer.  In the Matter of the Application of  The Dayton Power and Light Company for Approval of Revised Tariffs.  In the Matter of the Application of  The Dayton Power and Light Company for Approval of Certain Accounting Authority.  In the Matter of the Application of  The Dayton Power and Light Company for the Waiver of Certain Commission Rules.  In the Matter of the Application of  The Dayton Power and Light Company  to Establish Tariff Riders. | :  :  :  :  :  :  :  :  :  :  :  :  :  :  :  :  :  :  : | Case No. 12-426-EL-SSO    Case No. 12-427-EL-ATA  Case No. 12-428-EL-AAM  Case No. 12-429-EL-WVR  Case No. 12-672-EL-RDR |

JOINT MOTION[[1]](#footnote-1) TO VACATE PROCEDURAL SCHEDULE OR IN THE

ALTERNATIVE TO MODIFY PROCEDURAL SCHEDULE,

SCHEDULE A PREHEARING CONFERENCE,

request for expedited treatment, and

MEMORANDUM IN SUPPORT

Samuel C. Randazzo

Frank P. Darr

Joseph E. Oliker

Matthew R. Pritchard

McNees Wallace & Nurick LLC

21 East State Street, 17th Floor

Columbus, OH 43215

sam@mwncmh.com

fdarr@mwncmh.com

joliker@mwncmh.com

mpritchard@mwncmh.com

**Attorneys for Industrial Energy Users-Ohio**

Steven M. Sherman

Joshua D. Hague

Grant E. Chapman

Krieg DeVault, LLP

One Indiana Square, Suite 2800

Indianapolis, IN 46204-2079

ssherman@kdlegal.com

jhague@kdlegal.com

gchapman@kdlegal.com

**Attorneys for Wal-Mart Stores East, LP and Sam’s East, Inc.**

Melissa R. Yost

Maureen R. Grady

Edmund “Tad” Berger[[2]](#footnote-2)

Office of the Ohio Consumers’ Counsel

10 West Broad St., Ste. 1800

Columbus, OH 43215-3485

yost@occ.state.oh.us

grady@occ.state.oh.us

berger@occ.state.oh.us

**Attorneys for the Office of the**

**Ohio Consumers’ Counsel**Ellis Jacobs

Advocates for Basic Legal Equality, Inc.

333 West First Street, Suite 500B

Dayton, OH 45402

ejacobs@ablelaw.org

**Attorney for Edgemont Neighborhood Coalition**

M. Anthony Long

Honda of America Mfg., Inc.

