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**Via E-File**

October 31, 2013

Public Utilities Commission of Ohio  
PUCO Docketing  
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Columbus, Ohio 43215

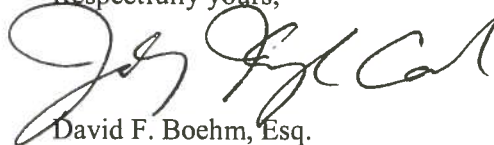
**In re: Case Nos. 12-426-EL-SSO, 12-427-EL-ATA, 12-428-EL-AAM, 12-429-EL-WVR,  
12-672-EL-RDR**

Dear Sir/Madam:

Please find attached the MEMORANDUM CONTRA OF THE OHIO ENERGY GROUP for filing in the above-referenced matter.

Copies have been served on all parties on the attached certificate of service. Please place this document of file.

Respectfully yours,

A handwritten signature in black ink, appearing to read "David F. Boehm".

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**BOEHM, KURTZ & LOWRY**

DFB/kew

Encl.

Cc: ALJ Bryce McKenney  
ALJ Gregory Price  
Certificate of Service

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

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

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**MEMORANDUM CONTRA OF THE OHIO ENERGY GROUP**

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The Ohio Energy Group (“OEG”) hereby submits this Memorandum Contra the Applications for Rehearing filed by The Dayton Power and Light Company (“DP&L” or “Company”) and the Office of the Ohio Consumers’ Counsel (“OCC”) on October 4, 2013. OEG’s decision not to respond to other arguments raised in the Applications for Rehearing submitted in this proceeding should not be construed as implicit agreement with those arguments.

**I. The Commission Should Uphold Its Finding That the Entire Service Stability Rider Revenue Requirement Must be Allocated to DP&L’s Rate Classes on a 1 CP Basis.**

DP&L asks the Commission to “clarify” its September 4, 2013 Opinion & Order (“Order”) by determining that only the portion of the Service Stability Rider (“SSR”) revenue requirement that exceeds the current Rate Stabilization Charge (“RSC”) should be allocated to customer classes on a 1

CP basis.<sup>1</sup> Under DP&L's proposal, the remainder of the SSR charge (the portion equal to the current RSC charge) would be allocated in the same manner as the RSC. This request should be rejected for multiple reasons.

As an initial matter, the Commission's finding regarding the allocation of the SSR revenue requirement among the DP&L rate classes was clear. The Commission expressly held that *"the SSR revenues should be allocated using a 1 CP demand allocation method that reflects the underlying character of the SSR charges."*<sup>2</sup> Nowhere in the Order does the Commission indicate that it wished to adopt a hybrid methodology for allocating SSR costs between the rate classes. Hence, there is no need for the Commission to substantially modify its finding in order to "clarify" its Order. DP&L must accept that the Order means exactly what it says.

Moreover, as the Commission correctly found, it would be unreasonable to use the present RSC cost allocation to assign *any* portion of the SSR revenue requirement to rate classes. As OEG has already explained in detail, the nature of the RSC charge is markedly different than the nature of the SSR charge.<sup>3</sup> The RSC was established to allow DP&L to recover costs *"associated with fuel price increases or actions taken in compliance with environmental and tax laws, regulations or court or administrative orders, and costs associated with physical security and cyber security relating to the generation of electricity from plants owned by DP&L and its affiliates...."*<sup>4</sup>

In contrast, the SSR is intended *"[t]o permit DP&L to maintain its financial health and to give DP&L an opportunity to earn a reasonable return on equity."*<sup>5</sup> The Commission explicitly acknowledged this objective in its Order.<sup>6</sup> Accordingly, the costs to be recovered under the SSR are 100% demand-related costs aimed at enhancing the return on equity the Company would otherwise earn

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<sup>1</sup> DP&L Application for Rehearing at 14-15.

<sup>2</sup> Order at 26.

<sup>3</sup> OEG Post-Hearing Brief at 12-15.

<sup>4</sup> *In the Matter of the Application of The Dayton Power and Light Company for the Creation of a Rate Stabilization Surcharge Rider and Distribution Rate Increase*, Case No. 05-276-EL-AIR, Opinion & Order (December 28, 2005) at 2.

<sup>5</sup> DP&L Second Revised Application (Dec. 12, 2012), Book I at 8.

<sup>6</sup> Order at 26.

on its fixed assets over the Electric Security Plan (“ESP”) period. Given that the purpose of the SSR and the nature of the costs collected through that rider are entirely unrelated to the RSC, it is not reasonable to use the RSC rate (11% of the January 2004 DP&L generation rates) as the basis for allocating any portion of the SSR revenue requirement to the rate classes.

