**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of The Dayton Power and Light Company for Authority to Recover Certain Storm-Related Services Restoration Costs  In the Matter of the Application The Dayton Power and Light Company for Approval of Certain Accounting Authority. | )  )  )  )  )  )  )  ) | Case No. 12-3062-EL-RDR  Case No. 12-3266-EL-AAM |

**MOTION FOR LOCAL PUBLIC HEARINGS**

**AND**

**REQUEST FOR AN EXPEDITED RULING**

**BY**

**THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

The Office of the Ohio Consumers’ Counsel (“OCC”) moves for local hearings where customers can testify regarding the $64.6 million that Dayton Power and Light Company (“DP&L” or “Utility”) wants to charge them for repairs related to major storms that greatly impacted their lives. Also ripe for public input is the wide disparity of proposed charges between DP&L’s $64.6 million versus the mere $1.01 million advanced by the Staff[[1]](#footnote-2) of the Public Utilities Commission of Ohio (“PUCO”) and the less than $1.0 million proposed by OCC. [[2]](#footnote-3) OCC respectfully requests that the local public hearings be arranged, *after thirty days notice,* at the following locations and approximate times:

1. Dayton Municipal Building, Council Chambers, 101 W. Third Street, Third & Ludlow, Second Floor, Dayton, Ohio 45401 at 1:00 P.M; and
2. Dayton Municipal Building, Council Chambers, 101 W. Third Street, Third & Ludlow, Second Floor, Dayton, Ohio 45401 at 6:00 P.M.[[3]](#footnote-4)

Additionally, OCC requests an expedited ruling on this Motion pursuant to Ohio Adm. Code 4901-1-12(C).[[4]](#footnote-5) The reasons the PUCO should grant OCC’s Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

BRUCE J. WESTON

OHIO CONSUMERS’ COUNSEL

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|  | */s/ Melissa R. Yost*  Melissa R. Yost, Counsel of Record  Deputy Consumers’ Counsel  Larry S. Sauer  Michael J. Schuler  Assistant Consumers’ Counsel  **Office of the Ohio Consumers’ Counsel**  10 West Broad Street, Suite 1800  Columbus, Ohio 43215  (614) 466-1291 (Telephone-Yost)  (614) 466-1312 (Telephone-Sauer)  (614) 466-9547 (Telephone-Schuler)  melissa.yost@occ.ohio.gov  larry.sauer@occ.ohio.gov  michael.schuler@occ.ohio.gov |

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**MEMORANDUM IN SUPPORT**

DP&L is seeking to collect over $64 million in storm restoration costs from its customers for storm damage that occurred in 2008, 2011 and 2012.[[5]](#footnote-6) The PUCO has already denied DP&L’s ability to collect over $27 million in capital costs in this case.[[6]](#footnote-7) But even excluding these capital costs, DP&L’s request still includes a substantial $37 million in operation and maintenance (“O&M”) expenses for customers to bear.

For the reasons asserted in the testimony of OCC’s witnesses[[7]](#footnote-8) and the Staff Audit Report,[[8]](#footnote-9) DP&L should be permitted to collect less than $1 million in O&M from customers. Similar to OCC’s position on DP&L’s request, the PUCO Staff recommends that the Utility be limited to collecting a mere $1.01 million (plus applicable carrying costs).[[9]](#footnote-10) In a case where such disparity exists between the high amount of money that DP&L would charge customers and the limited amount of money that the OCC and the PUCO Staff recommend, the PUCO should avail itself of the perspectives of DP&L’s customers who were without electricity during the 2008, 2011 and 2012 storms that are at issue in this case. And those customers should not have to travel to Columbus to provide testimony for the PUCO’s consideration. Accordingly, local public hearings are warranted.

In the past, the PUCO has scheduled local public hearings even when not required by statute, when it felt the hearings were necessary.[[10]](#footnote-11) In a Columbus Southern Power and Ohio Power Company (collectively referred to as “AEP Ohio”) case, AEP Ohio filed a self-complaint for failure to comply with the distribution service reliability requirements set forth in the settlement in Case No. 03-2570-EL-UNC.[[11]](#footnote-12) As part of its self-complaint, AEP Ohio also sought permission to implement enhanced service reliability programs with related cost recovery through increased distribution rates.[[12]](#footnote-13) In considering the reasonableness of the potential charge, the PUCO not only scheduled an evidentiary hearing (as required by R.C. 4905.26), but it also *sua sponte* scheduled local public hearings at six locations.[[13]](#footnote-14) In addition, the PUCO held local public hearings in the DP&L’s ESP case “[i]n order to provide customers of DP&L a reasonable opportunity to provide public testimony in this proceeding.”[[14]](#footnote-15) Similarly, the PUCO held local public hearings in the FirstEnergy ESP[[15]](#footnote-16) and the Duke ESP[[16]](#footnote-17) as well.