24000 Honda Parkway

Marysville, OH 43040

tony\_long@ham.honda.com

**Attorney for Honda of America**

**Manufacturing, Inc.**

Colleen L. Mooney

David Rinebolt

Ohio Partners for Affordable Energy

231 West Lima Street

P.O. Box 1793

Findlay, OH 45839-1793

cmooney2.@columbus.rr.com

drinebolt@ohiopartners.org

**Attorneys for Ohio Partners for Affordable Energy**

Christopher C. Thompson

USAF Utility Law Field Support Center

139 Barnes Drive, Suite 1

Tyndall AFB, FL 32403-5319

Chris.thompson.2@tyndall.af.mil

**Attorney for the Federal Executive Agencies**

David F. Boehm

Michael L. Kurtz

Boehm, Kurtz & Lowry

36 East 7th Street, Ste. 1510

Cincinnati, OH 45202

dboehm@BKLlawfirm.com

mkurtz@BKLlawfirm.com

**Attorneys for Ohio Energy Group**

Mark S. Yurick

Zachary D. Kravitz

Taft Stettinius & Hollister

65 East State Street, Suite 1000

Columbus, OH 43215

myurick@taftlaw.com

zkravitz@taftlaw.com

**Attorneys for The Kroger Company**

Thomas J. O’Brien

Bricker & Eckler LLP

100 South Third Street

Columbus, OH 43215-4291

Richard L. Sites

Ohio Hospital Association

155 East Broad Street, 15th Floor

Columbus, OH 43215-3620

ricks@ohanet.org

**Attorneys for Ohio Hospital Association**

Mark A. Whitt

Andrew J. Campbell

Whitt Sturtevant LLP

The KeyBank Building

88 East Broad Street, Suite 1590

Columbus, OH 43215

whitt@whitt-sturtevant.com

campbell@whitt-sturtevant.com

Matthew White

Vince Parisi

Greg Williams

Interstate Gas Supply

6100 Emerald Parkway

Dublin, OH 43016

vparisi@igsenergy.com

mswhite@igsenergy.com

gwilliams@igsenergy.com

**Attorneys for Interstate Gas Supply, Inc.**

Christopher L. Miller

Gregory H. Dunn

Ice Miller LLP

250 West Street

Columbus, OH 43215

christopher.miller@icemiller.com

gregory.dunn@icemmiller.com

**Attorneys for the City of Dayton, Ohio**

M. Howard Petricoff

Stephen M. Howard

Vorys, Sater, Seymour and Pease LLP

52 East Gay Street

Columbus, OH 43216

mhpetricoff@vorys.com

smhoward@vorys.com

**Attorneys for the Exelon Generation Company, LLC Energy Company, Inc.; Constellation Energy Commodities Group, Inc.; and Constellation NewEnergy, Inc.**

M. Howard Petricoff

Stephen M. Howard

Vorys, Sater, Seymour and Pease LLP

52 East Gay Street

Columbus, OH 43216

mhpetricoff@vorys.com

smhoward@vorys.com

**Attorneys for the Retail Energy Supply Association**

Trent A. Dougherty

Cathryn N. Loucas

Ohio Environmental Council

1207 Grandview Ave., Suite 201

Columbus, OH 43212

trent@theoec.org

cathy@theoec.org

**Attorneys for the Ohio Environmental Council**

Matthew W. Warnock

J. Thomas Siwo

Bricker & Eckler

100 South Third Street

Columbus, OH 43215

mwarnock@bricker.com

tsiwo@bricker.com

**Attorneys for The Ohio Manufacturers Association Energy Group**

Kimberly W. Bojko

Joel E. Sechler

Carpenter Lipps & Leland LLP

280 Plaza, Suite 1300

280 North High Street

Columbus, OH 43215

bojko@carpenterlipps.com

sechler@carpenterlipps.com

**Attorneys for SolarVision, LLC**

**Before**

**The Public Utilities Commission of Ohio**

|  |  |  |
| --- | --- | --- |
| In the Matter of the Application of  The Dayton Power and Light Company for Approval of Its Market Rate Offer.  In the Matter of the Application of  The Dayton Power and Light Company for Approval of Revised Tariffs.  In the Matter of the Application of  The Dayton Power and Light Company for Approval of Certain Accounting Authority.  In the Matter of the Application of  The Dayton Power and Light Company for the Waiver of Certain Commission Rules.  In the Matter of the Application of  The Dayton Power and Light Company  to Establish Tariff Riders. | :  :  :  :  :  :  :  :  :  :  :  :  :  :  :  :  :  :  : | Case No. 12-426-EL-SSO  Case No. 12-427-EL-ATA  Case No. 12-428-EL-AAM  Case No. 12-429-EL-WVR  Case No. 12-672-EL-RDR |

JOINT MOTION TO VACATE PROCEDURAL SCHEDULE OR IN THE ALTERNATIVE TO MODIFY PROCEDURAL SCHEDULE,

SCHEDULE A PREHEARING CONFERENCE, and

request for expedited treatment

Joint Movants hereby move the Public Utilities Commission of Ohio (“Commission” or “PUCO”) for an order vacating the deadline for testimony and the hearing date established by the Attorney Examiner’s November 14, 2012 Entry. Due to the unilateral actions of The Dayton Power and Light Company (“DP&L”), the procedural schedule is not just and reasonable; thus, the Commission should issue an order granting the relief requested in this Joint Motion.

