

9
FARUKI IRELAND & COX P.L.L.

ATTORNEYS AT LAW

500 Courthouse Plaza, S.W. 10 North Ludlow Street Dayton, Ohio 45402 937-227-3700 Fax 937-227-3717

R. Holtzman Hedrick
(937) 227-3727
rhedrick@ficlaw.com

FILE

January 29, 2009

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

RECEIVED-DOCKETING DIV
2009 JAN 30 AM 11:16
PUCO

Dear Ms. Jenkins:

Enclosed are an original and twenty (20) copies of the Memorandum of The Dayton Power and Light Company in Response to the Motion for Local Public Hearings by The Office of the Ohio Consumers' Counsel in the above-captioned matter.

Very truly yours,

R. Holtzman Hedrick

R. Holtzman Hedrick

RHH/tes
Enclosures

204611.1

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 S Date Processed - JAN 30 2009



TRUSTED WISDOM. EXTRAORDINARY RESULTS.

ficlaw.com

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

**MEMORANDUM OF THE DAYTON POWER AND LIGHT COMPANY
IN RESPONSE TO THE MOTION FOR LOCAL PUBLIC HEARINGS BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Dayton Power and Light Company ("DP&L") agrees that public hearings should be scheduled. DP&L responds to three proposals in the Motion of The Office of the Ohio Consumers' Counsel:

(1) OCC proposes to hold public hearings in Dayton, Wilmington, and Washington Courthouse, Ohio. Motion, p. 5. Wilmington and Washington Courthouse, however, are both located south of Dayton. For better geographic balance, the Commission should not conduct a public hearing in Wilmington, but instead should conduct a public hearing in Troy, Ohio, so that consumers from the northern portion of DP&L's service territory can be heard.

(2) Why should the notice of the public hearings in the DP&L case be so different from the notices in the other utilities' cases? DP&L objects to OCC's argumentative list of "major issues" to be included in the notice to customers of the hearings. Motion, pp. 5-6. Several of the "major issues" listed by OCC pose biased questions with negative connotations towards DP&L. No such list of "major issues" should accompany the public hearing notice. Instead, and in accordance with other recent ESP cases, DP&L proposes that the Commission issue a neutral notice to customers, such as the "Proposed Notice of Public Hearing" made part of DP&L's ESP Application (attached as Exhibit 1).

(3) No legal authority exists for the OCC's request that published notice be given "at least 30 days" prior to the local hearing. Motion, p. 6. This arbitrary and unnecessarily long lead time is not required by statute or Commission rule. Ohio Rev. Code § 4928.141(B); Ohio Admin. Code § 4901:1-35-06(A).

DP&L requests that the Commission schedule public hearings consistent with this response.

Respectfully submitted,

Judi L. Sobecki (0067186)
THE DAYTON POWER AND LIGHT
COMPANY
1065 Woodman Drive
Dayton, OH 45432
Telephone: (937) 259-7171
Telecopier: (937) 259-7178
Email: judi.sobecki@dplinc.com

R. Holtzman Hedrick

Charles J. Faruki (0010417)
Jeffrey S. Sharkey (0067892)
R. Holtzman Hedrick (0078424)
FARUKI IRELAND & COX P.L.L.
500 Courthouse Plaza, S.W.
10 North Ludlow Street
Dayton, OH 45402
Telephone: (937) 227-3705
Telecopier: (937) 227-3717
Email: cfaruki@ficlaw.com

Attorneys for The Dayton Power and
Light Company

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Memorandum of The Dayton Power and Light Company in Response to the Motion for Local Public Hearings by The Office of the Ohio Consumers' Counsel, has been served via electronic mail upon the following counsel of record, this 28th day of January, 2009:

Samuel C. Randazzo, Esq.
Lisa G. McAlister, Esq.
Joseph M. Clark, Esq.
MCNEES WALLACE & NURICK LLC
21 East State Street, 17th Floor
Columbus, OH 43215-4228

Attorneys for Industrial Energy Users-Ohio

Jacqueline L. Roberts, Esq.
Michael E. Idzkowski, Esq.
Richard Reese, Esq.
Gregory J. Poulos, Esq.
OFFICE OF OHIO CONSUMERS' COUNSEL
10 West Broad Street, Suite 1800
Columbus, OH 43215

David C. Rinebolt, Esq.
Colleen L. Mooney, Esq.
OHIO PARTNERS FOR AFFORDABLE
ENERGY
231 West Lima Street
Findlay, OH 45839-1793

Henry Eckhart, Esq.
50 West Broad Street, Suite 2117
Columbus, OH 43215-3301

Robert Ukeiley, Esq.
LAW OFFICE OF ROBERT UKEILEY
435R Chestnut Street, Suite 1
Berea, KY 40403

Attorneys for Sierra Club Ohio Chapter

John W. Bentine, Esq.
Matthew S. White, Esq.
Mark S. Yurick, Esq.
CHESTER WILLCOX & SAXBE LLP
65 East State Street, Suite 1000
Columbus, OH 43215

Attorneys for The Kroger Company

David Boehm, Esq.
Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY
36 East Seventh Street Suite 1510
Cincinnati, OH 45202-4454

Attorney for Ohio Energy Group, Inc.

M. Howard Petricoff, Esq.
Stephen M. Howard, Esq.
Michael J. Settineri, Esq.
VORYS, SATER, SEYMOUR AND
PEASE LLP
52 East Gay Street
P.O. Box 1008
Columbus, OH 43216-1008

Cynthia A. Fonner, Esq.
Senior Counsel
CONSTELLATION ENERGY
RESOURCES, LLC
550 West Washington Blvd., Suite 300
Chicago, IL 60661

Attorneys for Constellation NewEnergy,
Inc. and Constellation Energy Commodities
Group, Inc.

