

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

**INTERLOCUTORY APPEAL,
REQUEST FOR CERTIFICATION TO FULL COMMISSION,
AND
APPLICATION FOR REVIEW
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of electric residential customers of Dayton Power and Light Company ("DP&L" or "Company"), hereby submits this Interlocutory Appeal¹ to the Public Utilities Commission of Ohio ("PUCO" or "Commission") and respectfully requests the certification of this appeal to

¹ The appeal is filed pursuant to Ohio Admin. Code 4901-1-15(B).

the full Commission for review of the Attorney Examiner's Entry of December 6, 2012 ("Entry"). The Entry scheduled local hearings.²

This appeal seeks to assure that adequate notice of the substance of the Company's Electric Security Plan Application ("application") is given to DP&L's customers who may see an increase in their electric bills. Only then can the public be afforded a reasonable opportunity to provide pertinent testimony and plan to attend local public hearings. The Interlocutory Appeal should be certified³ for an immediate determination by the Commission because it presents a new or novel question of law or policy and the Entry represents a departure from past precedent. Additionally, an immediate determination by the Commission is needed to prevent the likelihood of undue prejudice to DP&L's residential consumers.

Upon review,⁴ the Commission should reverse or modify the Entry establishing the notice of the local public hearings. Specifically, the Commission should require the Company, consistent with Ohio Admin. Code 4901-1-35-04, to submit a proposed notice for newspaper publication that "fully discloses the substance of the application, including projected rate impacts." Disclosing the substance of the application means that any supplements, amendments, or revisions to the application must be noticed along with expected customer bill impacts. Only after adequate notice is provided that fully discloses the "substance of the application, including projected rate impacts," should local hearings be held. This will facilitate the public in deciding whether to attend the hearings where they can testify about the rate increases sought by the Company.

² Entry (Dec. 6, 2012) (Attachment 1).

³ Ohio Admin. Code 4901-1-15(B).

⁴ Ohio Admin. Code 4901-1-15(C).

The reasons for this Interlocutory Appeal, including the Request for Certification and the Application for Review, are explained in the attached Memorandum in Support.

Respectfully Submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Maureen R. Grady

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⁵ Mr. Berger is representing OCC in PUCO Case No. 12-426-EL-SSO.

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MEMORANDUM IN SUPPORT

I. BACKGROUND

On March 30, 2012, DP&L filed an application for a standard service offer (“SSO”) in the form of a market rate offer, under Ohio Rev. Code 4928.142. On September 7, 2012, DPL withdrew its application for a market rate offer. On October 5, 2012, the Company filed an application for an electric security plan (“ESP”) under Ohio Rev. Code 4928.143. On November 9, 2012, the Company submitted a “Supplement to its ESP Application” that included Exhibit 2,⁶ a proposed Notice of Public Hearing that is

⁶ Attachment 2.

intended for newspaper publication. In that notice, there is a brief description of the filing and a reference generally to bill impacts.

But recently, on December 5, 2012, the Company informed parties that it intends to revise its October 5, 2012 application with changes in expert testimony and schedules flowing from errors in cost data that permeate the Company's schedules and workpapers.⁷ The revised application has not yet been filed.⁸ OCC anticipates that the projected rate impacts on customers' bills will change with the to-be-filed revisions.

The PUCO's Entry, adopting the form of notice, did not incorporate even the general description contained in the Company's Exhibit 2. The PUCO's language for the "Public Notice" does not disclose the substance of the application, nor the projected rate impacts.⁹ It merely directs the public to obtain further information by contacting the PUCO, viewing the PUCO's webpage, or contacting the PUCO's call center.¹⁰ This notice does not fulfill the good intent of the Attorney Examiners' Entry—"to provide customers of DP&L a reasonable opportunity to provide public testimony in this proceeding."¹¹ And such notice is insufficient to alert customers to the substance of the application and its projected rate impacts.

The Company's stated intent to revise its application, but hold steadfast to the evidentiary hearing schedule of February 11, 2013, exacerbates the notice problem

⁷ See Attachment 3.

