

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Dayton )  
Power and Light Company for Authority to ) Case No. 13-2420-EL-UNC  
Transfer or Sell its Generation Assets. )

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**REPLY COMMENTS OF FIRSTENERGY SOLUTIONS CORP.**

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As explained by numerous parties in their comments, the December 30, 2013 application (the “Application”) filed by the Dayton Power & Light Company (“DP&L”) did not provide sufficient information to allow for substantive comments at this time. Therefore, FES agrees with the comments from Staff and other intervenors recommending that additional information be provided by DP&L.

FES agrees with Staff’s comment that “the Commission should require sufficient time between that supplemental filing and the May 31, 2017 deadline for the disposal of the generation assets.”<sup>1</sup> However, FES believes that Staff’s suggested deadline for the supplemental filing – August 1, 2016 – may not be early enough to allow for the property transfer by May 31, 2017.<sup>2</sup> As a practical matter it would be difficult for DP&L to complete corporate separation if it does not propose a corporate separation plan until August 1, 2016.

AEP Ohio’s recent separation serves as a representative example of the time that corporate separation can take. AEP Ohio filed its corporate separation plan on March 30, 2012.<sup>3</sup>

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<sup>1</sup> Staff Comments, p. 2.

<sup>2</sup> FES’ Initial Comments incorrectly referenced a corporate separation deadline of December 31, 2016. This date, which was provided in the original ESP order, was later changed to May 31, 2017 in the Entry Nunc Pro Tunc issued by the Commission on September 6, 2013. The date identified by Staff is therefore correct.

<sup>3</sup> Case No. 12-1126-EL-UNC.

Even though there was no evidentiary hearing in that case, the Commission did not grant AEP Ohio's request until October 17, 2012, almost seven months later.<sup>4</sup> Two parties moved for rehearing of this determination, and were rejected on April 24, 2013, almost 13 months after AEP Ohio's initial filing. Complications with OVEC assets caused AEP Ohio to seek to amend its corporate separation plan on October 4, 2013, and the Commission ruled on this amendment on December 4, 2013. The Commission denied an application for rehearing on February 14, 2014. Therefore, even without an evidentiary hearing, at the Ohio Commission alone AEP Ohio's corporate separation plan has been pending for almost two years.

In addition to the Ohio proceedings, DP&L must also obtain FERC approval. Again using AEP Ohio's proceedings as a guideline, these approvals take significant time. On October 31, 2012, only two weeks after obtaining Commission approval, American Electric Power Service Corporation filed with the FERC for approval of Ohio Power's corporate separation.<sup>5</sup> Final approval for the transaction was not provided until December 16, 2013, more than a year after AEP Ohio's application was filed.<sup>6</sup>

As shown through AEP Ohio's recent experience, the regulatory process for corporate separation can take two years to complete once the corporate separation plan is known. DP&L is obligated to complete corporate separation by the Commission-mandated deadline of May 31, 2017. Accordingly, DP&L should be required to make a supplemental filing by no later than December 31, 2014 so that the regulatory process can be completed in a timely manner. This schedule provides DP&L with more than a year to decide how it would like to separate, which is more than enough time. Moreover, this is a full year after the Commission-mandated deadline for DP&L to file its corporate separation plan, which is more than fair to DP&L.

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<sup>4</sup> Case No. 12-1126-EL-UNC, Finding and Order dated October 17, 2012.

<sup>5</sup> Docket No. EC13-26-000.

<sup>6</sup> *See, e.g.*, Docket No. ES14-2-000, Order dated December 16, 2013 (regarding assumption of liabilities).

FES respectfully requests that the Commission direct DP&L to complete corporate separation expeditiously in a manner consistent with these comments.

