

FILE

RECEIVED-BOOKING-SIV  
2009 FEB -2 PM 4:20  
PUCO

**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. )

---

**REPLY TO DP&L'S MEMORANDUM IN RESPONSE  
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"), replies to DP&L's Memorandum in Response OCC's Motion for Local Public Hearings pursuant to Ohio Adm. Code 4909-1-12.

**I. INTRODUCTION**

On October 10, 2008, Dayton Power & Light ("DP&L") filed an Application in the above-identified cases. In the above-captioned Case No. 08-1094-EL-SSO, DP&L seeks approval of its proposed Electric Security Plan. The other cases involve requests to

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 AmJ Date Processed 2/3/09

amend DP&L's corporate separation plan, and a request for accounting authority and approval of tariffs (all cases collectively, "ESP Case"). If granted by the PUCO, these Applications will result in an increase in the rates paid by all of DP&L's residential customers. OCC requests that the Commission schedule public hearings on the matters in the ESP Case, consistent with OCC's previously-filed Motion for Local Public Hearings ("Motion"). The Commission should provide at least 30 days notice to the public of the hearings.

## **II. THE PUBLIC SHOULD BE GIVEN AT LEAST 30 DAYS NOTICE OF THE HEARINGS**

DP&L's argument against providing at least 30 days notice of hearings is comprised of only two sentences:

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).<sup>1</sup>

The authorities cited by DP&L do not prohibit providing at least 30 days notice for public hearings. The Commission should adopt OCC's proposed notice because it is founded on a reasonable basis and will serve to appropriately inform customers of the hearings.

OCC was informed that various public interest groups were interested in these cases. However, those groups are unable to coordinate representation at the hearings on less than 30 days notice. Members of community organizations must be contacted about attending the public hearings. Oftentimes the boards of

---

<sup>1</sup> *Memorandum in Response* (sic) at 2 (January 28, 2009).

trustees of such community organizations participate in assisting members of the public to gain access to public hearings. If formally acted upon by such boards, they do so no more than once a month (many meet less frequently).

DP&L's Application may significantly impact customer rates, and DP&L's customers are entitled to have an opportunity to participate in this regulatory process on issues that include (without limitation) establishing electric rates, deploying renewable energy, and ensuring service quality. The additional notice period will assist the public in understanding what they would pay for and what they would receive in return.

R.C. 4903.13 states the imperative that "[a]ll hearings shall be open to the public." In order to truly be open to the public, the PUCO should include local public hearings as part of the evidentiary record, thereby providing residential consumers who might be unable to reasonably attend hearings an opportunity to participate in the hearing process. Having adequate notice of the Public Hearing will assist the Public's participation.

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

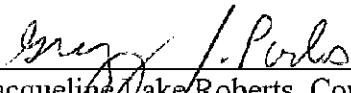
### III. CONCLUSION

The Commission should hold local public hearings regarding the applications in the ESP Case. The OCC's Motion proposed four separate hearings based upon the location of population centers and the geographic extent of the area served by DP&L. The local public hearings will provide DP&L's customers an opportunity to participate in these cases that may significantly affect their rates and service. DP&L's objections to OCC's Motion should be rejected.

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

Respectfully submitted,

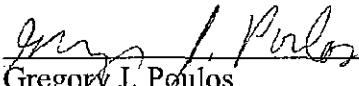
JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL

  
\_\_\_\_\_  
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](mailto:roberts@occ.state.oh.us)  
[idzkowski@occ.state.oh.us](mailto:idzkowski@occ.state.oh.us)  
[reese@occ.state.oh.us](mailto:reese@occ.state.oh.us)  
[poulos@occ.state.oh.us](mailto:poulos@occ.state.oh.us)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Reply to DP&L's Memorandum in Response to Motion for Local Public Hearings was served via electronic transmission to the persons listed below, on this 2nd day of February, 2009.