The following dates are relevant to this Motion:

● March 30, 2012: DP&L files Application for a market rate offer (“MRO”) (“First Application”);

● September 7, 2012: DP&L withdraws First Application;

● October 5, 2012: DP&L files Application for an electric security plan (“ESP”) (“Second Application”);

● November 14, 2012: Attorney Examiner issues an Entry setting the Second Application for hearing on February 11, 2013; Intervenor testimony due January 28, 2013;

● November 29, 2012: DP&L cancels settlement meeting and ceases to respond to discovery;

● December 5, 2012: DP&L notifies Intervenors that it has identified a mathematical error in the Second Application. DP&L claims that it must refile its testimony and cannot respond to discovery until after it refiles its testimony;

● December 12, 2012: DP&L files an Amended Application for an ESP (“Third Application” or "Amended Application");

● December 18, 2012: IEU-Ohio files Motion to Compel Discovery Responses to obtain complete responses to requests initially served on October 23, 2012;

● December 20, 2012: DP&L holds informational session to explain errors requiring Third Application; and

● January 3, 2013: IEU-Ohio files Second Motion to Compel Discovery Responses.

As an initial matter, the Attorney Examiner should clarify that the procedural schedule established by the November 14, 2012 Entry has no legal effect because it pertained to the Second Application, which is no longer the subject of this proceeding. Regardless, the procedural schedule has been rendered unjust and unreasonable by DP&L’s unilateral decisions: DP&L has frustrated the ability of Joint Movants to prepare to litigate this proceeding by filing an Amended Application and by refusing to participate in meaningful and timely discovery with various parties.[[3]](#footnote-3)

Therefore, the Joint Movants request that the Commission vacate[[4]](#footnote-4) the current procedural schedule and set a prehearing conference through which the parties may convene in the presence of the Attorney Examiners to discuss the status of discovery and to establish just and reasonable dates for testimony and hearing. If the Commission deems that vacating the procedural schedule is not possible, Joint Movants request that the Commission extend the deadline for testimony and continue the hearing and local public hearing dates as follows:

● On or about April 16, 2013: Local Public Hearings;

● April 23, 2013: Intervenor testimony due;

● April 30, 2013: Staff testimony due;

● May 7, 2013: Hearing commences[[5]](#footnote-5).

For reasons stated more fully in the Memorandum in Support, the Joint Motion should be granted. Because the deadline for testimony is quickly approaching, Joint Movants request expedited treatment.[[6]](#footnote-6)

Respectfully submitted:

/s/ Joseph E. Oliker

Samuel C. Randazzo

Frank P. Darr

Joseph E. Oliker

Matthew R. Pritchard

McNees Wallace & Nurick LLC

21 East State Street, 17th Floor

Columbus, OH 43215

**Attorneys for Industrial Energy Users-Ohio**

/s/ Steven M. Sherman

Steven M. Sherman

Joshua D. Hague

Grant E. Chapman

Krieg DeVault, LLP

One Indiana Square, Suite 2800

Indianapolis, IN 46204-2079

**Attorneys for Wal-Mart Stores East, LP and Sam’s East, Inc.**

/s/ Melissa R. Yost

Melissa R. Yost

Maureen R. Grady

Edmund “Tad” Berger

Office of the Ohio Consumers’ Counsel

10 West Broad St., Ste. 1800

Columbus, OH 43215-3485

**Attorneys for the Office of the**

**Ohio Consumers’ Counsel**

/s/ Ellis Jacobs

Ellis Jacobs

Advocates for Basic Legal Equality, Inc.

333 West First Street, Suite 500B

Dayton, OH 45402

**Attorney for Edgemont Neighborhood Coalition**

/s/ M. Anthony Long

M. Anthony Long

Honda of America Mfg., Inc.