Respectfully submitted,

/s/ Mark A. Hayden

Mark A. Hayden (0081077)

Jacob A McDermott (0087187)

FIRSTENERGY SERVICE COMPANY

76 South Main Street

Akron, OH 44308

(330) 761-7735, 384-5038

(330) 384-3875 (fax)

haydenm@firstenergycorp.com

jmcdermott@firstenergycorp.com

James F. Lang (0059668)

N. Trevor Alexander (0080713)

CALFEE, HALTER & GRISWOLD LLP

The Calfee Building

1405 East Sixth Street

Cleveland, OH 44114

(216) 622-8200

(216) 241-0816 (fax)

jlang@calfee.com

talexander@calfee.com

*Attorneys for FirstEnergy Solutions Corp.*

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Reply Comments of FirstEnergy Solutions Corp.* was served this 19th day of February, 2014, via e-mail upon the parties below.

/s/ N. Trevor Alexander

One of the Attorneys for FirstEnergy Solutions Corp.

Judi L. Sobecki  
The Dayton Power & Light Company  
1065 Woodman Drive  
Dayton, OH 45432  
judi.sobecki@dplinc.com

Charles J. Faruki  
Jeffrey S. Sharkey  
Faruki, Ireland & Cox, P.L.L.  
500 Courthouse Plaza, S.W.  
10 N. Ludlow Street  
Dayton, OH 45402  
cfaruki@ficlaw.com  
jsharkey@ficlaw.com

David F. Boehm, Esq.  
Michael L. Kurtz, Esq.  
Judy Kyler Cohn, Esq.  
Boehm, Kurtz & Lowry  
36 E Seventh St., Suite 1510  
Cincinnati, OH 45202  
dboehm@BKLawfirm.com  
mkurtz@BKLawfirm.com  
jkylercohn@BKLawfirm.com

Rocco D'Ascenzo  
Associate General Counsel  
139 E Fourth St.  
1303-Main  
Cincinnati, OH 45202  
Rocco.D'Ascenzo@duke-energy.com

Mark A. Whitt  
Andrew J. Campbell  
Gregory L. Williams  
WHITT STURTEVANT LLP  
The KeyBank Building, Suite 1590  
88 East Broad Street  
Columbus, Ohio 43215  
Telephone: (614) 224-3911  
Facsimile: (614) 224-3960  
whitt@whitt-sturtevant.com  
campbell@whitt-sturtevant.com  
williams@whitt-sturtevant.com

Vincent Parisi  
Lawrence Friedeman  
Matthew White  
INTERSTATE GAS SUPPLY, INC.  
6100 Emerald Parkway  
Dublin, Ohio 43016  
Telephone: (614) 659-5000  
Facsimile: (614) 659-5073  
vparisi@igsenergy.com  
lfriedeman@igsenergy.com  
mswhite@igsenergy.com

Kimberly W. Bojko  
Mallory M. Mohler  
Carpenter, Lipps & Leland, LLP  
280 N. High St.  
Columbus, OH 43215  
bojko@carpenterlipps.com  
mohler@carpenterlipps.com

Edmund Berger  
Maureen Grady  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, 1800  
Columbus, OH 43215  
edmund.berger@occ.ohio.gov  
maureen.grady@occ.ohio.gov

Samuel C. Randazzo  
Frank P. Darr  
Joseph E. Olikier  
McNees Wallace & Nurick, LLC  
21 E State St. 17th Floor  
Columbus, OH 43215  
Telephone: (614) 469-8000  
Facsimile: (614) 469-4653  
sam@mwncmh.com  
fdarr@mwncmh.com  
joliker@mwncmh.com  
mpritchard@mwncmh.com

Amy B. Spiller  
Jeanne Kingery  
Duke Energy Business Services, LLC  
139 E Fourth St. 1303 Main  
Cincinnati OH 45202  
Telephone: (614) 222-1334  
amy.spiller@duke-energy.com  
jeanne.kingery@duke-energy.com

Joseph Clark  
21 E. State St. 19th Floor  
Columbus OH 43214  
Telephone: (614) 220-4369 Ext. 232  
Facsimile: (614) 220-4674  
Joseph.clark@directenergy.com

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