

**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 undisclosed (redacted) portions of OCC's Post-Hearing Brief that DP&L asserts to be confidential. Subject to OCC's rights under the protective agreement, OCC is filing its Post-Hearing Brief under seal, and is also filing a public version that shows all information not claimed by DP&L 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/ Melissa R. Yost

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

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The Dayton Power and Light Company for Approval of its Market Rate Offer.	)	Case No. 12-426-EL-SSO
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	)	
In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs.	)	Case No. 12-427-EL-ATA
	)	
	)	
In the Matter of the Application of The Dayton Power and Light Company for Approval of Certain Accounting Authority.	)	Case No. 12-428-EL-AAM
	)	
	)	
	)	
In the Matter of the Application of The Dayton Power and Light Company for Waiver of Certain Commission Rules.	)	Case No. 12-429-EL-WVR
	)	
	)	
In the Matter of the Application of The Dayton Power and Light Company to Establish Tariff Riders.	)	Case No. 12-672-EL-RDR
	)	
	)	

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**MEMORANDUM IN SUPPORT**

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OCC files this Motion for Protective Order (“Motion”) contemporaneously with the filing of its Post-Hearing Brief under seal. In filing this Motion, OCC does not concede that any of the information in OCC’s Post-Hearing Brief 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. *See* R.C. 1333.61(D). Under the assertions made by DP&L, at this time, confidential treatment of the redacted information in OCC's Post-Hearing Brief 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 OCC's Post-Hearing Brief so that all information not claimed by DP&L 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.

Respectfully submitted,

BRUCE J. WESTON  
OHIO CONSUMERS' COUNSEL

/s/ Melissa R. Yost

Melissa R. Yost, Counsel of Record

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<sup>3</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 20th day of March 2013.

/s/ Melissa R. Yost

Melissa R. Yost

Deputy 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 Yost, Melissa R. Ms.