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December 31, 2008

VIA FEDERAL EXPRESS

Public Utilities Commission of Ohio
Attention: Renee Jenkins
Docketing Division
180 E. Broad Street
10th Floor
Columbus, OH 43215

RE: DP&L ESP Filing
Case No. 08-1094-EL-SSO

Dear Ms. Jenkins:

Enclosed are an original and twenty (20) copies of The Dayton Power and Light Company's Memorandum in Opposition to the Joint Motion of Honda Mfg., Inc. and Cargill, Incorporated for a Two-Week Extension of Time for the Remainder of the Procedural Schedule in the above-captioned matter.

Very truly yours,

R. Holtzman Hedrick

R. Holtzman Hedrick

RHH/jmj
Enclosures

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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan.	:	Case No. 08-1094-EL-SSO
In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs.	:	Case No. 08-1095-EL-SSO
In the Matter of the Application of The Dayton Power and Light Company for Approval of Certain Accounting Authority Pursuant to Ohio Rev. Code. §4905.13.	:	Case No. 08-1096-EL-AAM
In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Amended Corporate Separation Plan.	:	Case No. 08-1097-EL-UNC

THE DAYTON POWER AND LIGHT COMPANY'S MEMORANDUM IN OPPOSITION TO THE JOINT MOTION OF HONDA MFG., INC. AND CARGILL, INCORPORATED FOR A TWO-WEEK EXTENSION OF TIME FOR THE REMAINDER OF THE PROCEDURAL SCHEDULE

Parties who have done nothing in this matter should not be granted an extension of time. The Dayton Power and Light Company ("DP&L") opposes the Joint Motion of Honda Mfg., Inc. ("Honda") and Cargill, Incorporated ("Cargill") for a Two-Week Extension of Time for the Remainder of the Procedural Schedule, and requests that the Public Utilities Commission of Ohio ("Commission") deny the Motion as unnecessary and unwarranted. Honda and Cargill (collectively, "Movants") have failed to meet their burden of showing "good cause" under Ohio Admin. Code 4901-1-13(A) as to why the deadlines in this matter should be extended by two weeks.

I. MOVANTS' INACTIVITY CANNOT PROVIDE "GOOD CAUSE" FOR AN EXTENSION

Honda and Cargill have done nothing in this matter except (1) file a motion to intervene, and (2) file the motion for extension of time at issue. Neither has conducted any discovery. The Movants even admit that they "have not completed their reviews of the Application and the Supplement due to the unavailability of certain key staff members due to preplanned holiday vacations." Motion, p. 3. Yet DP&L's Application was filed on October 10, 2008, and the technical conference was December 15, 2008. Honda and Cargill have thus had plenty of time to review the Application. The inaction of Honda and Cargill cannot constitute the "good cause" necessary for this Motion to be granted.

The Movants' lack of activity stands in stark contrast to the aggressive approach taken by some other parties to these proceedings. Not only has Staff been pursuing discovery, but also the Office of the Ohio Consumers' Counsel ("OCC") and the Industrial Energy Users - Ohio ("IEU-Ohio") have been heavily involved in discovery in a timely fashion. (Indeed, yesterday OCC clarified its deposition needs and DP&L is working to arrange depositions; once a schedule is set, all parties will be notified and invited to attend.)

As OCC has been diligent in pursuing discovery, and DP&L needed an extension of time to respond to a portion of OCC's discovery requests (most of the requests to date having been responded to within the deadlines), this week DP&L has told counsel for OCC that DP&L would not oppose OCC's request that OCC have a 3-day extension of time (until January 15, 2009) to file OCC's testimony. This short extension

of time, to which DP&L agreed, shows that parties which are diligent can meet the schedule for a hearing. Should inactive, nondiligent parties be allowed to reset the entire schedule by two weeks simply upon request, without the "good cause" showing required by the Commission's rule?