These actions of the PUCO illustrate the value and importance of customer input and the PUCO’s commitment to providing customers with a local opportunity to testify about the rates they pay and the quality of their utility service. In particular, the AEP self-complaint case indicates the importance of customer input where service reliability is at issue. Given the nature of this storms case, where service reliability is germane to the PUCO’s task of determining the reasonableness of DP&L’s request to collect storms costs from customers, it is important to allow the Utility’s customers a local opportunity to provide testimony on their outage experiences. DP&L’s customers should also be given an opportunity to share their insights regarding the proposed charges and effectiveness of the Utility’s service restoration efforts.

OCC asked for similar local public hearings in the Ohio Power storms case, Case No. 12-3255-EL-RDR. In denying OCC’s Motion, the PUCO distinguished the *Ohio Bell* case (to which OCC cited) from the Ohio Power storms case by pointing out that the former “pertained to the establishment of a new service by a utility.”[[17]](#footnote-18) The *Ohio Bell* case did involve the institution of new service (Caller ID), but the principle that it could have a substantial effect on the utility’s customers is applicable in this case.

In this case, DP&L is seeking to have customers pay over $64 million in storm restoration costs after storms left customers without power for days, and in some cases weeks. Those customers should be given the opportunity to testify without having to travel to Columbus. And the PUCO should allow them the opportunity for their voices to be heard.

In denying OCC’s request for local public hearings in the Ohio Power storms case, the PUCO noted that “nothing precludes members of the public from filing comments in this docket expressing their view and concerns on this matter.”[[18]](#footnote-19) And the PUCO also explained that local public hearings were not needed in the Ohio Power storms case because “the interests of residential ratepayers are capably represented through OCC’s intervention in this matter.”[[19]](#footnote-20) OCC is certainly appreciative of the PUCO’s words regarding OCC’s capable consumer representation. However, the opportunity for consumers to testify is additional to opportunities for consumers to file comments and to be represented in a legal proceeding, as can be seen in the cases over the years where the PUCO has arranged for local hearings.

There should be adequate notice of the local public hearings. The notice should be written in terms understandable to the public. The parties’ positions on charges to customers should be disclosed (DP&L proposing $64.6 million; the PUCO Staff proposing $1.01 million; and OCC proposing less than $1 million). The notice should be published in a newspaper of general circulation in each county of the electric utility’s certified territory. And the notice should explain how customers may submit comments by regular mail and by electronic filing on the PUCO’s website.

OCC further requests that the PUCO rule on an expedited basis. Ohio Adm. Code 4901-1-12(C) allows for the PUCO to rule on an expedited basis.[[20]](#footnote-21) The hearing in Columbus is scheduled to commence on March 10, 2014.

For the reasons stated above, OCC respectfully requests that the PUCO schedule at least two local public hearings for testimony by the customers that DP&L seeks to charge $64.6 million related to the storms that these customers endured.

Respectfully submitted,

BRUCE J. WESTON

OHIO CONSUMERS’ COUNSEL

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|  | */s/ Melissa R. Yost*  Melissa R. Yost, Counsel of Record  Deputy Consumers’ Counsel  Larry S. Sauer  Michael J. Schuler  Assistant Consumers’ Counsel  **Office of the Ohio Consumers’ Counsel**  10 West Broad Street, Suite 1800  Columbus, Ohio 43215  (614) 466-1291 (Telephone-Yost)  (614) 466-1312 (Telephone-Sauer)  (614) 466-9547 (Telephone-Schuler)  melissa.yost@occ.ohio.gov  larry.sauer@occ.ohio.gov  michael.schuler@occ.ohio.gov |

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion was served on the persons stated below via electronic service this 19th day of February 2014.

