

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the	)	
Application of Dayton Power and Light	)	Case No. 18-1875-EL-GRD
Company for Approval of Its Plan to	)	
Modernize Its Distribution Grid.	)	

In the Matter of the Application of the	)	
Dayton Power and Light Company for	)	Case No. 18-1876-EL-WVR
Approval of A Limited Waiver of Ohio	)	
Adm. Code 4901:1-18-06(A)(2).	)	

In the Matter of the Application of the	)	
Dayton Power and Light Company for	)	Case No. 18-1877-EL-AAM
Approval of Certain Accounting Methods.	)	

In the Matter of the Application of the	)	
Dayton Power and Light Company for	)	
Administration of the Significantly	)	Case No. 19-1121-EL-UNC
Excessive Earnings Test under R.C.	)	
4928.143(F) and Ohio Adm. Code 4901:1-	)	
35-10 for 2018.	)	

In the Matter of the Application of the	)	
Dayton Power and Light Company for A	)	
Finding That Its Current Electric Security	)	Case No. 20-680-EL-UNC
Plan Passes the Significantly Excessive	)	
Earnings Test and More Favorable in the	)	
Aggregate Test in R.C. 4928.143(E).	)	

In the Matter of the Application of the	)	
Dayton Power and Light Company for	)	
Administration of the Significantly	)	Case No. 20-1041-EL-UNC
Excessive Earnings Test under R.C.	)	
4928.143(F) and Ohio Adm. Code 4901:1-	)	
35-10 for 2019.	)	

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**MOTION FOR LEAVE TO FILE THE PUBLIC DIRECT TESTIMONY OF  
PAUL J. ALVAREZ  
BY  
OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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The Office of the Ohio Consumers' Counsel ("OCC") hereby moves the Public Utilities Commission of Ohio ("PUCO") to seek leave to file the Public Direct Testimony of Paul J. Alvarez ("Public Alvarez Testimony") one day out of time. Under Ohio Admin. Code 4901-1-12 and 4901-1-13, the PUCO rules provide for an extension of time to file pleadings for good cause shown. There is good cause to grant OCC leave to file the Public Alvarez Testimony one day late. No party will be prejudiced by OCC's filing one day late.

On December 17, 2020, the confidential version of Mr. Alvarez's testimony was timely filed with the PUCO and served on the Dayton Power and Light Company ("DP&L"). In addition, OCC filed the Public Alvarez Testimony on time, but inadvertently with confidential information. OCC quickly discovered the inadvertent error and notified the PUCO to prevent the testimony from being publicly posted. But OCC could not correct the testimony and refile it before 5:30. As a courtesy, OCC sent an email to all parties to this proceeding explaining the situation and delivering the corrected Public Alvarez Testimony on December 17, 2020. Therefore, there are virtually no consequences to other parties and the PUCO from OCC filing the Public Alvarez Testimony one day late.

The grounds for this Motion are more fully described in the accompanying Memorandum in Support.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ Angela D. O'Brien

Christopher Healey (0086027)  
Counsel of Record (Case Nos. 20-680-EL-  
UNC and 19-1121-EL-UNC)  
Angela D. O'Brien (0097579)  
Counsel of Record (Case Nos. 18-1875-EL-  
GRD and 20-1041-EL-UNC)  
William J. Michael (0070921)  
Amy Botschner O'Brien (0074423)  
Ambrosia Wilson (0096598)  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**

65 East State Street, 7th Floor  
Columbus, Ohio 43215  
Telephone [Healey]: (614) 466-9571  
Telephone [O'Brien]: (614) 466-9575  
Telephone [Michael]: (614) 466-1291  
Telephone [Botschner O'Brien]: (614) 466-  
9575  
Telephone [Wilson]: (614) 466-1292  
[christopher.healey@occ.ohio.gov](mailto:christopher.healey@occ.ohio.gov)  
[angela.obrien@occ.ohio.gov](mailto:angela.obrien@occ.ohio.gov)  
[william.michael@occ.ohio.gov](mailto:william.michael@occ.ohio.gov)  
[amy.botschner.obrien@occ.ohio.gov](mailto:amy.botschner.obrien@occ.ohio.gov)  
[ambrosia.wilson@occ.ohio.gov](mailto:ambrosia.wilson@occ.ohio.gov)  
(willing to accept service by e-mail)

