

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
 Application of The Dayton :
 Power and Light Company : Case No. 16-395-EL-SSO
 for Approval of its :
 Electric Security Plan. :

In the Matter of the :
 Application of The Dayton :
 Power and Light Company : Case No. 16-396-EL-ATA
 for Approval of Revised :
 Tariffs. :

In the Matter of the :
 Application of The Dayton :
 Power and Light Company :
 for Approval of Certain : Case No. 16-397-EL-AAM
 Accounting Authority :
 Pursuant to Ohio Rev. Code:
 §4904.13. :

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PROCEEDINGS

before Mr. Gregory Price and Mr. Nicholas Walstra,
 Attorney Examiners, at the Public Utilities
 Commission of Ohio, 180 East Broad Street, Room 11-A,
 Columbus, Ohio, called at 10:00 a.m. on Wednesday,
 February 1, 2017.

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ARMSTRONG & OKEY, INC.
 222 East Town Street, Second Floor
 Columbus, Ohio 43215-5201
 (614) 224-9481 - (800) 223-9481
 Fax - (614) 224-5724

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APPEARANCES:

Faruki, Ireland & Cox P.L.L.
By Mr. Jeffrey S. Sharkey,
Mr. D. Jeffrey Ireland
and Mr. Christopher C. Hollon
110 North Main Street, Suite 1600
Dayton, Ohio 45402

Dayton Power and Light Company
By Ms. Judi Sobecki
1065 Woodman Drive
Dayton, Ohio 45432

On behalf of the Applicant.

Ohio Partners for Affordable Energy
By Ms. Colleen L. Mooney
P.O. Box 12451
Columbus, Ohio 43212

On behalf of the Ohio Partners for
Affordable Energy.

Richard Sahli Law Office, LLC
By Mr. Richard C. Sahli
981 Pinewood Lane
Columbus, Ohio 43230-3662

On behalf of the Sierra Club.

McNees, Wallace & Nurick LLC
By Mr. Frank P. Darr
and Mr. Matthew Pritchard
21 East State Street, 17th Floor
Columbus, Ohio 43215

On behalf of the Industrial Energy Users
of Ohio.

IGS Energy
By Mr. Joseph Oliker
6100 Emerald Parkway
Dublin, Ohio 43016

On behalf of IGS Energy.

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APPEARANCES: (Continued)

Vorys, Sater, Seymour & Pease, LLP
By Mr. Michael J. Settineri
52 East Gay Street
Columbus, Ohio 43215

On behalf of Retail Energy Supply
Association.

Kravitz, Brown & Dortch, LLC
By Mr. Michael D. Dortch
65 East State Street, Suite 200
Columbus, Ohio 43215

On behalf of Calpine Energy Solutions.

Carpenter Lipps & Leland LLP
By Ms. Kimberly W. Bojko
and Mr. James D. Perko
280 North High Street, Suite 1300
Columbus, Ohio 43215

On behalf of the Ohio Manufacturers'
Association Energy Group.

Boehm, Kurtz & Lowry
By Mr. Michael L. Kurtz,
Mr. Kurt J. Boehm,
and Ms. Jody Kyler Cohn
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202

On behalf of the Ohio Energy Group.

Environmental Law & Policy Center
By Ms. Madeline Fleisher
21 West Broad Street, Suite 500
Columbus, Ohio 43215

On behalf of the Environmental Law &
Policy Center.

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APPEARANCES: (Continued)

Spilman, Thomas & Battle, PLLC
By Ms. Carrie M. Harris
110 Oakwood Drive
Winston-Salem, North Carolina 27103

On behalf of Wal-Mart Stores East, LP,
and Sam's East, Inc.

Mr. Richard L. Sites
155 East Broad Street
Columbus, Ohio 43215

Bricker & Eckler, LLP
By Mr. Dylan Borchers
100 South Third Street
Columbus, Ohio 43215-4291

On behalf of the Ohio Hospital
Association.

