

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of )  
 The Dayton Power and Light Company ) Case No. 08-1094-EL-SSO  
 For Approval of its Electric Security )  
 Plan. )

In the Matter of the Application of )  
 The Dayton Power and Light Company ) Case No. 08-1095-EL-ATA  
 For Approval of Revised Tariffs. )

In the Matter of the Application of )  
 The Dayton Power and Light Company )  
 For Approval of Certain Accounting ) Case No. 08-1096-EL-AAM  
 Authority Pursuant to Section 4905.13, )  
 Revised Code. )

In the Matter of the Application of )  
 The Dayton Power and Light Company ) Case No. 08-1097-EL-UNC  
 For Approval of its Amended )  
 Corporate Separation Plan. )

ENTRY

The attorney examiner finds:

- (1) Dayton Power and Light Company (DP&L) is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.
- (2) On October 10, 2008, DP&L filed an application for a standard service offer (SSO) pursuant to Section 4928.141, Revised Code. This application is for an electric security plan (ESP) in accordance with Section 4928.143, Revised Code.
- (3) By entry dated November 26, 2008, the attorney examiner established a procedural schedule for this proceeding, setting the matter for hearing on January 26, 2009. Subsequently, on December 29, 2008, Honda of America Mfg., Inc., (Honda) and Cargill, Inc., (Cargill) filed a joint motion for a two-week extension of time for the remainder of the procedural schedule.

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On January 2, 2009, DP&L filed a memorandum in opposition to the joint motion. Honda and Cargill filed their reply on January 5, 2009. The office of the Ohio Consumers' Counsel (OCC) also filed a reply to DP&L's memorandum contra on January 5, 2009. Finally, on January 7, 2009, DP&L filed a motion for leave to file a memorandum in rebuttal to the replies of Honda and Cargill and OCC.

- (4) In the joint motion, Honda and Cargill state that they have not completed their reviews of the Application and the Supplement filed by DP&L due to planned vacations over the holidays. Further, Honda and Cargill note that the Commission has issued Opinion and Orders addressing the proposed ESPs for Duke Energy Ohio and FirstEnergy which require review before intervenor testimony can be prepared. Honda and Cargill request an additional two weeks to prepare for the hearing in this proceeding.
- (5) In its memorandum contra, DP&L states that the 150-day statutory timeframe for completion of this case make an extension impractical. DP&L notes that, if the proposed extension of the hearing date to February 9, 2009, is granted, there will be an inadequate amount of time for the preparation and filing of briefs, assuming two weeks for completion of the evidentiary hearing. DP&L further argues that the Commission's recent experience with other recent ESP proceedings demonstrate that an extension is unwarranted. DP&L states that, if an extension is granted, there would be an extraordinarily long period between the filing of the case and the commencement of the evidentiary hearing.
- (6) In their reply, Honda and Cargill note that DP&L filed a Supplement to its Application and argue that their proposed two-week extension of the procedural schedule would not create an extraordinarily long delay between the filing of the Supplement and the evidentiary hearing. In its reply, OCC stated that it supports the proposed two-week extension of the procedural schedule.
- (7) In its motion for leave to file a memorandum in rebuttal to the replies filed in this proceeding, DP&L argues that a rebuttal is necessary to respond to and correct statements made in the replies which DP&L alleges are inaccurate.

- (8) The attorney examiner finds that DP&L's motion for leave to file a rebuttal in this case should be denied. Rule 4901-1-12, Ohio Administrative Code, provides for the filing of memoranda contra and replies to motions filed in Commission proceedings. The rule does not provide for the filing of rebuttals to replies. Further, extended arguments on motions will not assist the Commission in meeting the statutory timeframe for a decision in this proceeding. However, the attorney examiner notes that, even if DP&L's motion had been granted, it would not have affected the attorney examiner's ruling on the motion for an extension. None of the disputed statements regarding discovery were relevant to the examiner's ruling on the motion.
- (9) The attorney examiner finds that the motion for a two-week extension of the procedural schedule is reasonable and should be granted. The examiner notes that similar extensions were granted in all of the other ESP cases. Moreover, DP&L filed a Supplement to its Application on December 5, 2008, and, in light of this filing, an extension of the procedural schedule is reasonable.
- (10) The following schedule is established for this proceeding:
- (a) Testimony on behalf of intervenors should be filed by January 26, 2009.
  - (b) Testimony on behalf of the Commission staff should be filed by February 3, 2009.
  - (c) Discovery requests, except for notices of deposition, should be served by February 3, 2009.
  - (d) The evidentiary hearing shall commence on February 11, 2009, at 10:00 a.m., at the offices of the Commission, Hearing Room 11-C, 180 E. Broad St., Columbus, Ohio 43215.
- (11) Local public hearings will be scheduled, and publication of notice required, by subsequent entry.

It is, therefore,

ORDERED, That DP&L's motion for leave to file a rebuttal in this case is denied in accordance with Finding (8). It is, further,

ORDERED, That the revised procedural schedule for this proceeding be adopted as set forth in Finding (10). It is, further,

ORDERED, That the evidentiary hearing in this proceeding commence on February 11, 2009, at 10:00 a.m., at the offices of the Commission, Hearing Room 11-C, 180 E. Broad St., Columbus, Ohio 43215. It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO




By: Gregory A. Price  
Attorney Examiner

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/ct

Entered in the Journal

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Renee J. Jenkins  
Secretary