24000 Honda Parkway

Marysville, OH 43040

**Attorney for Honda of America**

**Manufacturing, Inc.**

/s/ Colleen L. Mooney

Colleen L. Mooney

David Rinebolt

Ohio Partners for Affordable Energy

231 West Lima Street

P.O. Box 1793

Findlay, OH 45839-1793

**Attorneys for Ohio Partners for Affordable Energy**

/s/ Christopher C. Thompson

Christopher C. Thompson

USAF Utility Law Field Support Center

139 Barnes Drive, Suite 1

Tyndall AFB, FL 32403-5319

**Attorney for the Federal Executive Agencies**

/s/ David F. Boehm

David F. Boehm

Michael L. Kurtz

Boehm, Kurtz & Lowry

36 East 7th Street, Ste. 1510

Cincinnati, OH 45202

**Attorneys for Ohio Energy Group**

/s/Mark S. Yurick

Mark S. Yurick

Taft Stettinius & Hollister

65 East State Street, Suite 1000

Columbus, OH 43215

**Attorney for The Kroger Company**

/s/ Thomas J. O'Brien

Thomas J. O’Brien

Bricker & Eckler LLP

100 South Third Street

Columbus, OH 43215-4291

Richard L. Sites

Ohio Hospital Association

155 East Broad Street, 15th Floor

Columbus, OH 43215-3620

**Attorneys for Ohio Hospital Assoc.**

/s/ Mark A. Whitt

Mark A. Whitt

Andrew J. Campbell

Whitt Sturtevant LLP

The KeyBank Building

88 East Broad Street, Suite 1590

Columbus, OH 43215

Matthew White

Vince Parisi

Interstate Gas Supply

6100 Emerald Parkway

Dublin, OH 43016

**Attorneys for Interstate Gas Supply, Inc.**

/s/ Christopher L. Miller

Christopher L. Miller

Gregory H. Dunn

Ice Miller LLP

250 West Street

Columbus, OH 43215

**Attorneys for the City of Dayton, Ohio**

/s/ M. Howard Petricoff

M. Howard Petricoff

Stephen M. Howard

Vorys, Sater, Seymour and Pease LLP

52 East Gay Street

Columbus, OH 43216

**Attorneys for Exelon Generation Company, LLC Energy Company, Inc.; Constellation Energy Commodities Group, Inc.; and Constellation NewEnergy, Inc.**

/s/ M. Howard Petricoff

M. Howard Petricoff

Stephen M. Howard

Vorys, Sater, Seymour and Pease LLP

52 East Gay Street

Columbus, OH 43216

**Attorneys for the Retail Energy Supply Association**

/s/ Trent A. Dougherty

Trent A. Dougherty

Ohio Environmental Council

1207 Grandview Ave., Suite 201

Columbus, OH 43212

**Attorney for the Ohio Environmental Council**

/s/ J. Thomas Siwo

J. Thomas Siwo

Bricker & Eckler

100 South Third Street

Columbus, OH 43215

**Attorney for The Ohio Manufacturers Association Energy Group**

/s/ Kimberly W. Bojko

Kimberly W. Bojko

Carpenter Lipps & Leland LLP

280 North High Street

Columbus, OH 43215

**Attorney for SolarVision, LLC**

**Before**

**The Public Utilities Commission of Ohio**

|  |  |  |
| --- | --- | --- |
| In the Matter of the Application of  The Dayton Power and Light Company for Approval of Its Market Rate Offer.  In the Matter of the Application of  The Dayton Power and Light Company for Approval of Revised Tariffs.  In the Matter of the Application of  The Dayton Power and Light Company for Approval of Certain Accounting Authority.  In the Matter of the Application of  The Dayton Power and Light Company for the Waiver of Certain Commission Rules.  In the Matter of the Application of  The Dayton Power and Light Company  to Establish Tariff Riders. | :  :  :  :  :  :  :  :  :  :  :  :  :  :  :  :  :  :  : | Case No. 12-426-EL-SSO  Case No. 12-427-EL-ATA  Case No. 12-428-EL-AAM  Case No. 12-429-EL-WVR  Case No. 12-672-EL-RDR |