Ohio Environmental Council
By Mr. Trent A. Dougherty
1145 Chesapeake Avenue, Suite I
Columbus, Ohio 43212

On behalf of the Ohio Environmental
Council.

Environmental Defense Fund
By Ms. Miranda Leppla
1145 Chesapeake Avenue, Suite I
Columbus, Ohio 43212

On behalf of the Environmental Defense
Fund.

Dickinson Wright, PLLC
By Mr. William V. Vorys
150 East Gay Street, Suite 2400
Columbus, Ohio 43215

On behalf of the Mid-Atlantic Renewable
Energy Coalition.

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APPEARANCES: (Continued)

Mike DeWine, Ohio Attorney General
By Mr. William Wright,
Section Chief
Mr. Thomas W. McNamee,
Ms. Natalia Messenger,
and Mr. Thomas Lindgren,
Assistant Attorneys General
30 East Broad Street, 16th Floor
Columbus, Ohio 43215

On behalf of the Staff of the PUCO.

Bruce E. Weston, Ohio Consumers' Counsel
By Mr. William Michael,
Assistant Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485

On behalf of the Residential Consumers of
The Dayton Power and Light Company.

Carpenter Lipps & Leland LLP
By Ms. Angela M. Paul Whitfield
280 North High Street, Suite 1300
Columbus, Ohio 43215

On behalf of The Kroger Company.

PJM Interconnection LLC
By Ms. Evelyn R. Robinson
2750 Monroe Boulevard
Audubon, Pennsylvania 19403

On behalf of the PJM Interconnection LLC.

Doll, Jansen & Ford
By Mr. John Doll
111 West 1st Street, Suite 1100
Dayton, Ohio 45403

On behalf of the Utility Workers Local
175.

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APPEARANCES: (Continued)

Ohio Citizen Action
By Mr. Ellis Jacobs
130 West Second Street
Suite 700 East
Dayton, Ohio 45402

On behalf of the Advocates for Basic
Legal Equality.

Bricker & Eckler, LLP
By Mr. Devin D. Parram
100 South Third Street
Columbus, Ohio 43215-4291

On behalf of the People Working
Cooperatively, Inc.

Calfee, Halter & Griswold LLP
By Mr. N. Trevor Alexander,
Mr. James F. Lang,
Mr. Steven D. Lesser,
and Mr. Mark T. Keaney
1200 Huntington Center
41 South High Street
Columbus, Ohio 43215

On behalf of the Honda of America
Manufacturing, Inc., and City of Dayton.

Adams County Commissioners
By Commissioner Brian Baldridge
215 North Cross Street, Suite 102
West Union, Ohio 45693

On behalf of the Adams County Residents.

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1 Wednesday Morning Session,
2 February 1, 2017.

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4 EXAMINER PRICE: Let's go on the record.
5 Good morning. The Public Utilities
6 Commission has set for hearing at this time and place
7 Case No. 16-395-EL-SSO, being in the Matter of the
8 Application of The Dayton Power and Light Company to
9 Establish a Standard Service Offer in the Form of an
10 Electric Security Plan.

11 My name is Gregory Price. With me is
12 Nicholas Walstra. We are the Attorney Examiners
13 assigned to preside over today's hearing.

14 Let's begin by taking appearances
15 starting with the company.

16 MR. SHARKEY: Yes, your Honor, Jeff
17 Sharkey from Faruki, Ireland & Cox, and I have with
18 me my partner Jeff Ireland and an attorney with our
19 firm Chris Hollon. We in addition have -- from the
20 company with me I have Judi Sobecki and Sharon
21 Schroder.

22 EXAMINER PRICE: Thank you.

23 Mr. McNamee.

24 MR. McNAMEE: On behalf of the staff of
25 the Public Utilities Commission of Ohio, I am Thomas

McNamee. In addition, we would have Natalia
Messenger and Thomas Lindgren. The address is 30
East Broad Street, 16th Floor, Columbus, Ohio.

ATTORNEY EXAMINER: Thank you.

MR. MICHAEL: Good morning, your Honors.
On behalf of the DP&L's residential utility
consumers, the Office of the Ohio Consumers' Counsel
by Bill Michael.

