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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Determination of the : Case No. 13-1495-EL-UNC  
Existence of Significantly Excessive Earnings :  
for 2012 Under the Electric Security Plan of :  
The Dayton Power and Light Company :

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**THE DAYTON POWER AND LIGHT COMPANY'S  
MOTION FOR PROTECTIVE ORDER**

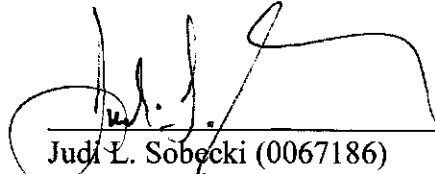
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Pursuant to Ohio Admin. Code § 4901-1-24(D), The Dayton Power and Light Company ("DP&L") moves for the entry of a Protective Order to exempt from public disclosure certain information that is confidential, and competitively sensitive and trade secret information ("Confidential Information"). The information at issue is highly confidential information relating to DP&L's projected capital expenditures. The Confidential Information is included in the exhibits of DP&L witness Greg Campbell.

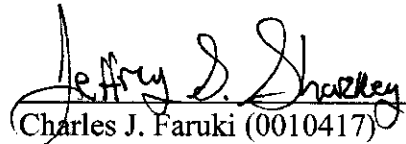
This information is maintained as confidential by DP&L, and constitutes proprietary, trade secret material, the public disclosure of which would subject DP&L to an unfair competitive disadvantage. In accordance with Ohio Admin. Code § 4901-1-24(D)(2), three unredacted copies of the Confidential Information have been filed under seal with the Commission.

This is to certify that the images appearing are an  
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Technician ML Date Processed JUL 31 2013

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Judi L. Sobecki", is written over a horizontal line.

Judi L. Sobecki (0067186)  
THE DAYTON POWER AND  
LIGHT COMPANY  
1065 Woodman Drive  
Dayton, OH 45432  
Telephone: (937) 259-7171  
Telecopier: (937) 259-7178  
Email: judi.sobecki@dplinc.com

A handwritten signature in black ink, appearing to read "Charles J. Faruki", is written over a horizontal line. To the right of the signature, the initials "Sj 08/08" are handwritten.

Charles J. Faruki (0010417)  
(Counsel of Record)  
Jeffrey S. Sharkey (0067892)  
FARUKI IRELAND & COX P.L.L.  
500 Courthouse Plaza, S.W.  
10 North Ludlow Street  
Dayton, OH 45402  
Telephone: (937) 227-3705  
Telecopier: (937) 227-3717  
Email: cfaruki@ficlaw.com

Attorneys for The Dayton Power and  
Light Company

**MEMORANDUM IN SUPPORT OF THE DAYTON POWER AND  
LIGHT COMPANY'S MOTION FOR PROTECTIVE ORDER**

Pursuant to Ohio Admin. Code § 4901-1-24(D), The Dayton Power and Light Company ("DP&L") moves for the entry of a Protective Order to exempt from public disclosure certain information as confidential, proprietary, competitively sensitive and trade secret information. Specifically, DP&L requests that certain confidential information contained in the exhibits of DP&L witness Greg Campbell be exempted from public disclosure as confidential, proprietary, competitively sensitive and trade secret information ("Confidential Information").

Section 4901-1-24(D) of the Ohio Administrative Code provides that the Commission may issue an order which is necessary to protect the confidentiality of information contained in documents filed with the Commission's Docketing Division to the extent that state or federal law prohibits the release of the information, and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code. The Commission (and its Staff) will have full access to the Confidential Information in order to fulfill its statutory obligations. Further, only that information as is essential to prevent disclosure of Confidential Information was redacted from the publically-filed documents.

The criteria for determining what should be kept confidential by the Commission is well established, and the Commission has recognized its statutory obligation to protect trade secrets:

"The Commission is of the opinion that the 'public records' statute must also be read in *pari materia* with Section 1333.61, Revised Code ("trade secrets" statute). The latter statute must be interpreted as evincing the recognition, on the part of the General Assembly, of the value of trade secret information."

In re: General Telephone Co., PUCO Case No. 81-383-TP-AIR (Entry, February 17, 1982).