*/s/ Melissa R. Yost*

Melissa R. Yost

Deputy Consumers’ Counsel

**SERVICE LIST**

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1. Comments Filed on Behalf of the Staff of the Public Utilities Commission of Ohio at pp. 5-7 (June 17, 2013); Audit Report Submitted on Behalf of the Staff of the Public Utilities Commission of Ohio at pp. 3-7 (Jan. 3, 2014). [↑](#footnote-ref-2)
2. *See*, Application Schedule B-1, page 1 of 1, line 33. The three year total is $64,646,644 = $22,338,250 + $21,671,351 + $20,637,043. [↑](#footnote-ref-3)
3. This Commission ordered DP&L to hold local public hearings at the same times and location in the Utility’s ESP proceeding. *See*, *In the Matter of the Application of The Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan*, Case No. 12-426-EL-SSO, Entry at 2 (Dec. 6, 2012). [↑](#footnote-ref-4)
4. OCC is not in a position to certify that no party objects to an expedited ruling. [↑](#footnote-ref-5)
5. *In the Matter of the Application of The Dayton Power and Light Company for Authority to Recover Certain Storm-Related Service Restoration Costs*, Case No. 12-3062-EL-RDR et al., Application (December 21, 2012). [↑](#footnote-ref-6)
6. Case Nos. 12-3062-El-RDR, 12-3266-EL-AAM, Entry at 7-8 (October 23, 2013). [↑](#footnote-ref-7)
7. Direct Testimony of Anthony J. Yankel (January 31, 2014); Direct Testimony of Daniel J. Duann, Ph.D. (January 31, 2014). [↑](#footnote-ref-8)
8. Audit Report Submitted on Behalf of the Staff of the Public Utilities Commission of Ohio at pp. 3-7 (Jan. 3, 2014) [↑](#footnote-ref-9)
9. Comments Filed on Behalf of the Staff of the Public Utilities Commission of Ohio at pp. 5-7 (June 17, 2013) (finding that the 2008 and 2011 expenses were not appropriate for recovery); Audit Report Submitted on Behalf of the Staff of the Public Utilities Commission of Ohio at pp. 3-7 (Jan. 3, 2014) (reiterating that “the 2008 and 2011 expenses should not be recovered” and that the 2012 O&M expenses should be reduced by a total of $3,752,644, which includes a $3,482,366 adjustment for the three-year average of storms, a $144,611 adjustment to management labor, a $104,925 adjustment to union straight-time labor, a $4,301 adjustment for costs that were out of time, and a $16,441 adjustment for contracted employees that were paid double-time). [↑](#footnote-ref-10)
10. *In the Matter of the Application of the Ohio Bell Telephone Co.* (“*Ohio Bell*”), Pub. Util. Comm. No. 90-467-TP-ATA, Entry at 2-3 (June 24, 1991); *In the Matter of the Application of the Ohio Bell Telephone Co.*, Pub. Util. Comm. No. 90-467-TP-ATA, 1991 Ohio PUC LEXIS 829, Entry on Interlocutory Appeal at \*5 (July 10, 1991). [↑](#footnote-ref-11)
11. *In the Matter of the Self-Complaint of Columbus Southern Power Company and Ohio Power Company Regarding the Implementation of Programs to Enhance Distribution Service Reliability*, Case No. 06-222-EL-SLF, Entry at 1-2 (Feb. 6, 2006). [↑](#footnote-ref-12)
12. *In the Matter of the Self-Complaint of Columbus Southern Power Company and Ohio Power Company Regarding the Implementation of Programs to Enhance Distribution Service Reliability*, Case No. 06-222-EL-SLF, Entry at 1 (July 26, 2006). [↑](#footnote-ref-13)
13. *In the Matter of the Self-Complaint of Columbus Southern Power Company and Ohio Power Company Regarding the Implementation of Programs to Enhance Distribution Service Reliability*, Case No. 06-222-EL-SLF, Entry at 1-2 (Nov. 27, 2006). [↑](#footnote-ref-14)
14. *In the Matter of the Application of The Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan*, Case No. 12-426-EL-SSO, Entry at 2 (Dec. 6, 2012). [↑](#footnote-ref-15)
15. *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison 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. 08-935-EL-SSO, Entry at 1-2 (Sept. 9, 2008). [↑](#footnote-ref-16)
16. *In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of an Electric Security Plan,* Entry at 1-2 (Sept. 17. 2008). [↑](#footnote-ref-17)
17. *In the Matter of the Application of Ohio Power Company to Establish Initial Storm Damage Recovery Rider Rates*, Case No. 12-3255-EL-RDR, Entry at 4 (Aug. 6, 2013). [↑](#footnote-ref-18)
18. Id. [↑](#footnote-ref-19)
19. Id. [↑](#footnote-ref-20)
20. OCC is not in a position to certify that no party objects to an expedited ruling. [↑](#footnote-ref-21)