

RECEIVED-DOCKETING DIV
2009 JAN 26 PM 5:24
PUCO

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

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

In the Matter of the Application of the)
Dayton Power and Light Company for) Case No. 08-1096-EL-AAM
Approval of Certain Accounting Authority)
Pursuant to Ohio Rev. Code § 4905.13.)

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

**MOTION FOR LOCAL PUBLIC HEARINGS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of the approximately 460,000 residential utility consumers of Dayton Power & Light Company ("DP&L"), moves for at least four local public hearings to provide DP&L's customers an opportunity to testify in the case captioned-above to be held as part of the local public hearings that the PUCO has stated it will hold (but not yet designated) in its recent procedural Entry in this case.¹ Hearings should be scheduled after 5:00 p.m. for Dayton,

¹ *In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan, et. al.*, Entry at 4 (November 26, 2008).

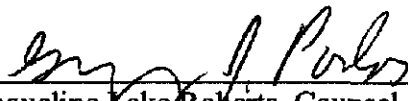
This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician Date Processed 12/6/09

Wilmington, and Washington Courthouse and one daytime hearing in Dayton. The notice for hearings should be published at least thirty days before the hearings are held.

The reasons for granting this Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL



Jacqueline Lake Roberts, Counsel of Record
Michael Idzkowski
Richard C. Reese
Gregory J. Poulos

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-8574 (Telephone)
roberts@occ.state.oh.us
reese@occ.state.oh.us
poulos@occ.state.oh.us
idzkowski@occ.sate.oh.us

**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-ATA
)	
)	
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
)	
)	

MEMORANDUM IN SUPPORT

I. INTRODUCTION

On October 10, 2008, DP&L filed its applications in the above-identified cases. In Case No. 08-1094-EL-SSO, DP&L is seeking the approval of its proposed Electric Security Plan ("ESP Case"). The other cases involve requests to amend DP&L's corporate separation plan, a request for accounting authority and approval of tariffs. Each of the applications affects DP&L's electric service customers in Ohio, including the approximately 460,000 thousand residential customers.

If granted by the PUCO, these Applications will result in an increase in the rates paid by DP&L's residential customers. OCC requests that the Commission schedule public hearings on these matters.

II. ARGUMENT

A. Transparency And Ohio Statutes Encourage Public Participation.

Because the Applications may significantly impact customer rates, OCC appreciates that the PUCO's intention to schedule local hearings, which are needed to provide DP&L's customers a chance to participate in the state's regulatory process for (without limitation) establishing electric rates, deploying renewable energy, and ensuring service quality.

In August 2007, the Administration announced seven principles that would guide the development of energy policies, in particular with regard to electricity and electric rates.² One of the principles announced by Governor Strickland was transparency:

The electricity market must feature accountability and transparency. Quite simply, customers should be able to understand what they pay for and what they get.³

A good way to ensure that residential customers "understand what they pay for and what they get" is to allow them the opportunity to participate in the process. Local public hearings will provide this opportunity to customers.

In the principles it was noted how important it is to include consumers in the process:

Consumers deserve equal footing with utilities. Electricity is vital in the lives of every Ohioan and every Ohio company. Therefore, the needs and preferences of our utilities cannot be the PUCO's sole concern.⁴

² T. Strickland, *Energy, Jobs, and Progress Proposal*, (2007), <http://www.governor.ohio.gov/News/PressReleases/2007/August2007/News82907/tabid/750/Default.aspx>.

³ Id.

⁴ Id.

Toward implementing this principle of transparency, the Commission should allow residential consumers a convenient and important way to learn more about the ESP Application, and to express their opinions directly to the Commission as part of the overall record in the ESP Case. The Commission should schedule local public hearings.

In addition to the announced principles guiding Ohio's overall approach to ensuring affordable and stable electric rates, existing general statutory language is consistent with public participation. R.C. 4901.12 states that all proceedings and records of the Commission are public records. The plain language of this statute conveys that public scrutiny and involvement in Commission hearings and decisions are encouraged.

In addition, R.C. 4903.13 states the imperative that "[a]ll hearings shall be open to the public." In this case, local hearings will help ensure that the hearing process is "open to the public." These proceedings, in order to truly be open to the public, should include local public hearings as part of the evidentiary record, thereby providing residential consumers who might be unable to reasonably attend hearings in Columbus an opportunity to participate in the hearing process.

B. The PUCO's Past Scheduling of Local Public Hearings for Electric Transition Plans and Rate Stabilization Plans Supports the Use of Local Public Hearings in These Cases.

In the electric transition plan cases in 2000, the PUCO scheduled and held several local public hearings in order to provide the opportunity for public comment:

Pursuant to recently adopted rules, the Commission has scheduled public hearings on each of the utilities' transition plan applications. The Commission also wishes to hold local public hearings in each of the utilities' service territories to provide the public the opportunity to comment on the transition plans for the utilities' provision of retail electric service in Ohio.⁵

⁵ *In re FirstEnergy ETP Case*, Case No. 99-1313-EL-ETP, et al., Entry at 2 (May 2, 2000).

Thus, the Commission gave the public an opportunity to comment on the company's plan. OCC urges the Commission to provide the same opportunity to Ohio consumers in the MRO Case as well as the ESP Case.

