

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The) Case No. 12-426-EL-SSO
Dayton Power and Light Company for)
Approval of its Market Rate Offer.)

In the Matter of the Application of The) Case No. 12-427-EL-ATA
Dayton Power and Light Company for)
Approval of Revised Tariffs.)

In the Matter of the Application of The) Case No. 12-428-EL-AAM
Dayton Power and Light Company for)
Approval of Certain Accounting)
Authority.)

In the Matter of the Application of The) Case No. 12-429-EL-WVR
Dayton Power and Light Company for)
Waiver of Certain Commission Rules.)

In the Matter of the Application of The) Case No. 12-672-EL-RDR
Dayton Power and Light Company to)
Establish Tariff Riders.)

**MOTION FOR PROTECTIVE ORDER
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC") hereby moves the Public Utilities Commission of Ohio ("PUCO") for a protective order regarding information asserted to be confidential by the Dayton Power and Light Company ("DP&L").¹ As part of discovery in this proceeding, DP&L provided information to OCC, subject to a protective agreement, and DP&L asserts that this information constitutes trade secret information under Ohio law.

¹ This Motion is filed pursuant to Ohio Adm. Code 4901-1-02(E), 4901-1-12 and 4901-1-24(D).

OCC hereby requests that, in accordance with Ohio Adm. Code. 4901-1-02(E), the PUCO issue such order as is necessary to protect the undisclosed (redacted) portions of the Direct Testimony of Daniel J. Duann, Scott Rubin, and Greg Slone that DP&L asserts to be confidential. Subject to OCC's rights under the protective agreement, OCC is filing the Direct Testimony of Daniel J. Duann, Scott Rubin, and Greg Slone under seal, and is also filing a public version that shows all information DP&L does not claim to be confidential.

By filing the instant Motion, OCC does not concede that the information constitutes trade secret information. However, OCC acknowledges that it has obtained this information pursuant to a protective agreement with DP&L that provides for such information to be treated as confidential and protected (subject to OCC's right under the protective agreement to initiate a process for the PUCO to rule whether the information deserves confidential treatment under Ohio law).

The grounds for this Motion are more fully described in the accompanying Memorandum in Support.

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Maureen R. Grady
Melissa R. Yost, Counsel of Record
Deputy Consumers' Counsel
Maureen R. Grady
Tad Berger²
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: (614) 466-1291 - Yost
Telephone: (614) 466-9567 - Grady
Telephone: (614) 466-1292 - Berger
yost@occ.state.oh.us
grady@occ.state.oh.us
berger@occ.state.oh.us

² Mr. Berger is representing OCC in PUCO Case No. 12-426-EL-SSO.

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MEMORANDUM IN SUPPORT

OCC files this Motion for Protective Order (“Motion”) contemporaneously with the filing of the Direct Testimony of Daniel J. Duann, Scott Rubin, and Greg Slone.

In filing this Motion, OCC does not concede that the information in the Direct Testimony of Daniel J. Duann, Scott Rubin, and Greg Slone is trade secret information pursuant to R.C. 1333.61(D) and does not concede that the information is deserving of protection from public revelation under Ohio Adm. Code 4901-1-24(D).

OCC understands that DP&L considers the undisclosed (redacted) information to be confidential and deserving of the protection of trade secret information as defined in R.C. 1333.61(D). OCC’s understanding is based on claims by DP&L that the

information (1) derives economic value, actual or potential, from not being known to, and not being readily ascertainable by proper means by others, and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.³ Under the assertions made by DP&L, at this time, confidential treatment of the redacted information in the Direct Testimony of Daniel J. Duann, Scott Rubin, and Greg Slone would be appropriate, subject to OCC's rights under its protective agreement with DP&L to initiate a process to determine whether the information should be protected.

In addition, OCC is filing a public version of the Direct Testimony of Daniel J. Duann, Scott Rubin, and Greg Slone so that all information DP&L does not claim to be confidential is accessible for the public's review. The public version does not contain information that was asserted by DP&L to be confidential.

For the foregoing reasons and subject to the foregoing reservations of rights, this Motion should be granted at this time.

³ See R.C. 1333.61(D).

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Maureen R. Grady
Melissa R. Yost, Counsel of Record
Deputy Consumers' Counsel
Maureen R. Grady
Tad Berger⁴
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: (614) 466-1291 - Yost
Telephone: (614) 466-9567 - Grady
Telephone: (614) 466-1292 - Berger
yost@occ.state.oh.us
grady@occ.state.oh.us
berger@occ.state.oh.us

⁴ Mr. Berger is representing OCC in PUCO Case No. 12-426-EL-SSO.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion for Protective Order* by the Office of the Ohio Consumers' Counsel has been served upon those persons listed below via electronic mail this 1st day of March 2013.

/s/ Maureen R. Grady
Assistant Consumers' Counsel

SERVICE LIST

Thomas.mcnamee@puc.state.oh.us
Devin.parram@puc.state.oh.us
Judi.sobecki@dplinc.com
sam@mwncmh.com
fdarr@mwncmh.com
mpritchard@mwncmh.com
joliker@mwncmh.com
Amy.spiller@duke-energy.com
Jeanne.kingery@duke-energy.com
BMcMahon@emh-law.com
Elizabeth.watts@duke-energy.com
Rocco.DAscenzo@duke-energy.com
dboehm@BKLawfirm.com
mkurtz@BKLawfirm.com
jkyler@BKLawfirm.com
myurick@taftlaw.com
zkravitz@taftlaw.com
whitt@whitt-sturtevant.com
campbell@whitt-sturtevant.com
mhpetricoff@vorys.com
smhoward@vorys.com
ssherman@kdlegal.com
jhague@kdlegal.com
Stephanie.Chmiel@ThompsonHine.com
Philip.Sineneng@ThompsonHine.com
Michael.Dillard@ThompsonHine.com
matt@matthewcoxlaw.com
Bojko@carpenterlipps.com
Sechler@carpenterlipps.com
bill.wells@wpafb.af.mil
chris.thompson.2@tyndall.af.mil
gmeyer@consultbai.com
cfaruki@ficlaw.com
jsharkey@ficlaw.com
mwarnock@bricker.com
tsiwo@bricker.com
tony_long@ham.honda.com
asim_haque@ham.honda.com
haydenm@firstenergycorp.com
jang@calfee.com
lmcbride@calfee.com
talexander@calfee.com
jejadwin@aep.com
gpoulos@enernoc.com
ricks@ohanet.org
cmooney2@columbus.rr.com
tobrien@bricker.com
vparisi@igsenergy.com
mwhite@igsenergy.com
Christopher.miller@icemiller.com
Gregory.dunn@icemiller.com
Chris.michael@icemiller.com
trent@theoec.org
cathy@theoec.org
joseph.clark@directenergy.com
dakutik@jonesday.com
aehaedt@jonesday.com
ejacobs@ablelaw.org
mjsatterwhite@aep.com
stnourse@aep.com
ssolberg@eimerstahl.com
stephen.bennett@exeloncorp.com
Cynthia.Brady@Constellation.com
mchristensen@columbuslaw.org

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Summary: Motion Motion for Protective Order by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Grady, Maureen R. Ms.