MR. KURTZ: Good morning, your Honors.
Mike Kurtz, Kurt Boehm, and Jody Cohn for Ohio Energy
Group.

MS. BOJKO: Thank you, your Honor. On
behalf of the Ohio Manufacturers' Association Energy
Group, Kimberly W. Bojko and James D. Perko, the law
firm of Carpenter Lipps & Leland, 280 North High
Street, Suite 1300, Columbus, Ohio 43215.

MS. WHITFIELD: Good morning, your Honor.
On behalf of the Kroger Company, Angie Paul Whitfield
from the law firm Carpenter Lipps & Leland.

MR. PRITCHARD: Good morning, your
Honors. On behalf of the Industrial Energy Users of
Ohio, Matt Pritchard and Frank Darr with the law firm
McNees, Wallace & Nurick, 21 East State Street,
Columbus, Ohio 43215.

MR. SETTINERI: Good morning, your

Honors. On behalf of the Retail Energy Supply Association, Michael Settineri, the law firm of Vorys, Sater, Seymour & Pease, 52 East Gay Street, Columbus, Ohio 43215.

MR. SITES: Good morning, your Honor. Richard Sites on behalf of the Ohio Hospital Association, 155 East Broad Street, Third Floor, Columbus, Ohio 43215, and Dylan Borchers from Bricker & Eckler, law firm of Bricker & Eckler, South Third Street, Columbus, Ohio 43215.

MS. HARRIS: Good morning. On behalf of Wal-mart Stores East, LP, and Sam's East, Inc., Carrie Harris from the law firm Spilman, Thomas & Battle.

MS. ROBINSON: Good morning, your Honor. On behalf of the PJM Interconnection LLC, Evelyn R. Robinson, 2750 Monroe Boulevard, Audubon, Pennsylvania 19403.

MS. FLEISHER: Good morning, your Honor. On behalf of the Environmental Law & Policy Center, Madeline Fletcher, 21 West Broad Street, Suite 500, Columbus, Ohio 43215.

MR. DOLL: Good morning, your Honors. On behalf of the Utility Workers Local 175 and all of its members, my name is John Doll from Doll, Jansen &

1 Ford, 111 West 1st Street, Dayton, Ohio.

2 MR. OLIKER: Good morning, your Honor.
3 On behalf of the IGS Energy, Joseph Olikier, 6100
4 Emerald Parkway, Dublin, Ohio 43016.

5 MR. SAHLI: Good morning, your Honors.
6 On behalf of the Sierra Club, Richard Sahli, 981
7 Pinewood Lane, Columbus, 43230.

8 MR. VORYS: Good morning, your Honor. On
9 behalf of Mid-Atlantic Renewable Energy Coalition,
10 Will Vorys, Dickinson Wright law firm, 150 East Gay
11 Street, Columbus, 43215.

12 MR. JACOBS: Good morning, your Honors.
13 Ellis Jacobs on behalf of Ohio Citizen Action,
14 Dayton, Ohio, Advocates for Basic Legal Equality, 130
15 West Second Street, Dayton.

16 MR. DOUGHERTY: Good morning, your Honor.
17 On behalf of the Ohio Environmental Council, Trent
18 Dougherty.

19 MS. LEPLA: Good morning, your Honor.
20 On behalf of the Environmental Defense Fund, Miranda
21 Leppla.

22 MR. PARRAM: Good morning, your Honor.
23 On behalf of People Working Cooperatively, Devin D.
24 Parram, Bricker & Eckler, 100 South Third Street,
25 Columbus, Ohio 43215.

1 COMMISSIONER BALDRIDGE: Good morning,
2 your Honors. Brian Baldridge, the Adams County
3 Commissioner on behalf of the Adams County residents.

4 MS. MOONEY: I'm Colleen Mooney on behalf
5 of the Ohio Partners for Affordable Energy, Post
6 Office Box 12451, Columbus, Ohio 43212.