Indeed, the Commission has already heard and rejected arguments that the current RSC cost allocation should be adopted for the SSR. For instance, Staff recommended allocating the entire SSR revenue requirement in the same manner as the RSC is currently allocated.<sup>7</sup> But the Commission determined that the SSR and RSC costs should not be treated similarly for purposes of cost allocation among rate classes. Additionally, DP&L proposed a modified RSC approach for purposes of allocating SSR costs,<sup>8</sup> which the Commission likewise rejected. There is no reason for the Commission to alter its decision now.

Though DP&L points to two lighting classes (Street Lighting and Private Outdoor Lighting) that would have an SSR rate of zero as a result of the Commission’s 1 CP allocation,<sup>9</sup> that outcome is not unreasonable since not every customer must pay every charge collected by a utility. What would be unreasonable, however, is fundamentally altering the way SSR costs are allocated among the rate classes merely to increase the lighting class charges by approximately \$231,000. The impact of pushing costs on the lighting classes merely for the sake of making every class pay an SSR charge would be significant increases in the SSR charges for nearly every other rate class. For example, the total SSR costs collected from the Primary Class would be approximately \$2.6 million higher as a result of DP&L’s proposed allocation. Such rate increases would not only be unreasonable, but would also be contrary to the demand-related nature of the SSR charges. The Commission should therefore uphold its finding that the entire SSR revenue requirement should be allocated to the rate classes on a 1 CP basis.

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<sup>7</sup> Post-Hearing Brief of Staff at 22.

<sup>8</sup> DP&L Brief at 60.

<sup>9</sup> DP&L Brief at 14.

## **II. The Commission Should Again Reject OCC's Proposal to Allocate the SSR Revenue Requirement on a Per-kWh Basis.**

The Office of the Ohio Consumers' Counsel ("OCC") once again argues the SSR costs should be allocated on a per-kWh basis.<sup>10</sup> And once again, the Commission should reject OCC's proposal. While OCC reiterates that customer switching is driving the need for the SSR,<sup>11</sup> the Commission's Order recognizes that the real issue is DP&L's declining return on equity.<sup>12</sup> Because the costs to be collected through the SSR are aimed at enhancing DP&L's return on equity on its fixed generation assets over the ESP period, those costs are 100% demand-related. The Commission has already explicitly agreed with OEG on the underlying character of the SSR charges.<sup>13</sup>

OCC argues it would be inappropriate to allocate SSR costs based upon peak demand since the SSR does not and cannot collect generation-related costs.<sup>14</sup> But the Commission's Order reflects that the SSR is intended to ensure the financial integrity of DP&L's generation business, along with its other lines of business. The Commission explained:

Although generation, transmission, and distribution rates have been unbundled, DP&L is not a structurally separated utility; thus, the financial losses in the generation, transmission, or distribution business of DP&L are financial losses for the entire utility. Therefore, if one of the businesses suffers financial losses, it may impact the entire utility, adversely affecting its ability to provide stable, reliable, or safe retail electric service.<sup>15</sup>

Hence, the SSR does collect generation-related costs. OCC's argument ignores the plain language of the Commission's Order and should be rejected.

The Commission should again disregard OCC's attempt to discredit OEG witness Lane Kollen.<sup>16</sup> As his lengthy resume reflects, Mr. Kollen has participated in a tremendous variety of complex regulatory matters in a multitude of states and is certainly capable of understanding the fundamental

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<sup>10</sup> OCC Application for Rehearing at 52-55.

<sup>11</sup> OCC Application for Rehearing at 53.

<sup>12</sup> Order at 17.

<sup>13</sup> Order at 26.

<sup>14</sup> OCC Application for Rehearing at 52-54.

<sup>15</sup> Order at 22.


<sup>16</sup> OCC Application for Rehearing at 54-55.

principles of cost allocation. Neither should the Commission give any credence to OCC's to attempt to scare the Commission into adopting its per-kWh allocation by harkening back to a previous AEP Ohio case.<sup>17</sup> The Commission can confirm that the rate impacts of adopting a 1 CP allocation for the SSR costs are reasonable by examining Exhibit A to DP&L's Application for Rehearing.

### **III. Conclusion**

Given that DP&L and OCC have failed to present any valid reason why the Commission should alter its decision to allocate the entire SSR revenue requirement to the rate classes on a 1 CP basis, the Commission should uphold its finding.

Respectfully submitted,



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October 31, 2013

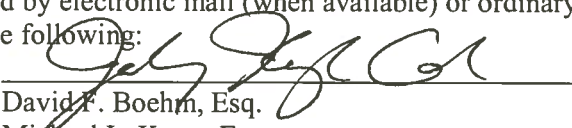
**COUNSEL FOR OHIO ENERGY GROUP**

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<sup>17</sup> OCC Application for Rehearing at 54-55.

## CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail (when available) or ordinary mail, unless otherwise noted, this 31<sup>ST</sup> day of October, 2013 to the following:

  
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Summary: Memorandum Ohio Energy Group (OEG) Memorandum Contra electronically filed  
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