⁸ Despite the widespread corrections that are expected to be made, and have not yet been made, the Company steadfastly seeks to adhere to the February 11, 2013 hearing schedule. Along with the revised testimony and schedules, the Company has indicated it intends to make extensive discovery supplementations. From OCC's perspective, such an approach is unreasonable and will impede the ability of it and other parties to adequately and promptly prepare for the rapidly approaching testimony filing deadlines and evidentiary hearing.

⁹ Entry at ¶5.

¹⁰ Id.

¹¹ Id. at ¶4.

because the application will not be the same as that filed on October 5, 2012. The revised application is expected to have different projected rate impacts.

II. CERTIFICATION OF INTERLOCUTORY APPEAL

The full Commission will review an Attorney Examiner's ruling if the Attorney Examiner (or other PUCO personnel) certifies the appeal. The standard applicable to certifying this appeal is "that the appeal presents a new or novel question of interpretation, law, or policy, or is taken from a ruling which represents a departure from past precedent and an immediate determination by the commission is needed to prevent the likelihood of undue prejudice ... to one or more of the parties, should the commission ultimately reverse the ruling in question."¹² That standard is met in this instance. OCC's appeal should be certified as explained below.

A. New or Novel Question of Law or Policy

First, this matter presents a new or novel question of law or policy. It is the lack of sufficient notice for the local public hearings scheduled in an electric security plan proceeding that presents the new or novel question of policy. Given the newness of the laws and rules governing ESP applications, the issue of sufficiency of notice for an ESP local public hearing is a new question of law and policy. Whether the content of a public hearing notice is sufficient under the ESP statutes and rules has not been addressed by this Commission, to OCC's knowledge.

At the time of the energy policy for Ohio that prompted the current law, an announced principle was transparency in Ohio's regulatory process for establishing rates

¹² Ohio Admin. Code 4901-1-15(B).

that utilities charge and customers pay.¹³ One primary means of ensuring transparency is to hold local public hearings that provide a meaningful opportunity for customers to participate in the regulatory process. In addition, the Ohio General Assembly adopted new elements of the Ohio policy in R.C. 4928.02 applicable to this case.

The Ohio General Assembly took steps to preserve an individual's right to be heard when it drafted the various provisions of the Revised Code. For instance, when utilities seek to increase the rates that customers in Ohio pay for their electric service, the General Assembly deemed it necessary and appropriate to ensure that customers and the municipalities affected by the rate increase are accorded notice of the substance of the rate application.¹⁴ Specifically under R.C. 4928.141(B), the Commission is required to set a time for hearing with written notice of the hearing published in a newspaper of general circulation in each county of the utility's certified territory. And under 4901:1-35-04(B) of the Ohio Administrative Code a utility must submit with its SSO application a proposed notice for newspaper publication that "fully discloses the substance of the application, including projected rate impacts." This particular section of the law and the rules have not been interpreted by the Commission. Thus this appeal presents a new or novel question of law or policy.

The Entry addressed one element of the statutory requirement that DP&L publish notice of the hearing. The Entry directed that the notice should read as follows:

The Public Utilities Commission of Ohio has scheduled local public hearings in Case No. 12-426-EL-SSO, *In the Matter of the Application of the Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan*. In this proceeding the Commission will consider the company's

¹³Energy, Jobs, and Progress Proposal, (2007), <http://www.governor.ohio.gov/News/>

¹⁴ See R.C. 4909.18(E), R.C. 4909.19 and R.C. 4909.43(B).

application, filed on October 5, 2012, requesting approval of an electric security plan for the supply of Standard Service Offer electric generation service. The hearings will be open to the public.

The first local public hearing will commence on Tues., January 29, 2013, at 1:00 p.m., at the Dayton Municipal Building, Council Chambers, 101 W. Third Street, Third & Ludlow, Second Floor, Dayton, Ohio 45401,

The second local public hearing will commence on Tuesday, January 29, 2013, at 6:00 p.m., at the Dayton Municipal building, Council Chambers, 101 W. Third Street, Third & Ludlow, Second Floor, Dayton, Ohio 45401.