  
\_\_\_\_\_  
Gregory J. Poulos  
Assistant Consumers' Counsel

**SERVICE LIST**

<a href="mailto:cfaruki@ficlaw.com"><u>cfaruki@ficlaw.com</u></a>	<a href="mailto:judi.sobecki@dplinc.com"><u>judi.sobecki@dplinc.com</u></a>
<a href="mailto:jsharkey@ficlaw.com"><u>jsharkey@ficlaw.com</u></a>	<a href="mailto:jbentine@cswslaw.com"><u>jbentine@cswslaw.com</u></a>
<a href="mailto:jclark@mwncmh.com"><u>jclark@mwncmh.com</u></a>	<a href="mailto:mwhite@cswslaw.com"><u>mwhite@cswslaw.com</u></a>
<a href="mailto:lmcalister@mwncmh.com"><u>lmcalister@mwncmh.com</u></a>	<a href="mailto:myurick@cswslaw.com"><u>myurick@cswslaw.com</u></a>
<a href="mailto:sam@mwncmh.com"><u>sam@mwncmh.com</u></a>	<a href="mailto:henryeckhart@aol.com"><u>henryeckhart@aol.com</u></a>
<a href="mailto:drinebolt@aol.com"><u>drinebolt@aol.com</u></a>	<a href="mailto:rukeiley@igc.org"><u>rukeiley@igc.org</u></a>
<a href="mailto:cmooney2@columbus.rr.com"><u>cmooney2@columbus.rr.com</u></a>	<a href="mailto:dboehm@bkllawfirm.com"><u>dboehm@bkllawfirm.com</u></a>
<a href="mailto:Ned.Ford@fuse.net"><u>Ned.Ford@fuse.net</u></a>	<a href="mailto:mkurtz@bkllawfirm.com"><u>mkurtz@bkllawfirm.com</u></a>
<a href="mailto:ricks@ohanet.org"><u>ricks@ohanet.org</u></a>	<a href="mailto:Cynthia.A.Fonner@constellation.com"><u>Cynthia.A.Fonner@constellation.com</u></a>
<a href="mailto:wis29@yahoo.com"><u>wis29@yahoo.com</u></a>	<a href="mailto:mhpetricoff@vssp.com"><u>mhpetricoff@vssp.com</u></a>
<a href="mailto:tobrien@bricker.com"><u>tobrien@bricker.com</u></a>	<a href="mailto:LGearhardt@ofbf.org"><u>LGearhardt@ofbf.org</u></a>
<a href="mailto:smhoward@vssp.com"><u>smhoward@vssp.com</u></a>	<a href="mailto:cmiller@szd.com"><u>cmiller@szd.com</u></a>
<a href="mailto:mjsettineri@vorys.com"><u>mjsettineri@vorys.com</u></a>	<a href="mailto:gduinn@szd.com"><u>gduinn@szd.com</u></a>
<a href="mailto:BarthRoyer@aol.com"><u>BarthRoyer@aol.com</u></a>	<a href="mailto:aporter@szd.com"><u>aporter@szd.com</u></a>
<a href="mailto:Gary.A.Jeffries@dom.com"><u>Gary.A.Jeffries@dom.com</u></a>	<a href="mailto:nmoser@theOEC.org"><u>nmoser@theOEC.org</u></a>
<a href="mailto:Thomas.Lindgren@puc.state.oh.us"><u>Thomas.Lindgren@puc.state.oh.us</u></a>	<a href="mailto:trent@theOEC.org"><u>trent@theOEC.org</u></a>
<a href="mailto:thomas.mcnamee@puc.state.oh.us"><u>thomas.mcnamee@puc.state.oh.us</u></a>	<a href="mailto:Williams.toddm@gmail.com"><u>Williams.toddm@gmail.com</u></a>
	<a href="mailto:ejacobs@ablelaw.org"><u>ejacobs@ablelaw.org</u></a>