7 EXAMINER PRICE: Thank you very much.
8 Oh, I'm sorry.

9 MR. DORTCH: Good morning, your Honors.
10 On behalf of the Calpine Energy Solutions, Michael
11 Dortch, law firm of Kravitz, Brown & Dortch, LLC, 65
12 East State Street, Suite 200, Columbus, Ohio. With
13 me is Mr. Lou Boston of Calpine Energy Solutions.

14 EXAMINER PRICE: Thank you. As we
15 indicated -- still one more. Trevor, I'm sorry.

16 MR. ALEXANDER: Trevor Alexander on
17 behalf of Honda of America Manufacturing, Inc., and
18 the City of Dayton. Also appearing are Jim Lang,
19 Steve Lesser, and Mark Keaney. All of us are with
20 the firm Calfee, Halter & Griswold, 41 South High
21 Street, Columbus, Ohio 43215.

22 EXAMINER PRICE: Sat in the same seat for
23 FirstEnergy and I think of you as the utility. It is
24 going to be a rough couple of weeks until I get used
25 to that.

1 Anybody else I missed?

2 Thank you. As we indicated off the
3 record, there are a number of pending motions to
4 intervene and those will be addressed by subsequent
5 entry.

6 Mr. Sharkey, call your first witness.
7 I'm just kidding.

8 MR. DARR: You have been waiting for
9 that.

10 EXAMINER PRICE: Somebody in this room
11 put me up to this, and I won't say who.

12 Mr. Sharkey, you have a motion for
13 continuance pending?

14 MR. SHARKEY: Yes, your Honor. As your
15 Honors know, the Dayton Power and Light Company has
16 recently filed a stipulation. There are seven
17 parties to the stipulation and it is currently our
18 expectation that the Sierra Club will be joining the
19 stipulation. There is still some negotiations and
20 some details going on with the Sierra Club but that's
21 our expectation.

22 There are also two parties who signed the
23 stipulation as nonopposing parties and we have been
24 informed by a number of other parties that they do
25 not expect to be opposing the stipulation.

1 We currently propose to be filing
2 testimony from two witnesses from the company. That
3 would be Sharon Schroder who would be addressing the
4 familiar three-part test that the Commission uses and
5 then in addition Jeff Malinak who would be addressing
6 the more favorable in the aggregate test from the ESP
7 statute.

8 So we, as you know, had requested a
9 expedited hearing in our motion on the stipulation.
10 The date that we had proposed and can be ready on is
11 Wednesday of next week.

12 EXAMINER PRICE: When are you going to
13 file the testimony?

14 MR. SHARKEY: Monday of next week, your
15 Honor.

16 EXAMINER PRICE: You are going to give
17 them two days for discovery? I suspect there is
18 going to be some comment on this.

19 MR. SHARKEY: Your Honor, we have, of
20 course, shown up here with a realization that
21 Wednesday was -- was an aggressive schedule. We put
22 that in there because it was a day we could be ready.
23 We are, of course, prepared to be reasonable, your
24 Honor.

25 EXAMINER PRICE: Comments on the

1 procedural schedule?

2 MR. DARR: Yes, your Honor.

3 EXAMINER PRICE: Mr. Darr.

4 MR. DARR: Thank you, your Honor. While
5 we appreciate the disclosure we got this morning
6 there would be two witnesses testifying on behalf of
7 the stipulation, Ms. Schroder and Mr. Malinak, the
8 fact that they are filing testimony on Monday
9 obviously would put us in a bit of a box in terms of
10 trying to digest that testimony and move forward on
11 the schedule proposed by the company.

12 The parties that are likely to be
13 opposing the stipulation and recommendation and
14 overall the application have collectively met, many
15 of them met yesterday, and others were addressed --
16 concerns were addressed this morning, and we are
17 prepared to propose an alternative schedule that we
18 think would meet not only the requirements of the
19 Bench and the Commission to get this case done on an
20 expedited manner but also fairly represent the
21 interests of the parties that are opposing the
22 stipulation and that will be responsible for paying
23 the \$125 million per year charge that's embedded in
24 this application and stipulation.