MEMORANDUM IN SUPPORT

On November 14, 2012, the Attorney Examiner issued an Entry establishing the deadline for testimony and the hearing date[[7]](#footnote-7) for DP&L’s ESP Application (the Second Application). DP&L’s unilateral actions have since rendered the procedural schedule unjust and unreasonable and unfair to Intervenors. More specifically, DP&L’s decision to file an Amended Application, as well as DP&L’s failure to participate in meaningful discovery has frustrated the ability of Intervenors and Staff to prepare for the hearing and to file testimony. In addition to frustrating Intervenors ability to prepare to litigate this proceeding, DP&L’s actions have rendered it impossible for Intervenors to consider settlement discussions under the current schedule.

As an initial matter, the Commission may determine that this Joint Motion is unnecessary because the November 14, 2012 Entry established a deadline for testimony and a hearing date related to the October 5, 2012 ESP Application, and not the Amended Application filed on December 12, 2012. That October 5, 2012 Application, however, has been superseded by the Amended Application and it is the Amended Application that the Company now seeks approval of.[[8]](#footnote-8) So the Commission may appropriately find that the November 14, 2012 Entry no longer has any legal effect. Accordingly, the Attorney Examiner should issue a new or amended procedural schedule related to the Amended Application filed on December 12, 2012.

In the event that the Amended Application did not void the procedural schedule per se, DP&L’s unilateral actions have rendered the procedural schedule unworkable. DP&L’s Amended ESP Application contained significant changes, asked for nearly an additional $100 million, changed the identity of key witnesses, and, while DP&L was in the process of drafting the Amended Application, DP&L refused to participate in settlement discussions and discovery.

Not that DP&L needed much of an excuse to avoid the discovery process. From the start, DP&L has slow-walked the discovery process. Although the Attorney Examiner issued an Entry requiring discovery responses to be answered in 10 days, DP&L has missed deadline after deadline, and, when DP&L has responded, its responses have been inadequate. Additionally, when DP&L has not flatly missed deadlines, it has requested (and received) extensions. Rather than using the extra time to craft meaningful answers to discovery requests, DP&L has provided meritless objections. Typically, DP&L provides partially meaningful responses only after a deficiency letter is served with a deadline upon which a motion to compel will be filed. Moreover, it appears that DP&L has not been serving its responses to discovery upon all parties, as is required by Rule 4901-1-19, Ohio Administrative Code (“OAC”).[[9]](#footnote-9) Still, as is evident by IEU-Ohio’s Motion to Compel (related to discovery initially served on October 23, 2012)and Second Motion to Compel (related to discovery requests initially served on November 28, 2012), even DP&L’s supplemental responses are not completely forthcoming.

Joint Movants’ requested prehearing is allowed by the PUCO’s rules. Rule 4901-1-26(A)(1), OAC, allows the PUCO to hold a prehearing to resolve discovery matters. Rule 4901-1-26(A)(1)(a), OAC, allows the PUCO to hold a prehearing to rule on motions to compel and protective orders. Rule 4901-1-26(A)(7), OAC, allows the PUCO to hold a prehearing to rule on other procedural matters. The PUCO may consider that the prehearing will be a forum for oral motions to compel (that otherwise would be written) under Rule 4901-1-23, OAC.

Furthermore, there is precedent for resolving discovery disputes through the hearing of oral arguments. For example, a group of parties sought oral argument in a case where a utility had failed to respond to certain discovery requests.[[10]](#footnote-10) The PUCO granted the motion, scheduling a conference for the PUCO to hear and resolve the discovery issues.[[11]](#footnote-11)

Given the unjust and unreasonable date for the hearing, the Commission should choose from two courses of action: (1) vacate the deadline for testimony and the hearing date and hold a prehearing conference on January 31, 2013 to determine whether DP&L has completely participated in discovery; or (2) require testimony to be filed on April 23, 2013 (Staff on April 30, 2013) and set the matter for hearing on May 7, 2013, subject to the Commission’s calendar.[[12]](#footnote-12) Although Joint Movants support both options, the Commission should elect the first option because it is more likely to curb DP&L’s abusive discovery practices, and afford an opportunity for the parties to explore settlement with regard to the latest Amended Application.