Further information may be obtained by contacting the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio, 43215, viewing the Commission's web page at <http://www.puco.ohio.gov>, clicking on the link to the docketing Information System and entering Case No. 12-4260-EL-SSO; or contacting the Commission's call center at 1-800-686-7826.

But the Entry did not address in the form of the "Public Notice" the full disclosure of the "substance of the application, including rate impacts," as required by the Ohio Administrative Code 4901:1-35-04(B). Rather, it leaves the onus on customers to actively pursue the details of the utility's proposals in the technical filings on the PUCO's web site. Consequently, consumers impacted by this case may not be able to decide whether to challenge or object to the matter. Moreover, when DP&L makes the anticipated revisions to the application, parts of the October 5, 2012 application (which the notice references) will be superseded. This will be confusing even to the customers who have the means and ability to access the PUCO's website.

Thus, the PUCO should modify the Public Notice in the Entry and require the Company to explain in sufficient detail for the public the substance of the ESP plan, *as revised*, and how it will impact the rates that DP&L's customers pay, if authorized. The

content of the notice should be adequate to enable consumers impacted by the case to make informed decisions about whether to attend and or testify. The Public Notice arranged by the Entry does not provide any description of the Company's application. The Public Notice should be modified to explain the issues in understandable terms, and should contain adequate information so that consumers can determine the impact the Company's request will have on the bills they pay.

Without adequate notice there is undue prejudice to the Ohio public—and its representatives—where the notice fails to provide customers with a description of how the Company's proposal affects them. Notice to customers provides a blueprint as to what issues customers should address in their testimony. Indeed, with the current form of notice the public may not even exercise their opportunity to be heard, based on their potential misunderstanding of the issues raised. Because the application is complex and involves many issues that will impact the Ohio public, significant issues should be listed, including the projected rate impacts of the Company's proposal.

The Company certainly had the resources available to deploy for preparation of the application filed. The public lacks such resources and should be given adequate information and time to learn about and prepare for the local hearings. It is crucial to the public to be afforded the opportunity to be heard on the proposed application. After all, the fundamental requisite of due process of law, guaranteed by the 14th amendment, is the opportunity to be heard.¹⁵ The opportunity to be heard can have no meaning if one is not informed of the issues in contention and consequently can not make a decision as to whether to challenge or object to the matter.

¹⁵ *Grannis v. Ordean*, 234 U.S. 385, 394(1914) citing *Louisville & N.R. Co. v. Schmidt*, 177 U.S. 230, 236 (1900) and *Simon v. Craft*, 182 U.S. 427, 436 (1901).

The PUCO has recognized that more than minimal notice can be necessary for the public:

While the notice published pursuant to Section 4909.191(A), Revised Code, and Rule 4901:1-11-11(C), O.A.C, *is sufficient to satisfy legal requirements of notice, the Commission is concerned that as many customers of each company as possible receive actual notice of this hearing.*¹⁶ (Emphasis added.)

Indeed the Commission has, at times, ensured opportunities for customers to present public testimony.¹⁷ Failing to provide customers with an understandable description of the issues in the application may deprive customers of their opportunity to be heard on issues that include how much their bills will be if the application is approved.

B. Departure from Precedent

Second, the *Entry* represents a departure from past precedent. The Commission has consistently required (in ESP proceedings) legal notice of local public hearings to provide the substance of the application as well as rate impacts.¹⁸ By not requiring such

¹⁶ *In re Regulation of the Electric Fuel Component Contained Within the Rate Schedules of Ohio Power Company et al.*, Case No. 91-101-EL-EFC, Opinion and Order (May 16, 1991) at 3-4. (In accordance with R.C.4905.31, a public hearing shall be held to allow the Commission to review the fuel procurement practices and policies of their various electric companies.)

¹⁷ See, e.g., *In the Matter of the Application to Modify, In Accordance with Section 4928.08, Revised Code, the exemption Granted Columbia Gas of Ohio, Inc.*, Case No. 08-1344-GAEXM, Entry at ¶4(c) (November 26, 2012).