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35-10 for 2019.	)	

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**MEMORANDUM IN SUPPORT**

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OCC seeks the PUCO's permission to file, out of time, the Public Direct Testimony of Paul J. Alvarez ("Public Alvarez Testimony"). On December 17, 2020 OCC timely filed with the PUCO five sets of testimony, including the confidential version of Mr. Alvarez's testimony, in accordance with the Attorney Examiner's December 11, 2020 Entry. OCC served the confidential version of Mr. Alvarez's testimony on DP&L and served the Public Alvarez Testimony on all parties to this proceeding.

There is good cause to permit OCC to file the Public Alvarez Testimony one day late. When OCC initially timely filed the Public Alvarez Testimony with the PUCO's docketing information system, OCC discovered the inadvertent inclusion of information claimed by DP&L to be confidential under the terms of OCC's Protective Agreement with DP&L. To protect this information, OCC took immediate action to notify the PUCO's docketing department to reject the filing to prevent public disclosure of the information. OCC also promptly notified DP&L of the error.

While OCC was able to timely file the confidential version of Mr. Alvarez's testimony, OCC was unable to file the corrected Public Alvarez Testimony with the PUCO by the 5:30 pm deadline. Nevertheless, OCC served the Public Alvarez Testimony on all parties in this proceeding via e-mail explaining the circumstances and that OCC intended to file the Public Alvarez Testimony with this Motion on December 18, 2020.

No parties to this proceeding will be prejudiced by OCC filing the Public Alvarez Testimony one day late. As mentioned, OCC timely filed the confidential version of the testimony and served both versions of the testimony on DP&L and the parties on

December 17, 2020. Therefore, parties were provided with timely notice of Mr. Alvarez's positions.

Based on the foregoing, OCC respectfully requests that the PUCO find good cause and accept the Public Alvarez Testimony for filing one day late.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ Angela D. O'Brien  
Christopher Healey (0086027)  
Counsel of Record (Case Nos. 20-680-EL-  
UNC and 19-1121-EL-UNC)  
Angela D. O'Brien (0097579)  
Counsel of Record (Case Nos. 18-1875-EL-  
GRD and 20-1041-EL-UNC)  
William J. Michael (0070921)  
Amy Botschner O'Brien (0074423)  
Ambrosia Wilson (0096598)  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**  
65 East State Street, 7th Floor  
Columbus, Ohio 43215  
Telephone [Healey]: (614) 466-9571  
Telephone [O'Brien]: (614) 466-9575  
Telephone [Michael]: (614) 466-1291  
Telephone [Botschner O'Brien]: (614) 466-  
9575  
Telephone [Wilson]: (614) 466-1292  
[christopher.healey@occ.ohio.gov](mailto:christopher.healey@occ.ohio.gov)  
[angela.obrien@occ.ohio.gov](mailto:angela.obrien@occ.ohio.gov)  
[william.michael@occ.ohio.gov](mailto:william.michael@occ.ohio.gov)  
[amy.botschner.obrien@occ.ohio.gov](mailto:amy.botschner.obrien@occ.ohio.gov)  
[ambrosia.wilson@occ.ohio.gov](mailto:ambrosia.wilson@occ.ohio.gov)  
(willing to accept service by e-mail)

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion for Leave to File the Public Direct Testimony of Paul J. Alvarez by the Office of the Ohio Consumers' Counsel has been served electronically upon those persons listed below this 18th day of December 2020.

/s/ Angela D. O'Brien  
Angela D. O'Brien  
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

### **SERVICE LIST**

Case No. 18-1875-EL-GRD, et al.