For the reasons stated herein, Joint Movants request that the Commission grant the relief requested in the Joint Motion.

Respectfully submitted,

/s/ Joseph E. Oliker

Samuel C. Randazzo

Frank P. Darr

Joseph E. Oliker

Matthew R. Pritchard

McNees Wallace & Nurick LLC

21 East State Street, 17th Floor

Columbus, OH 43215

**Attorneys for Industrial Energy Users-Ohio**

/s/ Steven M. Sherman

Steven M. Sherman

Joshua D. Hague

Grant E. Chapman

Krieg DeVault, LLP

One Indiana Square, Suite 2800

Indianapolis, IN 46204-2079

**Attorneys for Wal-Mart Stores East, LP and Sam’s East, Inc.**

/s/ Melissa R. Yost

Melissa R. Yost

Maureen R. Grady

Edmund “Tad” Berger

Office of the Ohio Consumers’ Counsel

10 West Broad St., Ste. 1800

Columbus, OH 43215-3485

**Attorneys for the Office of the**

**Ohio Consumers’ Counsel**

/s/ Ellis Jacobs

Ellis Jacobs

Advocates for Basic Legal Equality, Inc.

333 West First Street, Suite 500B

Dayton, OH 45402

**Attorney for Edgemont Neighborhood Coalition**

/s/ M. Anthony Long

M. Anthony Long

Honda of America Mfg., Inc.

24000 Honda Parkway

Marysville, OH 43040

**Attorney for Honda of America**

**Manufacturing, Inc.**

/s/ Colleen L. Mooney

Colleen L. Mooney

David Rinebolt

Ohio Partners for Affordable Energy

231 West Lima Street

P.O. Box 1793

Findlay, OH 45839-1793

**Attorneys for Ohio Partners for Affordable Energy**

/s/ Christopher C. Thompson

Christopher C. Thompson

USAF Utility Law Field Support Center

139 Barnes Drive, Suite 1

Tyndall AFB, FL 32403-5319

**Attorney for the Federal Executive Agencies**

/s/ David F. Boehm

David F. Boehm

Michael L. Kurtz

Boehm, Kurtz & Lowry

36 East 7th Street, Ste. 1510

Cincinnati, OH 45202

**Attorneys for Ohio Energy Group**

/s/Mark S. Yurick

Mark S. Yurick

Taft Stettinius & Hollister

65 East State Street, Suite 1000

Columbus, OH 43215

**Attorney for The Kroger Company**

/s/ Thomas J. O'Brien

Thomas J. O’Brien

Bricker & Eckler LLP

100 South Third Street

Columbus, OH 43215-4291

Richard L. Sites

Ohio Hospital Association

155 East Broad Street, 15th Floor

Columbus, OH 43215-3620

**Attorneys for Ohio Hospital Assoc.**

/s/ Mark A. Whitt

Mark A. Whitt

Andrew J. Campbell

Whitt Sturtevant LLP

The KeyBank Building

88 East Broad Street, Suite 1590

Columbus, OH 43215

Matthew White

Vince Parisi

Interstate Gas Supply

6100 Emerald Parkway

Dublin, OH 43016

**Attorneys for Interstate Gas Supply, Inc.**

/s/ Christopher L. Miller

Christopher L. Miller

Gregory H. Dunn

Ice Miller LLP

250 West Street

Columbus, OH 43215

**Attorneys for the City of Dayton, Ohio**

/s/ M. Howard Petricoff

M. Howard Petricoff

Stephen M. Howard

Vorys, Sater, Seymour and Pease LLP

52 East Gay Street

Columbus, OH 43216

**Attorneys for Exelon Generation Company, LLC Energy Company, Inc.; Constellation Energy Commodities Group, Inc.; and Constellation NewEnergy, Inc.**