25 To that end, what we are recommending is

1 that once the company files its testimony, whether
2 it's next Monday or a week from today, whatever they
3 choose, that the parties have an opportunity to
4 prepare discovery over a four-week period and then
5 file testimony in response to that new testimony and
6 the stipulation at that point and that the hearing
7 then commence a week after that.

8 I do not have for you a count of how many
9 parties are intending to file testimony at this
10 point. That may affect the timing because of the
11 need for depositions on the part of the company as to
12 when that hearing should start. But that is an
13 extension in addition to the schedule that we are
14 suggesting that the Commission and the Bench adopt
15 for this case.

16 Under this schedule we would also
17 recommend that the Commission shorten up the time for
18 response to interrogatories and requests for
19 production. We are all going to be under significant
20 time constraints to properly get this matter in front
21 of the Commission. To that end, we would encourage
22 the Bench to shorten the time frames from the current
23 10-day response to a 7-day response. Both sides
24 would be subject to it, and it would be evenly
25 balanced in that regard. And we fully expect that

1 there would be discovery going in both directions as
2 there normally is in these situations.

3 That being the case, as an example of
4 what would be appropriate now that the time
5 constraints are pulled off with regard to the SOS
6 generation component, we would recommend that the
7 company be required to file no later than February 8
8 its supporting testimony, that the parties be
9 permitted to respond with their testimony four weeks
10 later, I believe that's March 6, and that the hearing
11 commence on March 13, subject to, you know,
12 reasonable extensions that the company may need for
13 purposes of securing depositions of witnesses of
14 intervenors.

15 Let me just rationalize or -- rationalize
16 this a little bit more. There are a number of
17 proceedings going on here simultaneously. We have a
18 concern, obviously, and the Commission has in front
19 of it applications for rehearing concerning the
20 current \$73 million charge. Customers don't want to
21 be paying that, but they recognize that the only way
22 of substituting that as an immediate effect is to get
23 this case moving forward and figuring out where the
24 nonbypassable charge, if any, will fall. And
25 obviously there are many of us that feel that there

1 should be no nonbypassable charge and we would like
2 to get this done sooner rather than later to try to
3 put a stake in that.

4 At the same time there are proceedings
5 going on at the Federal Energy Regulatory Commission
6 which may change the deck chairs here. The
7 generation transfer application has been heavily
8 contested, and as -- one of the issues before the
9 Commission at the Federal Energy Regulatory
10 Commission is the remaining debt held by DP&L, some
11 of which parties have argued should be transferred
12 with that -- with that generation assets -- with
13 those generation assets. Those may change or alter
14 some of the issues.

15 EXAMINER PRICE: With Mr. Bay's
16 resignation, is there any hope of a decision from
17 FERC on the horizon? My understanding they won't
18 even have a quorum.

19 MR. DARR: They won't have a quorum in
20 the at least next few weeks. There has been some
21 push, as I understand it, for the administration to
22 fill that seat to allow for a quorum to be available.
23 But in any case, we know that's out there. We know
24 that those issues are in play. So there is a balance
25 here.

1 The most important constraint though is
2 the one that fortunately is no longer constrained and
3 that is the providing generation service to the SSO.
4 Given that the company, and we appreciate that as I
5 indicated earlier, has filed the motion to allow a
6 generation auction to go forward, that solves that
7 problem. I think -- when we were here the last time,
8 I suggested that the Commission could probably solve
9 that problem on its own unilaterally, but given that
10 we have got some agreement on that, that should no
11 longer be a constraint in how this case is presented
12 to the Commission.

13 What are constraints are the need to
14 address the nonbypassable charges and to do that
15 expeditiously. We believe this schedule would do
16 that. Thank you.