[steven.beeler@ohioattorneygeneral.gov](mailto:steven.beeler@ohioattorneygeneral.gov)  
[Robert.eubanks@ohioattorneygeneral.gov](mailto:Robert.eubanks@ohioattorneygeneral.gov)  
[Bethany.allen@igs.com](mailto:Bethany.allen@igs.com)  
[Joe.oliker@igs.com](mailto:Joe.oliker@igs.com)  
[Michael.nugent@igs.com](mailto:Michael.nugent@igs.com)  
[dstinson@bricker.com](mailto:dstinson@bricker.com)  
[kherstein@bricker.com](mailto:kherstein@bricker.com)  
[jspottswood@bricker.com](mailto:jspottswood@bricker.com)  
[jdunnlegal@gmail.com](mailto:jdunnlegal@gmail.com)  
[kevin.oles@thompsonhine.com](mailto:kevin.oles@thompsonhine.com)  
[stephanie.chmiel@thompsonhine.com](mailto:stephanie.chmiel@thompsonhine.com)  
[cmooney@opae.org](mailto:cmooney@opae.org)  
[whitt@whitt-sturtevant.com](mailto:whitt@whitt-sturtevant.com)  
[glover@whitt-sturtevant.com](mailto:glover@whitt-sturtevant.com)  
[drinebolt@opae.org](mailto:drinebolt@opae.org)  
[nvijaykar@elpc.org](mailto:nvijaykar@elpc.org)  
[glpetrucci@vorys.com](mailto:glpetrucci@vorys.com)  
[dparram@bricker.com](mailto:dparram@bricker.com)  
[dstinson@bricker.com](mailto:dstinson@bricker.com)

[ccox@elpc.org](mailto:ccox@elpc.org)  
[Michael.schuler@aes.com](mailto:Michael.schuler@aes.com)  
[jsharkey@ficlaw.com](mailto:jsharkey@ficlaw.com)  
[djireland@ficlaw.com](mailto:djireland@ficlaw.com)  
[chollon@ficlaw.com](mailto:chollon@ficlaw.com)  
[fdarr@mwncmh.com](mailto:fdarr@mwncmh.com)  
[mpritchard@mwncmh.com](mailto:mpritchard@mwncmh.com)  
[mfleisher@dickinsonwright.com](mailto:mfleisher@dickinsonwright.com)  
[cpirik@dickinsonwright.com](mailto:cpirik@dickinsonwright.com)  
[mkurtz@bkllawfirm.com](mailto:mkurtz@bkllawfirm.com)  
[kboehm@bkllawfirm.com](mailto:kboehm@bkllawfirm.com)  
[jkylercohn@bkllawfirm.com](mailto:jkylercohn@bkllawfirm.com)  
[Bojko@carpenterlipps.com](mailto:Bojko@carpenterlipps.com)  
[Dressel@carpenterlipps.com](mailto:Dressel@carpenterlipps.com)  
[Paul@carpenterlipps.com](mailto:Paul@carpenterlipps.com)  
[Dutton@carpenterlipps.com](mailto:Dutton@carpenterlipps.com)  
[slessor@beneschlaw.com](mailto:slessor@beneschlaw.com)  
[talexander@beneschlaw.com](mailto:talexander@beneschlaw.com)  
[mkeaney@beneschlaw.com](mailto:mkeaney@beneschlaw.com)

Attorney Examiners:  
[Patricia.schabo@puco.ohio.gov](mailto:Patricia.schabo@puco.ohio.gov)  
[gregory.price@puco.ohio.gov](mailto:gregory.price@puco.ohio.gov)

Case No. 19-1121-EL-UNC

[steven.beeler@ohioattorneygeneral.gov](mailto:steven.beeler@ohioattorneygeneral.gov)  
[Michael.schuler@aes.com](mailto:Michael.schuler@aes.com)  
[mkurtz@bkllawfirm.com](mailto:mkurtz@bkllawfirm.com)  
[kboehm@bkllawfirm.com](mailto:kboehm@bkllawfirm.com)  
[talexander@beneschlaw.com](mailto:talexander@beneschlaw.com)

[jkylercohn@bkllawfirm.com](mailto:jkylercohn@bkllawfirm.com)  
[bojko@carpenterlipps.com](mailto:bojko@carpenterlipps.com)  
[paul@carpenterlipps.com](mailto:paul@carpenterlipps.com)  
[mpritchard@mcneeslaw.com](mailto:mpritchard@mcneeslaw.com)  
[rglover@mcneeslaw.com](mailto:rglover@mcneeslaw.com)