¹⁸ See, e.g., *In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets*, Case No. 08-917-EL-SSO Entry at ¶3 (Sept. 24, 2008); *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, Entry at ¶3 (Apr. 13, 2012); *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, Entry at ¶12 (Mar. 23, 2011); *In the Matter of the Application of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company for Authority to Establish a Standard Service offer Pursuant to Section 4928.143, Revised Code in the Form of an Electric Security Plan*, Case No. 08-935-EL-SSO, Entry at ¶4 (Sept. 9, 2008); *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of an Electric Security Plan, et al*, Case No. 08-920-EL-SSO, Entry at ¶4 (Sept. 17, 2008).

notice in this case, the Attorney Examiner’s ruling represents a departure from past precedent. This is another basis for the appeal to be certified to the Commission.

C. Immediate Determination Is Needed

Given that local hearings are imminent under the Entry, an “immediate determination” is needed to prevent undue prejudice in the event the Commission ultimately reverses the ruling in question. Thus, that element for certification of the Interlocutory Appeal is also met.¹⁹

III. APPLICATION FOR REVIEW

OCC’s Application for Review meets the requirements of Ohio Admin. Code 4901-1-1-15(C), because the application has been filed “within five days after the ruling is issued” and the application does “set forth the basis of the appeal and citations of any authorities relied upon.” The PUCO should reverse or modify the Entry, pursuant to Ohio Admin. Code 4901-1-15(E).

Consumers will be prejudiced if the local hearings are scheduled without sufficient notice to the public—notice that describes the substance of the application and the projected rate impacts. The lack of adequate public notice of the local public hearings could also prevent the Commission from having a complete record in this matter to make an informed decision, under R.C. 4903.09.

The notice should include an adequate description of the major issues; otherwise, the public will not know what issues to address in their testimony. Without being apprised of the issues in the case, which include affordability, customers may make the

¹⁹ Ohio Admin. Code 4901-1-15(B).

decision not to challenge or object to the matter or may not understand the scope of the opportunity to testify. Customers will thus be deprived of their opportunity to be heard.

The Commission has recognized in a prior case that a minimal notice that could be provided to the public in a case is not necessarily the notice that is adequate for the public.²⁰ In this proceeding, more than minimal notice is needed to adequately inform the public of their opportunity to testify. Customers must have adequate information about the Company's proposal that may increase their already high electric rates. That way they can arrange their schedules and present testimony at the public hearing in this matter, if they so choose.

Consistent with Ohio Adm. Code 4901-1-15(E)(1), the Commission should modify or reverse the Entry of December 6, 2012, and require the substance of the application to be fully disclosed to the public along with the projected rate impacts.

IV. CONCLUSION

For the reasons set forth above, this Appeal should be certified to the full Commission and the Commission should reverse or modify the Attorney Examiner's ruling. It should require the Company to provide sufficient notice that fully discloses the substance of the application, as revised, along with the projected rate impacts. Doing so would further the interest in an open state regulatory process for the setting of electric rates. It would also assist the PUCO in acquiring all the information needed for making "findings of fact and written opinions."

²⁰ *In re Regulation of the Electric Fuel Component Contained Within the Rate Schedules of Ohio Power Company et al.*, Case No. 91-101-EL-EFC, Opinion and Order (May 16, 1991) at 3-4. (In accordance with R.C.4905.31, a public hearing shall be held to allow the Commission to review the fuel procurement practices and policies of their various electric companies.)

Adequate published notice means “fully” disclosing “the substance of the application along with the projected rate impacts,” consistent with Ohio Admin. Code 4901:1-35-04(B). Then and only then will customers be able to understand the impact of the Company’s proposal and consider exercising their opportunity to be heard.

Respectfully Submitted,

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²¹ Mr. Berger is representing OCC in PUCO Case No. 12-426-EL-SSO.

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Interlocutory Appeal was served by electronic service to the counsel identified below (provided electronically to the Attorney Examiners) this 11th day of December, 2012.