17 EXAMINER PRICE: Mr. Olikar.

18 MR. OLICKER: Your Honor, just before you
19 rule and in full disclosure, there may be an
20 additional witness in support of the stipulation on
21 retail issues. I don't foresee that testimony being
22 a big surprise to anybody, but without revealing the
23 context of specifics of the testimony, it would be
24 probably very similar to what's already in the record
25 so I wouldn't see that --

1 EXAMINER PRICE: In the event of the
2 hypothetical testimony, can you have it
3 hypothetically filed by February 6?

4 MR. OLIKER: I believe so, your Honor.

5 EXAMINER PRICE: Any other opposing
6 parties care to weigh in on this?

7 MR. KURTZ: Just this, your Honor, I
8 think Mr. Darr's proposed schedule is supported by I
9 believe OCC, OEG, OMAEG, Kroger, Wal-mart, Ohio
10 Environmental, and I believe staff, and OPAE. So
11 it's sort of a broad coalition.

12 EXAMINER PRICE: Mr. Sharkey, would you
13 care to respond?

14 MR. SHARKEY: Yes, your Honor. As an
15 initial matter, Mr. Darr mentioned that there were
16 witnesses that would be sponsoring testimony in
17 opposition to the stipulation. This seems like an
18 awful long -- the proposed extension Mr. Darr
19 proposed would be four weeks to file testimony and
20 then a week later to hearing seems to the company to
21 be unduly slow.

22 We would ask for a much quicker path to
23 the hearing. For example, in the recent AEP case,
24 your Honor, I believe it was three weeks, if I recall
25 correctly, from the date of stipulation to hearing,

1 and we would like to be on a schedule more like that.
 2 I would like to ask, your Honor, if you could inquire
 3 as to the number of witnesses that are anticipated to
 4 be filing in opposition to the testimony. That may
 5 help us to determine, you know, what's a reasonable
 6 schedule here.

7 EXAMINER PRICE: I hate to even ask when
 8 they have had -- I know parties were engaged in
 9 negotiations, but the stip has been filed since
 10 Monday. I am not sure people have -- Mr. McNamee.

11 MR. McNAMEE: I can speak to that, at
 12 least in part. The staff prior to the stipulation
 13 had anticipated about six witnesses, maybe five.
 14 In -- because the stipulation creates additional
 15 issues in the case, which frequently happens, the
 16 staff now would be looking at adding several
 17 additional witnesses, perhaps eight, perhaps nine
 18 total. That testimony doesn't exist yet. We are
 19 going to have to create that from the ground up. We
 20 had not anticipated the need for that. That is part
 21 of the complexity that I am sure all the parties have
 22 to deal with.

23 EXAMINER PRICE: I will poll the room.
 24 Nonbinding basis how many parties think they will
 25 file testimony? You are not bound one way or the

1 other.

2 Multiple witnesses?

3 MS. BOJKO: We haven't seen the testimony
4 yet, your Honor.

5 EXAMINER PRICE: I understand, I
6 understand. I also understand the stip has a --

7 MR. McNAMEE: It won't make it simpler.

8 EXAMINER PRICE: -- has a lot of new and
9 different provisions.

10 MR. DARR: That's what I would like to
11 highlight, your Honor. If we were just talking about
12 what was embedded in the original application, many
13 of us had filed the testimony, identified the issues
14 we thought were important, and gone forward.

15 This stipulation opens up a whole other
16 set of issues, renewables, various rate credits,
17 various alternative proposals in terms of handling
18 EE/PDR money. There are all kinds of interesting
19 things that are raised by the stipulation that
20 weren't raised by the original application. Four
21 weeks in light of that probably is as quickly as
22 it -- as we could reasonably agree to as -- in terms
23 of a schedule to keep this moving.

24 EXAMINER PRICE: Mr. Sharkey, let me
25 preface -- ask you a question. Do you need more than

1 a week to depose intervenors' witnesses?

2 MR. SHARKEY: Absolutely not, your Honor.
3 Get it done in a week. Consulting with my clients,
4 your Honor, and I'm authorized to suggest that we
5 have intervenor testimony on March 1 and the hearing
6 would start on March 8. That gives intervenors a
7 longer time even between the stipulation filing and
8 the hearing start than has been approved from other
9 recent large ESP cases. I think that's more than
10 reasonable, your Honor.