Attorney Examiners:

[Patricia.schabo@puco.ohio.gov](mailto:Patricia.schabo@puco.ohio.gov)  
[gregory.price@puco.ohio.gov](mailto:gregory.price@puco.ohio.gov)

Case No. 20-1041-EL-UNC

[steven.beeler@ohioattorneygeneral.gov](mailto:steven.beeler@ohioattorneygeneral.gov)  
[Michael.schuler@aes.com](mailto:Michael.schuler@aes.com)  
[Bojko@carpenterlipps.com](mailto:Bojko@carpenterlipps.com)  
[Paul@carpenterlipps.com](mailto:Paul@carpenterlipps.com)

[mpritchard@mcneeslaw.com](mailto:mpritchard@mcneeslaw.com)  
[rglover@mcneeslaw.com](mailto:rglover@mcneeslaw.com)  
[talexander@beneschlaw.com](mailto:talexander@beneschlaw.com)

Attorney Examiners:

[Patricia.schabo@puco.ohio.gov](mailto:Patricia.schabo@puco.ohio.gov)  
[Michael.williams@puco.ohio.gov](mailto:Michael.williams@puco.ohio.gov)

Case No. 20-680-EL-UNC

[thomas.lindgren@ohioattorneygeneral.gov](mailto:thomas.lindgren@ohioattorneygeneral.gov)  
[dparram@bricker.com](mailto:dparram@bricker.com)  
[dstinson@bricker.com](mailto:dstinson@bricker.com)  
[jspottswood@bricker.com](mailto:jspottswood@bricker.com)  
[bojko@carpenterlipps.com](mailto:bojko@carpenterlipps.com)  
[Bethany.allen@igs.com](mailto:Bethany.allen@igs.com)  
[Joe.oliker@igs.com](mailto:Joe.oliker@igs.com)  
[Michael.nugent@igs.com](mailto:Michael.nugent@igs.com)  
[Fdarr2019@gmail.com](mailto:Fdarr2019@gmail.com)  
[paul@carpenterlipps.com](mailto:paul@carpenterlipps.com)  
[kevin.oles@thompsonhine.com](mailto:kevin.oles@thompsonhine.com)  
[stephanie.chmiel@thompsonhine.com](mailto:stephanie.chmiel@thompsonhine.com)

[jsharkey@ficlaw.com](mailto:jsharkey@ficlaw.com)  
[djireland@ficlaw.com](mailto:djireland@ficlaw.com)  
[chollon@ficlaw.com](mailto:chollon@ficlaw.com)  
[michael.schuler@aes.com](mailto:michael.schuler@aes.com)  
[mkurtz@bkllawfirm.com](mailto:mkurtz@bkllawfirm.com)  
[kboehm@bkllawfirm.com](mailto:kboehm@bkllawfirm.com)  
[jkylercohn@bkllawfirm.com](mailto:jkylercohn@bkllawfirm.com)  
[mpritchard@mcneeslaw.com](mailto:mpritchard@mcneeslaw.com)  
[rglover@mcneeslaw.com](mailto:rglover@mcneeslaw.com)  
[slessor@beneschlaw.com](mailto:slessor@beneschlaw.com)  
[talexander@beneschlaw.com](mailto:talexander@beneschlaw.com)  
[mkeaney@beneschlaw.com](mailto:mkeaney@beneschlaw.com)  
[khehmeyer@beneschlaw.com](mailto:khehmeyer@beneschlaw.com)

Attorney Examiners:

[Patricia.schabo@puco.ohio.gov](mailto:Patricia.schabo@puco.ohio.gov)  
[Michael.williams@puco.ohio.gov](mailto:Michael.williams@puco.ohio.gov)



**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**12/18/2020 10:54:24 AM**

**in**

**Case No(s). 18-1875-EL-GRD, 18-1876-EL-WVR, 18-1877-EL-AAM, 19-1121-EL-UNC, 20-0680-EL-UNC**

Summary: Motion Motion for Leave to File the Public Direct Testimony of Paul J. Alvarez by Office of The Ohio Consumers' Counsel electronically filed by Mrs. Tracy J Greene on behalf of O'Brien, Angela D