/s/ M. Howard Petricoff

M. Howard Petricoff

Stephen M. Howard

Vorys, Sater, Seymour and Pease LLP

52 East Gay Street

Columbus, OH 43216

**Attorneys for the Retail Energy Supply Association**

/s/ Trent A. Dougherty

Trent A. Dougherty

Ohio Environmental Council

1207 Grandview Ave., Suite 201

Columbus, OH 43212

**Attorney for the Ohio Environmental Council**

/s/ J. Thomas Siwo

J. Thomas Siwo

Bricker & Eckler

100 South Third Street

Columbus, OH 43215

**Attorney for The Ohio Manufacturers Association Energy Group**

/s/ Kimberly W. Bojko

Kimberly W. Bojko

Carpenter Lipps & Leland LLP

280 North High Street

Columbus, OH 43215

**Attorney for SolarVision, LLC**

**Certificate of Service**

I hereby certify that a copy of the foregoing *Joint Motion to Vacate Procedural Schedule or in the Alternative to Modify Procedural Schedule, Schedule a Prehearing Conference, Request for Expedited Treatment, and Memorandum in Support* was served upon the following parties of record this 4th day of January, 2012, *via* electronic transmission.

/s/ Joseph E. Oliker   
Joseph E. Oliker

judi.sobecki@dplinc.com

randall.griffin@dplinc.com

cfaruki@ficlaw.com

jsharkey@ficlaw.com

arthur.meyer@dplinc.com

dboehm@BKLlawfirm.com

mkurtz@BKLlawfirm.com

etter@occ.state.oh.us

serio@occ.state.oh.us

yost@occ.state.oh.us

gerger@occ.state.oh.us

amy.spiller@duke-energy.com

jeanne.kingery@duke-energy.com

philip.sineneng@ThompsonHine.com

bmcmahon@emh-law.com

elizabeth.watts@duke-energy.com

rocco.d’ascenzo@duke-energy.com

ricks@ohanet.org

tobrien@bricker.com

barth.royer@aol.com

gary.a.jeffries@dom.com

drinebolt@ohiopartners.org

cmooney2@columbus.rr.com

whitt@whitt-sturtevant.com

campbell@whitt-sturtevant.com

vparisi@igsenergy.com

mswhite@igsenergy.com

barthroyer@aol.com

nolan@theoec.org

trent@theoec.org

cathy@theoec.org

williams.toddm@gmail.com

ejacobs@ablelaw.org

tobrien@bricker.com

mwarnock@bricker.com

tsiwo@bricker.com

mhpetricoff@vorys.com

smhoward@vorys.com

david.fein@constellation.com

cynthia.a.fonner@constellation.com

Tasha.hamilton@constellation.com

myurick@taftlaw.com

zkravitz@taftlaw.com

mhpetricoff@vorys.com

smhoward@vorys.com

Tony\_Long@ham.honda.com

[Stephen.bennett@exeloncorp.com](mailto:Stephen.bennett@exeloncorp.com)