11 MS. BOJKO: Your Honor, may I respond?

12 EXAMINER PRICE: Uh-huh.

13 MS. BOJKO: First of all, the AEP case
14 that was referenced was not an ESP case. It was a
15 PPA case. And that case is significantly different
16 and has a lot less issues.

17 In the recent FirstEnergy case, which was
18 an electric security plan case, there were four
19 stipulations filed in that FE ESP Case 14-1297. And
20 after the stipulation and testimony were filed in all
21 cases except the last one, which was much more
22 narrow, opposing testimony was initially due a
23 minimum of four weeks after it was filed, and the
24 hearing was scheduled after a minimum of seven weeks.
25 And in all of those cases both due dates and the

1 hearing dates were subsequently extended.

2 So with the final stipulation which was
3 filed -- which was much more narrow, as I mentioned,
4 the Bench afforded over four weeks after the
5 stipulation and testimony was filed to prepare and
6 file opposing testimony with the hearing five weeks
7 after the stipulation.

8 So I would disagree with the notion that
9 the AEP case was an ESP case and was similar in
10 nature and say the FirstEnergy case with multiple
11 stipulations that introduced new issues is much more
12 akin to what is going on in this case; and, thus, the
13 schedule proposed by the intervenors is much more
14 reasonable and appropriate. Thank you.

15 EXAMINER PRICE: Anybody else?

16 I think we are down to a difference of
17 five days actually. So I think we're in the ballpark
18 either way. We are going to -- going to consult with
19 my colleague.

20 We are going to accept Mr. Sharkey's
21 compromise offer. It's only five days different from
22 what the intervenors suggested. We are mindful of
23 the need to keep this case moving in light of the
24 \$73 million RSR which would be supplanted by a new
25 ESP, if the Commission ever adopts one. But, you

1 know, we are also cognizant of the point Ms. Bojko
2 made. If there are additional stipulations,
3 additional provisions, it's likely we will have to
4 have the hearing -- hearing date slide after that.
5 Ms. Bojko pointed out we had four different
6 iterations in FirstEnergy so who knows what may
7 happen in the future.

8 That being said, then intervenor -- I am
9 going to make the February 6 date a due date.
10 Testimony in support of the stipulation will be filed
11 by February 6, 2017. Intervenor testimony will be
12 filed by March 1. And company -- we will go forward
13 with the hearing on March 8, 2017, at 10 o'clock.

14 Ms. Fleisher, would you like to discuss
15 rebuttal testimony? It's always an issue you have an
16 interest in.

17 MS. FLEISHER: No, thank you, your Honor.

18 MR. McNAMEE: Did you speak to the
19 request about discovery?

20 EXAMINER PRICE: Yes. Discovery
21 responses will be shortened to seven days.

22 MR. McNAMEE: Thank you.

23 MR. PRITCHARD: Just for clarification
24 was that calendar days or business days?

25 EXAMINER PRICE: Calendar days.

1 MR. PRITCHARD: Thank you.

2 EXAMINER PRICE: Calendar days. We are
3 not going to set a deadline for staff testimony, but
4 we will ask the staff to move with all deliberate
5 speed to file both the initial testimony and the
6 testimony in response to the stipulation.

7 MR. McNAMEE: We will endeavor to move
8 that along as quickly as possible and file it as it
9 becomes available.

10 EXAMINER PRICE: Thank you.

11 Any other issues we need to discuss
12 today?

13 COMMISSIONER BALDRIDGE: Your Honor,
14 Brian Baldridge, Adams County. We are one of the
15 late intervenors, and obviously I am out of my
16 commissioner's role in this room, but because we are
17 late and because there is a lot of things that have
18 worked with local governments in the 48-page document
19 that I saw and for Adams County it's a huge
20 broadbrush. It talks about millions of dollars in
21 settlement.

22 So I appreciate you extending it, but I
23 would encourage and we would love to be at the --
24 come to the table and communicate with DP&L. I would
25 like that to be on the record because they have

1 refused. You know, we are all partners here together
2 in southern Ohio and this is a huge negative impact
3 for us.