/s/ Maureen R. Grady

Maureen R. Grady
Assistant Consumers' Counsel

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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The)	
Dayton Power and Light Company to)	Case No. 12-426-EL-SSO
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Waiver of Certain Commission Rules.)	
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Dayton Power and Light Company to)	Case No. 12-672-EL-RDR
Establish Tariff Riders.)	

ENTRY

The attorney examiner finds:

- (1) The Dayton Power and Light Company (DP&L) is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.
- (2) On March 30, 2012, DP&L filed an application for a standard service offer (SSO) pursuant to Section 4928.141, Revised Code. The application was for a market rate offer in accordance with Section 4928.142, Revised Code. On September 7, 2012, DP&L withdrew its application for a market rate offer. On October 5, 2012, DP&L filed an application for an electric security plan in accordance with Section 4928.143, Revised Code. Additionally, DP&L filed

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accompanying applications for approval of revised tariffs, for approval of certain accounting authority, for waiver of certain Commission rules, and to establish tariff riders.

- (3) By entry dated November 14, 2012, the attorney examiner scheduled the evidentiary hearing in this matter to commence on February 11, 2013.
- (4) In order to provide customers of DP&L a reasonable opportunity to provide public testimony in this proceeding, local public hearings will be conducted on the following dates:
 - (a) January 29, 2013, at 1:00 p.m., at the Dayton Municipal Building, Council Chambers, 101 W. Third Street, Third & Ludlow, Second Floor, Dayton, Ohio 45401.
 - (b) January 29, 2013, at 6:00 p.m., at the Dayton Municipal Building, Council Chambers, 101 W. Third Street, Third & Ludlow, Second Floor, Dayton, Ohio 45401.
- (5) Accordingly, DP&L should publish notice of the local public hearings one time in a newspaper of general circulation in each county in the company's certified territory. The notice should not appear in the legal notices section of the newspaper and should provide at least 30 days notice of the public hearing. The notice should read as follows:

PUBLIC NOTICE

The Public Utilities Commission of Ohio has scheduled local public hearings in Case No. 12-426-EL-SSO, *In the Matter of the Application of The Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan*. In this proceeding, the Commission will consider the company's application, filed on October 5, 2012, requesting approval of an electric security plan for the supply of Standard Service Offer

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electric generation service. The hearings will be open to the public.

The first local public hearing will commence on Tuesday, January 29, 2013, at 1:00 p.m., at the Dayton Municipal Building, Council Chambers, 101 W. Third Street, Third & Ludlow, Second Floor, Dayton, Ohio 45401.

The second local public hearing will commence on Tuesday, January 29, 2013, at 6:00 p.m., at the Dayton Municipal Building, Council Chambers, 101 W. Third Street, Third & Ludlow, Second Floor, Dayton, Ohio 45401.

Further information may be obtained by contacting the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio, 43215, viewing the Commission's web page at <http://www.puco.ohio.gov>, clicking on the link to the Docketing Information System and entering Case No. 12-426-EL-SSO; or contacting the Commission's call center at 1-800-686-7826.

ORDERED, That local public hearings be scheduled as set forth in Finding (4).
It is, further,

ORDERED, That DP&L publish notice of the hearings as set forth in Finding (5).
It is, further,

ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Bryce McKenney

By: Bryce A. McKenney
Attorney Examiner

JRJ/sc

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in

Case No(s). 12-0426-EL-SSO, 12-0427-EL-ATA, 12-0428-EL-AAM, 12-0429-EL-WVR, 12-0672-EL-RDR

**Summary: Attorney Examiner Entry scheduling local public hearings for 01/29/13. -
electronically filed by Sandra Coffey on behalf of Bryce McKenney, Attorney Examiner, Public
Utilities Commission of Ohio**

**Proposed Notice for Newspaper Publication
Pursuant to Ohio Admin. Code § 4901:1-35-04(B)**

LEGAL NOTICE

The Dayton Power and Light Company ("DP&L") has filed with the Public Utilities Commission of Ohio ("PUCO") Case No. 12-426-EL-SSO, In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan, et al. In this proceeding, the PUCO will consider DP&L's request for approval of its new Electric Security Plan ("ESP"), which includes its standard service offer ("SSO"), effective from January 1, 2013 through December 31, 2018. The ESP includes provisions regarding the supply of generation to all customers, the acquisition and pricing of energy to serve SSO customers through a series of auctions, and other matters.