Ned Ford
539 Plattner Trail
Beavercreek, OH 45430

Richard L. Sites, Esq.
General Counsel and Senior Director of
Health Policy
Ohio Hospital Association
155 East Broad Street, 15th Floor
Columbus, OH 43215-3620

Attorney for The Ohio Hospital Association

Craig I. Smith, Esq.
Attorney at Law
2824 Coventry Road
Cleveland, OH 44120

Attorney for Cargill, Incorporated

Patrick Bonfield, Esq.
John Danish, Esq.
Christopher L. Miller, Esq.
Gregory H. Dunn, Esq.
Andre T. Porter, Esq.
SCHOTTENSTEIN ZOX & DUNN CO., LPA
250 West Street
Columbus, OH 43215

Attorneys for The City of Dayton

M. Howard Petricoff, Esq.
Stephen M. Howard, Esq.
Michael J. Settineri, Esq.
VORYS, SATER, SEYMOUR AND PEASE
LLP
52 East Gay Street
P.O. Box 1008
Columbus, OH 43216-1008

Attorneys for Honda of America Mfg., Inc.

David I. Fein
Vice President, Energy Policy - Midwest
CONSTELLATION ENERGY GROUP, INC.
550 West Washington Blvd., Suite 300
Chicago, IL 60661

Tasha Hamilton
Manager, Energy Policy
CONSTELLATION ENERGY GROUP, INC.
111 Market Place, Suite 600
Baltimore, MD 21202

Larry Gearhardt, Esq.
Chief Legal Counsel
OHIO FARM BUREAU FEDERATION
280 North High Street
P.O. Box 182383
Columbus, OH 43218-2383

Attorney for The Ohio Farm Bureau Federation

Thomas J. O'Brien, Esq.
BRICKER & ECKLER LLP
100 South Third Street
Columbus, OH 43215-4291

Attorney for The Ohio Manufacturers'
Association

Barth E. Royer, Esq.
BELL & ROYER CO., LPA
33 South Grant Avenue
Columbus, OH 43215-3927

Gary A. Jeffries, Esq.
Dominion Resources Services, Inc.
501 Martindale Street, Suite 400
Pittsburgh, PA 15212-5817

Attorneys for Dominion Retail, Inc.

Barth E. Royer, Esq.
BELL & ROYER CO., LPA
33 South Grant Avenue
Columbus, OH 43215-3927

Nolan Moser, Esq.
Air & Energy Program Manager
The Ohio Environmental Council
1207 Grandview Avenue, Suite 201
Columbus, OH 43212-3449

Trent A. Dougherty, Esq.
The Ohio Environmental Council
1207 Grandview Avenue, Suite 201
Columbus, OH 43212-3449

Todd Williams, Esq.
4534 Douglas Road
Toledo, OH 43613

Evan Eschmeyer, Esq.
Environmental Law Fellow
Environmental Law & Policy Center
1207 Grandview Avenue, Suite 201
Columbus, OH 43212-3449

Attorneys for The Ohio Environmental Council

Ellis Jacobs
Advocates for Basic Legal Equality, Inc.
333 West First Street, Suite 500B
Dayton, OH 45402

Attorney for The Edgemont Neighborhood
Coalition

Thomas Lindgren, Esq.
Thomas McNamee, Esq.
Assistant Attorney General
180 East Broad Street
Columbus, OH 43215

Office of the Ohio Attorney General



R. Holtzman Hedrick

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, et al.

PROPOSED NOTICE OF PUBLIC HEARING

The Public Utilities Commission of Ohio ("PUCO") has scheduled local hearings in Case No. 08-1094-EL-SSO, In the Matter of the Application of The Dayton Power and Light Company, for Approval of Its Electric Security Plan. The purpose of these hearings will be to address the application of the Dayton Power & Light Company ("DP&L") for approval of its Electric Security Plan ("ESP"). The hearings will be open to the public, and any person may ask to become a party to the proceeding by filing a motion to intervene with the PUCO under PUCO Case No. 08-1094-EL-SSO. DP&L's ESP is described below.

DP&L has in place a rate plan approved by the PUCO in 2005, that will continue through December 31, 2010. That rate plan sets the rates that DP&L charges to its customers for electric service. DP&L's ESP provides that the rate plan will remain unchanged through December 31, 2010.

In addition, Ohio law was recently amended to set certain energy efficiency and peak demand reduction targets designed to reduce electric energy usage and demand in Ohio. DP&L intends to achieve these targets through a set of Customer Conservation and Energy Management ("CCEM") Programs. These CCEM Programs include the installation of Advanced Metering Infrastructure and Smart Grid technology, which will create savings opportunities for customers, increase efficiency, strengthen reliability, and enable real-time communication between customers and the DP&L distribution system. DP&L's CCEM Plan also includes a

number of energy efficiency programs that will assist customers in reducing their energy usage, such as discounts on energy efficient lighting, appliances, and air conditioning tune ups.

Also, Ohio law was recently amended to encourage the use of alternative energy resources including renewable energy in Ohio. Renewable energy includes solar energy, wind energy, hydroelectric energy and geothermal energy. DP&L expects to achieve the statutory alternative energy targets by purchasing renewable energy credits, purchasing power from renewable energy facilities, and, if economical, construction of new generation.

In its Application, DP&L seeks recovery of the amounts that it will spend to comply with the new energy efficiency, alternative energy, and economic development requirements in Ohio law.

Local Public hearings on DP&L's ESP will be held as follows:

_____.