4 And I know that deals have been cut with
5 other governments and we have not been at the table
6 and it's a broadbrush. I am a four-term commissioner
7 and when moneys are thrown out in a broadbrush, they
8 get lost and we do studies and there is direct moneys
9 for the Dayton area in the 48-page document, that
10 Dayton Airport, Dayton Economic Development, Dayton
11 Port Authority. We haven't been at the table, and I
12 would encourage -- the president of DP&L, Mr. Raga,
13 stated that intense negotiations for months of the
14 stakeholders. I believe Adams County is a
15 stakeholder, so I would encourage that.

16 EXAMINER PRICE: Thank you.

17 Mr. Darr.

18 MR. DARR: Do you want to respond to
19 that, Mr. Sharkey?

20 MR. SHARKEY: No. Go ahead.

21 MR. DARR: I am not responding to that.

22 One other matter that I just want to
23 bring to the Bench's attention, there is a pending
24 motion to dismiss various portions of -- actually two
25 motions to dismiss various portions of the

1 application. If the Bench were to rule on that, that
2 might -- one or the other motions, that might greatly
3 simplify some of the issues that remain for hearing.
4 Specifically the motions go directly to the
5 lawfulness in light of the DMR. Arguably that still
6 applies to the DMR/DIR that's been filed today -- or
7 filed in the stipulation.

8 Additionally, there are a number of
9 riders where there are questions about lawfulness and
10 support contained in the application. To the extent
11 the Bench rules on those, the Commission rules on
12 those, obviously that would assist the parties as
13 they are preparing for the hearing scheduled now for
14 March 8.

15 EXAMINER PRICE: Thank you. We will keep
16 that in mind.

17 Ms. Bojko.

18 MS. BOJKO: Thank you, your Honor. One
19 discovery matter, given the shortened time frame for
20 hearing in this matter, it might be helpful, it's our
21 understanding, at least, the media and a DP&L press
22 release mentioned side agreements. As you know,
23 those are required to be produced to all parties.

24 Those have not yet been produced so we
25 request that they be produced in a timely manner in

1 order to expedite our review and appropriately
2 include those in testimony, if necessary.

3 EXAMINER PRICE: Do you have a pending
4 discovery request on that?

5 MS. BOJKO: We will today, your Honor,
6 but I was hoping that we could discuss that matter
7 here since it's required by rule.

8 EXAMINER PRICE: Let's go off the record.
9 (Discussion off the record.)

10 EXAMINER PRICE: Let's go back on the
11 record.

12 We have informally addressed that and the
13 discovery issue and that will take care of itself, if
14 necessary.

15 Anything else, Mr. Sharkey?

16 MR. SHARKEY: Can I have one minute, your
17 Honor?

18 One last point just so it's on the
19 record, your Honor, in response to the statements by
20 Adams County, the company certainly would be willing
21 and happy to sit down and talk to Adams County. As
22 your Honors know, the Adams County and some related
23 intervenors intervened very late in the case, and we
24 have not had settlement negotiations with them but
25 certainly would talk to them.

EXAMINER PRICE: Thank you. Well, you are all in the room here together so this might be an opportunity for you. Mr. Walstra and I will be leaving.

Anything else?

With that we are adjourned. We will recommence on March 8, 2017, in this room at 10:00 a.m. Thank you. So we are off the record.

(Thereupon, at 10:35 a.m., the hearing was adjourned.)

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CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Wednesday, February 1,
2017, and carefully compared with my original
stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-6308)

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Case No(s). 16-0395-EL-SSO, 16-0396-EL-ATA, 16-0397-EL-AAM

Summary: Transcript In the Matter of the Application of The Dayton Power and Light Company for Approval of its Electric Security Plan; In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs and In the Matter of the Application of The Dayton Power and Light Company for Approval of Certain Accounting Authority Pursuant to Ohio Rev. Code §4904.13, hearing held on February 1, 2017. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.