II. THE COMMISSION'S STATUTORY TIME CONSTRAINTS MAKE AN EXTENSION IMPRACTICABLE

Further, the Commission has a 150-day deadline from the date of filing to rule on DP&L's ESP Application. Ohio Rev. Code §4928.143(C)(1). DP&L filed its ESP Application on October 10, 2008, meaning that the Commission must issue its order by March 9, 2009. Under Honda and Cargill's proposed plan, the evidentiary hearing would not begin until February 9, 2009.[1] Assuming two weeks for completion,[2] DP&L's evidentiary hearing would not end until February 20, 2008. That would leave inadequate time for the parties to file post-hearing briefs and for the Commission to consider the issues before issuing an order. Such a schedule is simply not practicable.

III. OTHER RECENT UTILITY PROCEEDINGS SHOW THAT AN EXTENSION IS UNWARRANTED

Finally, Movants attempt to frame this case as comparable to other recent public utility ESP proceedings in which the Commission has granted two-week extensions of time. Motion, p. 4. Although the Commission did grant two-week

[1] Honda and Cargill actually propose February 8, 2009, as the starting date for the evidentiary hearing, but because February 8, 2009 falls on a Sunday, DP&L's assumes Movants meant to state February 9, 2009.

[2] According to the hearing schedule on the PUCO website, FirstEnergy's recent evidentiary hearing lasted approximately 16 days, while the hearing for American Electric Power lasted approximately 24 days.

extensions in the FirstEnergy ESP matter (Case No. 08-935-EL-SSO), the American Electric Power ESP matter (Case. No. 08-917-EL-SSO), and the Duke ESP matter (Case No. 08-920-EL-SSO), a closer look at those extensions provides further proof that an extension is unwarranted in these proceedings.

According to the Commission's November 26, 2008 scheduling order, DP&L's evidentiary hearing is currently scheduled to begin 109 days after DP&L initially filed its ESP Application (October 10, 2008 to January 26, 2008). By contrast, even after the two-week extension in the FirstEnergy case, the evidentiary hearing began only 78 days after the initial filing (July 31, 2008 to October 16, 2008).[3] Similarly, the Commission granted an extension in the Duke ESP case that extended the evidentiary hearing to 96 days after filing (July 31, 2008 to November 3, 2008).[4] In the AEP case, after the two-week extension was granted by the Commission, the hearing took place 110 days after the initial filing (July 31, 2008 to November 17, 2008).[5] That time span in the AEP case is nearly identical to the amount of time currently scheduled between the filing date and the hearing date in this matter. If Honda and Cargill's Motion were to be granted, then there would be an unprecedented and unnecessarily long 123-day lag time

[3] Commission's September 5, 2008 entry rescheduling FirstEnergy's evidentiary hearing from October 2, 2008, to October 16, 2008.

[4] Commission's September 5, 2008 entry rescheduling Duke's evidentiary hearing from October 20, 2008, to November 3, 2008. After a stipulation was filed in the Duke ESP case, the Commission granted a second extension of one week, which still put the lag time between the date of initial filing to the date of the evidentiary hearing, 103 days, at less than what is scheduled under the Commission's current scheduling order in this matter (109 days). Commission's October 31, 2008 entry granting a one week extension regarding the evidentiary hearing.

[5] Commission's September 5, 2008 entry rescheduling AEP's evidentiary hearing from November 3, 2008, to November 17, 2008.

between DP&L's initial filing and the evidentiary hearing (October 10, 2008 to February 9, 2009) -- far longer than the amount of time between the filing and hearing dates in the other ESP cases.

Honda and Cargill have failed to show "good cause" for their unworkable and unnecessary extension, and the Commission should deny their Motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Memorandum in Opposition to the Joint Motion of Honda Mfg., Inc. and Cargill, Incorporated for a Two-Week Extension of Time for the Remainder of the Procedural Schedule has been served via electronic mail, upon the following counsel of record, this 31st day of December, 2008:

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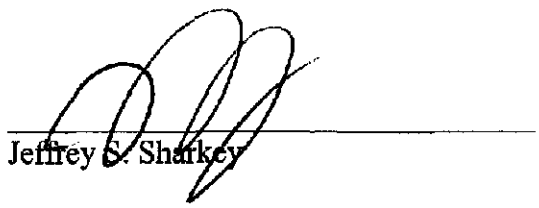

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