Later, several local public hearings were scheduled in the rate stabilization plan cases that preceded the end of the market development period. Again, the Commission scheduled the local public hearings to provide the public an opportunity to comment:

The Commission believes that . . . a hearing on the application is warranted to provide affected parties an opportunity to express their views on the applications.⁶

In both the transitional period after the passage of Ohio's electric restructuring legislation in 1999, and later in advance of the end of the transition periods, the PUCO found it advisable to allow consumers who would be affected by changes in the electric rates to comment on the applications at several local public hearings. Ohio is entering another transitional period with electric service and prices. Administration principles and Commission procedure all support OCC's request for local public hearings in all cases that involve setting standard service offer rates.

C. OCC Recommends that the PUCO Hold Local Hearings in at Least Four Locations and Publish the Notice at Least Thirty Days in Advance that Includes a Summary of Major Issues.

It has been the Commission's practice to schedule public hearings in close proximity of the Company's customers.⁷ OCC has reviewed DP&L's customer base,

⁶ *In re FirstEnergy RSP Case*, Case No. 03-2144-EL-ATA, et al., Entry at 3 (October 28, 2003).

⁷ See, e.g., *In re Ohio American Water Company Application to Increase its Rates*, Case No. 06-433-WS-AIR, Entry at 1-2 (November 14, 2006). The attorney examiner found it appropriate to add an additional local public hearing in response to an OCC motion for an additional local public hearing because of the number of customers that would have to travel more than 100 miles to testify at one of the other local public hearings.

both in terms of population density and geographic location, as indicated in DP&L's past filings with the PUCO. As a result, OCC requests that the Commission schedule at least four local public hearings as follows:

- 1) One hearing in Dayton, Ohio to be held after 5 PM;
- 2) One hearing in Wilmington, Ohio to be held after 5 PM;
- 3) One hearing in Washington Courthouse, Ohio to be held after 5PM; and
- 4) One hearing in Dayton, Ohio to be held after during the day.

The locations listed above constitute population centers in DP&L's customer service area. Based upon DP&L's service and territory size and location, these public hearings are appropriate to provide DP&L's customers an opportunity to be heard.

The notice to customers should include a listing of major issues, as in various other cases before the Commission. The major issues affecting residential customers in these cases are numerous:

- Based on Ohio's new electric policy law, should electric rates charged to DP&L's customers be increased or decreased?
- Before the PUCO accepts any proposal for customers to be required to pay for electric rate discounts that are provided to businesses in order to promote economic development, what eligibility criteria should be used to ensure that discounts are in the public interest and what standards should be used to measure whether the economic development benefits are achieved?
- Are improvements needed in the quality of the electric utility's service to customers?
- What assurances should be provided to utility customers that rate increases designed to pay for system upgrades will result in improvements in the reliability of electric service and what should the consequences be if the electric utility fails to improve its service?

- What new or advanced technologies should be implemented for meters and other portions of the electric system to help consumers manage their usage and assist the utility in identifying reliability concerns?
- How will the utility meet the requirement in the new state law to use renewable energy?
- What energy efficiency programs should be implemented by the electric utility and how should those programs be made available for customers?
- What is a reasonable amount of administrative and marketing expenses for each of DP&L's proposed energy efficiency programs?

In order to provide sufficient notice to the public, the PUCO should provide the public with at least 30 days notice prior to the public hearings in newspapers of general circulation at the locations selected for the hearings. Such notice would allow DP&L's customers to adapt their schedules and plan their travel to the hearings. Without such sufficient notice, the effectiveness of the public hearings will be diminished.

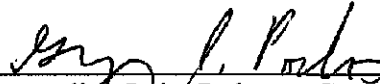
III. CONCLUSION

The Commission should hold local public hearings regarding the Application in the ESP Case. Four separate locations are proposed by OCC for such hearings based on the location of population centers and the geographic extent of the area served by DP&L. The local public hearings provide DP&L's customers an opportunity to participate in these cases that may significantly affect their rates and service.

OCC's Motion for Local Public Hearings should be granted.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL



Jacqueline Lake Roberts, Counsel of Record

Mike Idzkowski

Richard C. Reese

Gregory J. Poulos

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

(614) 466-8574 (Telephone)

roberts@occ.state.oh.us

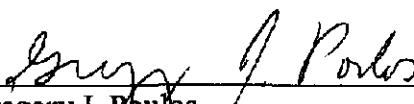
reese@occ.state.oh.us

poulos@occ.state.oh.us

idzkowski@occ.state.oh.us

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Local Public Hearings was served via electronic transmission to the persons listed below, on this 26th day of January, 2009.



Gregory J. Poulos
Assistant Consumers' Counsel

SERVICE LIST

cfaruki@ficlaw.com
jsharkey@ficlaw.com
jclark@mwncmh.com
lmcalister@mwncmh.com
sam@mwncmh.com
drinebolt@aol.com
cmooney2@columbus.rr.com
Ned.Ford@fuse.net
ricks@ohanet.org
wis29@yahoo.com
tobrien@bricker.com
smhoward@vssp.com
mjsettineri@vorys.com
BarthRoyer@aol.com
Gary.A.Jeffries@dom.com
Thomas.Lindgren@puc.state.oh.us
thomas.mcnamee@puc.state.oh.us

judi.sobecki@dplinc.com
jbentine@cwslaw.com
mwhite@cwslaw.com
myurick@cwslaw.com
henryeckhart@aol.com
rukeiley@igc.org
dboehm@bkllawfirm.com
mkurtz@bkllawfirm.com
Cynthia.A.Fonner@constellation.com
mhpetricoff@vssp.com
LGearhardt@ofbf.org
cmiller@szd.com
gdunn@szd.com
aporter@szd.com
nmoser@theOEC.org
trent@theOEC.org
Williams.toddm@gmail.com
ejacobs@ablelaw.org