

**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.     )

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

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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").<sup>1</sup> 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.

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<sup>1</sup> 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 portions of the deposition transcripts of Bryce Nickel and Dennis Lantzy that DP&L asserts to be confidential. Subject to OCC's rights under the protective agreement, OCC is filing the deposition transcripts of Bryce Nickel and Dennis Lantzy under seal.

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 Berger<sup>2</sup>  
Assistant Consumers' Counsel

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

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**MEMORANDUM IN SUPPORT**

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OCC files this Motion for Protective Order (“Motion”) contemporaneously with the filing of the deposition transcripts of Bryce Nickel and Dennis Lantzy under seal. In filing this Motion, OCC does not concede that any of the information in the deposition transcripts of Bryce Nickel or Dennis Lantzy 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 portions of deposition transcripts of Bryce Nickel and Dennis Lantzy 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.<sup>3</sup> Under the assertions made by DP&L, at this time, confidential treatment of portions of deposition transcripts of Bryce Nickel and Dennis Lantzy 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.

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

Respectfully submitted,

BRUCE J. WESTON  
OHIO CONSUMERS' COUNSEL

/s/ Maureen R. Grady  
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<sup>3</sup> See R.C. 1333.61(D).

<sup>4</sup> 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 15th day of March 2013.

*/s/ Maureen R. Grady*  
Assistant Consumers' Counsel

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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.