BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Dayton Power and Light Company for Approval of a Revised Bill Format for Electric Service.	))))	Case No. 14-2043-EL-UNC
In the Matter of the Application of the Dayton Power and Light Company for Approval of Certain Accounting Authority.	))))	Case No. 14-2042-EL-AAM

MEMORANDUM CONTRA THE DAYTON AND POWER LIGHT COMPANY'S APPLICATION FOR REHEARING
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

I. INTRODUCTION

On November 21, 2014, Dayton Power and Light Company ("DP&L" or "the Utility") filed an Application requesting approval of its proposed bill format changes and authority to defer expenses of approximately $500,000 related to these changes. The proposed changes were intended to respond to the Public Utilities Commission of Ohio's ("PUCO) directives as set forth in the March 26, 2014 Opinion and Order and the May 21, 2014 Entry on Rehearing in the PUCO's Retail Market Investigation in Case No. 12-3151-EL-ORD. In its Order in this case, the PUCO approved DP&L's Application and granted deferral authority, not to exceed $500,000. DP&L now seeks rehearing of that Order, and requests additional deferral authority for an unlimited amount of money. Customers should not be put at risk to pay an unlimited and unknown deferral amount. The Ohio Consumers' Counsel ("OCC") files this Memorandum Contra DP&L's

Application for Rehearing, asking the PUCO to deny the Utility's request for additional unlimited deferral authority.

II. ARGUMENT

A. The PUCO approval of the deferral request contained in DP&L's Application was not unreasonable in that the record does not provide any alternative for PUCO approval.

DP&L argues that the deferral cost cap was based on an estimate of anticipated expenses, and it is unreasonable to hold DP&L to its estimate.[1] Ohio law requires the PUCO to write opinions setting forth the reasons prompting the decisions arrived at based findings of fact.[2] DP&L argues that the PUCO's cap of $500,000 is an unreasonable deferral limitation; however, the cap amount approved by the PUCO is what the Utility requested in its Application.[3] The record would support no other finding by the PUCO for a deferral amount in excess of the $500,000 requested. Therefore, DP&L's rehearing request should be denied.

As characterized by DP&L, those were estimated expenses.[4] However, there were no workpapers, spreadsheets, testimony, or descriptions of the costs that make up the estimated $500,000. The only justification provided by DP&L consisted of eight words -- "DP&L estimates these expenses to be approximately $500,000."[5] The PUCO Staff then recommended that the total deferral for the bill format changes, plus carrying charges set at the most recently approved cost of debt, not exceed $500,000. Despite these factual

[1] DP&L Application for Rehearing at 1(May 8, 2015).

[2] R.C. 4903.09, see also *Payphone Ass'n v. Pub. Util. Comm*., 109 Ohio St. 3d 453, 849 N.C.2d 4, Ohio 988 (2006).

[3] DP&L Application at 3.

[4] DP&L Application for Rehearing at 3.

[5] DP&L Application at 3.

shortcomings, the PUCO accepted DP&L's estimate. Now, the Utility claims that it needs more than $500,000, but the record fails to support a greater deferral amount.

Moreover, during a time where deferral requests have become all too commonplace, this Commission has expressed a general opposition to the creation of deferrals absent extraordinary circumstances. Specifically, the PUCO stated:

> Further, **although this Commission is generally opposed to the creation of deferrals,** the extraordinary circumstances presented before us, which allow for AEP-Ohio to fully participate in the market in two years and nine months as opposed to five years, necessitate that we remain flexible and utilize a deferral to ensure we reach our finish line of a fully-established competitive electric market.[6]

If a deferral is to be created, it would be unreasonable for the PUCO to authorize an unknown and unlimited deferral amount DP&L is requesting on rehearing. Therefore, the PUCO should deny DP&L's rehearing request.

III. CONCLUSION

Customers should not be put at risk to pay an unlimited and unknown deferral amount. OCC requests that the PUCO to deny the Utility's request for additional unlimited deferral authority

[6] *In the Matter of the Application of Columbus Southern 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, et al., Opinion and Order at 36 (August 8, 2012) (Emphasis added).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Memorandum Contra* were served on the persons stated below via electronic transmission this 18th day of May 2015.

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Summary: Memorandum Memorandum Contra the Dayton Power and Light Company's Application for Rehearing by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Serio, Joseph P. Mr.