The definition of a "trade secret" is set forth in the Uniform Trade Secrets Act:

"Trade secret' means information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement, or any business information or plans, financial information or listing of names, addresses, or telephone numbers, that satisfies both of the following:

(1) It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

(2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy."

Ohio Rev. Code § 1333.61(D) (emphasis added).

"A company's determination of its costs, overhead and volume of sales . . . may be the kind of information that the trade secret statute seeks to protect." Kenker Box Co. v. Riemeier Lumber Co., 2000 Ohio App. LEXIS 62198, at \*10 (Dec. 29, 2000) (emphasis added). Accord: Vanguard Transportation Systems v. Edwards Transfer & Storage Co., 109 Ohio App. 3d 786, 789-90 (1996) (affirming trial court order that held that various information including "corporate financial information" constituted a trade secret.); Alpha Benefits Agency, Inc. v. King Ins. Agency, Inc., 13 Ohio App. 3d 673, 683 (1999) (holding that trial court should have ordered plaintiff to produce its "profitability information" to defendant subject to a protective order).

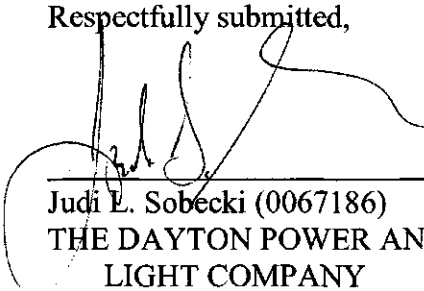
This definition clearly reflects the state policy favoring the protection of trade secrets such as the information that is the subject of this Motion. The Commission has issued protective orders in numerous prior proceedings to prevent the public disclosure of trade secrets. E.g., In re Columbia Gas of Ohio, Inc., PUCO Case No. 90-17-GA-GCR (Entry, August 7, 1990); In re Elyria Tel Co., PUCO Case No. 89-965-TP-AEC (Finding and Order, September 21, 1989); In re Ohio Bell Tel. Co., PUCO Case No. 89-718-TP-ATA (Finding and Order, May 31, 1989).

The Confidential Information constitutes "business information or plans, [and] financial information" under Ohio Rev. Code § 1333.61(D), and is included in the exhibits of DP&L witness Greg Campbell. The "Confidential Information" subject to this request is highly confidential information relating to DP&L's projected capital expenditures. Indeed, DP&L's projected capital expenditures were treated as confidential in DP&L's recent ESP case (Case No. 12-426-EL-SSO, et al.).

DP&L considers this Confidential Information to be proprietary, confidential and a trade secret under Ohio Rev. Code § 1333.61(D). The Confidential Information is not known outside of DP&L, and is not disseminated to internal employees unless those employees have a legitimate business need to know the information. Maintaining the confidentiality of this information will prevent an undue competitive disadvantage to DP&L, as well as assisting in fostering the interests of maintaining a fair and robust competitive marketplace within Ohio.

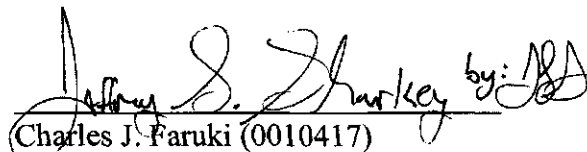
For these foregoing reasons, DP&L respectfully requests that the Commission issue a Protective Order that permits the Confidential Information to be designated as confidential and to remain under seal.

Respectfully submitted,



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Judi L. Sobecki (0067186)  
THE DAYTON POWER AND  
LIGHT COMPANY  
1065 Woodman Drive  
Dayton, OH 45432  
Telephone: (937) 259-7171  
Telecopier: (937) 259-7178  
Email: judi.sobecki@dplinc.com



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Charles J. Faruki (0010417)  
(Counsel of Record)  
Jeffrey S. Sharkey (0067892)  
FARUKI IRELAND & COX P.L.L.  
500 Courthouse Plaza, S.W.  
10 North Ludlow Street  
Dayton, OH 45402  
Telephone: (937) 227-3705  
Telecopier: (937) 227-3717  
Email: cfaruki@ficlaw.com

Attorneys for The Dayton Power and  
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