It is anticipated that total bills for non-residential customers that take SSO service under the proposed ESP will decline by approximately 2 to 6%, depending upon tariff class and usage patterns. Residential customers that take SSO service and use 750 kWh will experience a slight total bill increase of less than 1%. DP&L proposes to recover certain costs through new riders during the ESP period.

Any person may request to become a party to the proceeding.

Further information may be obtained by visiting the PUCO at 180 East Broad Street, Columbus, Ohio 43215-3793, viewing the PUCO's web page at <http://www.puc.state.oh.us>, clicking on the link to the Docketing Information System, and entering Case No. 12-426-EL-SSO, or contacting the PUCO's call center at 1-800-686-7826.

667734.1

Exhibit 2

From: Seabold, Teri [<mailto:TSeabold@ficlaw.com>]

Sent: Wednesday, December 05, 2012 5:05 PM

To: Alan G. Starkoff; Allison E. Haedt; Amy Spiller; Andrew J. Campbell; Barry McClelland; Barth Royer; Cathryn N. Loucas; Chris Miller; Colleen Mooney; Cynthia Fonner Brady; Dave Rinebolt; David A. Kutik; David Boehm; David Liphtratt; Devin Parram; Edmund Berger; Elizabeth Watts; Ellis Jacobs; Frank Darr; Grant E. Chapman; Gregory H. Dunn; Gregory J. Poulos; J. Thomas Siwo; James F. Lang; Jay E. Jadwin; Jeanne Kingery; Jodi Bair; Joe Olikier; Joe Serio; Joel E. Sechler; Joseph M. Clark; Joshua D. Hague; Kim Bojko; Laura C. McBride; Lou D'Alessandris; M. Howard Petricoff; Mark A. Whitt; Mark Hayden; Mark Yurick; Matthew Pritchard; Matthew R. Cox; Matthew Satterwhite; Matthew W. Warnock; Matthew White; Melissa R. Yost; Michael Kurtz; Michael L. Dillard, Jr.; Mike Settineri; N. Trevor Alexander; Philip Sineneng; Rick Sites; Robert A. McMahon; Rocco D'Ascenzo; Sam Randazzo; Scott C. Solberg; Stephanie M. Chmiel; Stephen Bennett; Stephen M. Howard; Steven M. Sherman; Steven T. Nourse; Tamara Turkenton; Thomas O'Brien; Tom McNamee; Tony Long; Trent A. Dougherty; Vincent Parisi; Zack Kravitz

Cc: judi.sobecki@aes.com; dona.seger-lawson@aes.com; Faruki, Charles J.; Sharkey, Jeffrey S.; Sadlowski, Adam V.; Cline, Kelly M.

Subject: DP&L/SSO [IWOV-DMS.FID83439]

Dear All,

The purpose of this email is to alert you that DP&L recently found an error in some of the cost data in DP&L's ESP filing; unfortunately, that error flows through to a number of schedules and workpapers. DP&L plans to revise the portions of the filing that are affected by that error, and has been working hard since last Thursday to revise those documents; DP&L is committed to keeping on schedule for both settlement discussions and, if necessary, a hearing, and to that end will be making the revised filing shortly. DP&L also intends within days of the revised filing to update its previously-served discovery responses to reflect the revised information.

In addition, DP&L wants to let you know that the reason that it cancelled the prior settlement meeting is that the error was discovered only 1-2 hours before that meeting; DP&L again apologizes for that inconvenience. DP&L remains committed to attempting to settle this case, and will circulate a written proposal in advance of the next settlement meeting.

Jeff

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in

Case No(s). 12-0426-EL-SSO, 12-0427-EL-ATA, 12-0428-EL-AAM, 12-0429-EL-WVR, 12-0672-EL-RDR

Summary: Request Interlocutory Appeal, Request for Certification to Full Commission, and Application for Review by the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Grady, Maureen