Cynthia.b.fonner@constellation.com

LGearhardt@ofbf.org

dconway@porterwright.com

aemerson@porterwright.com

haydenm@firstenergycorp.com

coneil@calfee.com

shannon@calfee.com

jlang@calfee.com

lmcbride@calfee.com

talexander@calfee.com

dakutik@jonesday.com

aehaedt@jonesday.com

jejadwin@aep.com

Thomas.Melone@AllcoUS.com

jmclark@directenergy.com

christopher.miller@icemiller.com

gregory.dunn@icemiller.com

alan.starkoff@icemiller.com

ssolberg@EimerStahl.com

stephanie.Chmiel@ThompsonHine.com

michael.Dillard@ThompsonHine.com

philip.sineneng@ThompsonHine.com

mjsatterwhite@aep.com

stnourse@aep.com

bojko@carpenterlipps.com

sechler@carpenterlipps.com

matt@matthewcoxlaw.com

gpoulos@enernoc.com

ssherman@kdlegal.com

jhague@kdlegal.com

william.wright@puc.state.oh.us

thomas.lindgren@puc.state.oh.us

thomas.mcnamee@puc.state.oh.us

steven.beeler@puc.state.oh.us

devin.parram@puc.state.oh.us

gregory.price@puc.state.oh.us

mandy.willey@puc.state.oh.us

bryce.mckenney@puc.state.oh.us

henryeckhart@aol.com

Wis29@yahoo.com

berger@occ.state.oh.us

bill.wells@wpafb.af.mil

chris.thompson.2@tyndall.af.mil

mchristensen@columbuslaw.org

chris.michael@icemiller.com

1. This Motion is supported by Industrial Energy Users-Ohio (“IEU-Ohio”), the Office of the Ohio Consumers’ Counsel ("OCC"), Honda of America Manufacturing, Inc., Wal-Mart Stores East, LP and Sam’s East, Inc., Ohio Partners for Affordable Energy, The Kroger Company, Interstate Gas Supply, Inc., Federal Executive Agencies, Ohio Energy Group, Edgemont Neighborhood Coalition, Ohio Hospital Association, City of Dayton, Retail Energy Supply Association, Attorneys for the Retail Energy Supply Association, Exelon Generation Company, LLC, Energy Company, Inc.; Constellation Energy Commodities Group, Inc.; and Constellation NewEnergy, Inc., Ohio Environmental Council, SolarVision, LLC, and The Ohio Manufacturers' Association Energy Group (collectively, “Joint Movants”). [↑](#footnote-ref-1)
2. Mr. Berger is representing OCC in PUCO Case Nos. 12-426-EL-SSO, *et al.* [↑](#footnote-ref-2)
3. *See*, e.g., Section 4903.082, Revised Code (parties “shall be granted ample rights of discovery.”) [↑](#footnote-ref-3)
4. Joint Movants request that the Commission continue to require discovery responses to be provided within ten days. [↑](#footnote-ref-4)
5. In the event that DP&L continues to refuse to participate in meaningful discovery, Joint Movants reserve the right to request that the Commission further modify the deadline for testimony and the hearing date. [↑](#footnote-ref-5)
6. Joint Movants are not in a position to certify that no party objects to this request. [↑](#footnote-ref-6)
7. A December 6, 2012 Entry scheduled two local public hearings for January 29, 2013. [↑](#footnote-ref-7)
8. *See* Second Revised Application of Dayton Power and Light Company for Approval of an Electric Security Plan at 16 (December 12, 2012). [↑](#footnote-ref-8)
9. Rule 4901-1-19, OAC, states: The party upon whom the interrogatories have been served shall serve a copy of the answers or objections upon the party submitting the interrogatories *and all other parties within twenty days after the service thereof, or within such shorter or longer time as the commission, the legal director, the deputy legal director, or an attorney examiner may allow* (emphasis added). [↑](#footnote-ref-9)
10. *In the matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for authority to continue and modify certain regulatory accounting practices and procedures, for tariff approval and to establish rates and other charges including regulatory transition charges following the Market Development Period,* Case Nos. 03-2144-EL-ATA *et al.*, Entry at para. 9 (November 25, 2003). [↑](#footnote-ref-10)
11. *Id.*  [↑](#footnote-ref-11)
12. Counsel for DP&L has indicated that he cannot litigate this proceeding in March due to a conflicting trial. Many of the Joint Movants, however, have a conflicting trial scheduled for April (Case Nos. 12-2400-EL-UNC, *et al.*). In fairness to all parties, May is the only suitable alternative. [↑](#footnote-ref-12)