

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Dayton     )  
Power and Light Company for Authority to         )     Case No. 13-2420-EL-UNC  
Transfer or Sell its Generation Assets.             )

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**REPLY COMMENTS OF FIRSTENERGY SOLUTIONS CORP.**

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As explained by numerous parties in their comments, the December 30, 2013 application (the “Application”) filed by the Dayton Power & Light Company (“DP&L”) did not provide sufficient information to allow for substantive comments at this time. Therefore, FES agrees with the comments from Staff and other intervenors recommending that additional information be provided by DP&L.

FES agrees with Staff’s comment that “the Commission should require sufficient time between that supplemental filing and the May 31, 2017 deadline for the disposal of the generation assets.”<sup>1</sup> However, FES believes that Staff’s suggested deadline for the supplemental filing – August 1, 2016 – may not be early enough to allow for the property transfer by May 31, 2017.<sup>2</sup> As a practical matter it would be difficult for DP&L to complete corporate separation if it does not propose a corporate separation plan until August 1, 2016.

AEP Ohio’s recent separation serves as a representative example of the time that corporate separation can take. AEP Ohio filed its corporate separation plan on March 30, 2012.<sup>3</sup>

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<sup>1</sup> Staff Comments, p. 2.

<sup>2</sup> FES’ Initial Comments incorrectly referenced a corporate separation deadline of December 31, 2016. This date, which was provided in the original ESP order, was later changed to May 31, 2017 in the Entry Nunc Pro Tunc issued by the Commission on September 6, 2013. The date identified by Staff is therefore correct.

<sup>3</sup> Case No. 12-1126-EL-UNC.

Even though there was no evidentiary hearing in that case, the Commission did not grant AEP Ohio's request until October 17, 2012, almost seven months later.<sup>4</sup> Two parties moved for rehearing of this determination, and were rejected on April 24, 2013, almost 13 months after AEP Ohio's initial filing. Complications with OVEC assets caused AEP Ohio to seek to amend its corporate separation plan on October 4, 2013, and the Commission ruled on this amendment on December 4, 2013. The Commission denied an application for rehearing on February 14, 2014. Therefore, even without an evidentiary hearing, at the Ohio Commission alone AEP Ohio's corporate separation plan has been pending for almost two years.

In addition to the Ohio proceedings, DP&L must also obtain FERC approval. Again using AEP Ohio's proceedings as a guideline, these approvals take significant time. On October 31, 2012, only two weeks after obtaining Commission approval, American Electric Power Service Corporation filed with the FERC for approval of Ohio Power's corporate separation.<sup>5</sup> Final approval for the transaction was not provided until December 16, 2013, more than a year after AEP Ohio's application was filed.<sup>6</sup>

As shown through AEP Ohio's recent experience, the regulatory process for corporate separation can take two years to complete once the corporate separation plan is known. DP&L is obligated to complete corporate separation by the Commission-mandated deadline of May 31, 2017. Accordingly, DP&L should be required to make a supplemental filing by no later than December 31, 2014 so that the regulatory process can be completed in a timely manner. This schedule provides DP&L with more than a year to decide how it would like to separate, which is more than enough time. Moreover, this is a full year after the Commission-mandated deadline for DP&L to file its corporate separation plan, which is more than fair to DP&L.

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<sup>4</sup> Case No. 12-1126-EL-UNC, Finding and Order dated October 17, 2012.

<sup>5</sup> Docket No. EC13-26-000.

<sup>6</sup> *See, e.g.*, Docket No. ES14-2-000, Order dated December 16, 2013 (regarding assumption of liabilities).

FES respectfully requests that the Commission direct DP&L to complete corporate separation expeditiously in a manner consistent with these comments.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Reply Comments of FirstEnergy Solutions Corp.* was served this 19th day of February, 2014, via e-mail upon the parties below.

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