

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of	:	Case No. 13-846-EL-WVR
The Dayton Power and Light Company for a	:	
Limited Waiver Pursuant to OAC Section	:	
4901:1-35-02 (B)	:	

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**APPLICATION OF THE DAYTON POWER AND LIGHT COMPANY  
FOR LIMITED WAIVER**

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The Dayton Power and Light Company (“DP&L” or “the Company”) hereby submits this application to seek a limited waiver that would extend the May 15 filing requirement set forth in Ohio Administrative Code (“O.A.C.”) §4901:1-35-10 until July 31, 2013.

In support of this Application DP&L states as follows:

1. DP&L is a public utility and electric light company as defined by Ohio Revised Code (“R.C.”) §4905.02 and §4905.03(C) respectively, and an electric distribution utility as defined by R.C. §4928.01(A)(6).

2. O.A.C. §4901:1-35-02(B) provides: “The commission may, upon an application or a motion filed by a party, waive any requirement of this chapter, other than a requirement mandated by statute, for good cause shown.”

3. DP&L seeks a limited waiver of O.A.C. §4901:1-35-10, which provides in pertinent part, as follows: “By May fifteenth of each year, the electric utility shall make a separate filing with the commission demonstrating whether or not any rate adjustments authorized by the commission as part of the electric utility's electric security plan resulted in significantly excessive earnings during the review period as measured by division (F) of section 4928.143 of the Revised Code.”

4. While R.C. §4928.143(F) requires that the Commission apply the Significantly Excessive Earnings Test (“SEET”) to DP&L’s earnings, the statute does not set a date by which an electric utility subject to the SEET must file its annual SEET application. The May 15 date set forth in O.A.C. §4901:1-35-10, therefore, is not required by the statute and can be waived by the Commission.

5. Good cause exists for granting DP&L’s application for limited waiver. The May 15 date does not give DP&L adequate time to review the 2012 results of a comparable risk group of companies, evaluate the outcome and fully prepare its filing.

6. O.A.C. §4901:1-35-03(C)(10)(a), sets forth the filing requirements for the SEET analysis. These filing requirements include the following:

- i. Testimony and analysis demonstrating the return on equity (“ROE”) that was earned during the year and the ROE earned during the same period by publicly traded companies that face comparable business and financial risks as the electric utility.
- ii. The FERC Form 1 in its entirety for the annual period under review.
- iii. The latest Securities and Exchange Commission form 10-K in its entirety.
- iv. Capital budget requirements for future committed investments in Ohio for each annual period remaining in the ESP.

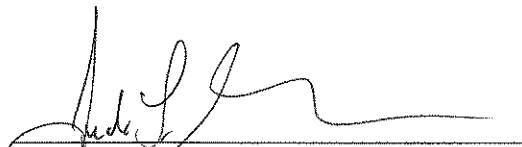
7. A significant portion of these filing requirements are the Company’s testimony and analysis regarding its ROE during the year compared to the ROE earned during the same period by publicly traded companies that face comparable business and financial risks as the electric utility. Developing a threshold ROE for the SEET based upon a comparable risk group

of publicly traded companies begins with a review of all public companies' 2012 performance. The information needed to perform this analysis will not be available from Value Line's DataFile, a comprehensive and accurate database widely used to obtain information for the identification and measurement of performance of publicly traded companies, until approximately the end of April 2013. Once the information is available, DP&L will need time to analyze the data to prepare its required analysis and testimony. There is insufficient time between the availability of the raw data and the May 15 filing deadline required by the rule to allow DP&L to fully prepare its filing. Good cause thus exists to grant a limited waiver of the rule setting the May 15 filing date. DP&L respectfully requests that the SEET filing deadline be set for July 31, 2013. This will allow DP&L the time it needs to prepare a complete filing which complies with the filing requirements of O.A.C. §4901:1-35-03(C)(10)(a).

8. It is also important to note that the Commission has previously granted similar waivers for other electric utilities facing the same timing difficulty in preparing their SEET applications. Specifically, for the 2009 earnings year, the Commission extended the filing deadline for all Ohio electric utilities' required to file SEET applications until July 15, 2010 (Case No. 09-786-EL-UNC, Finding and Order dated June 30, 2010). The Commission extended the May 15 deadline for filing Ohio Power Company's and Columbus Southern Power Company's SEET applications until July 31, 2011 for the 2010 earnings year (Case No. 11-1177-EL-WVR, Entry dated April 19, 2011) and until July 31, 2012 for the 2011 earnings year (Case No. 12-1177-EL-WVR, Entry dated April 25, 2012).

WHEREFORE, for the reasons set forth above, the Commission should find that good cause exists to grant the Company's limited waiver request and direct that its SEET filing be made no later than July 31, 2013.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Judi L. Sobecki', is written over a horizontal line.

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**Case No(s). 13-0846-EL-WVR**

Summary: Application in the matter of The Dayton Power & Light Company for a Limited Waiver Pursuant to OAC Section 4901:1-35-02(B) electronically filed by Emily W Rabb on behalf of The Dayton Power & Light Company