

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The)	
Dayton Power and Light Company for)	Case No. 12-3062-EL-RDR
Authority to Recover Certain Storm-)	
Related Services Restoration Costs)	

In the Matter of the Application The)	
Dayton Power and Light Company for)	Case No. 12-3266-EL-AAM
Approval of Certain Accounting)	
Authority.)	

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

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" or "the Utility").¹ 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.

OCC hereby requests that, in accordance with Ohio Adm. Code. 4901-1-02(E), the PUCO issue such order as is necessary to protect some of the portions of the deposition transcript of Bryce W. Nickel that are asserted to be confidential by DP&L. Subject to OCC's rights under the protective agreement, OCC is filing part of the deposition transcript of Bryce W. Nickel under seal.

¹ This Motion is filed pursuant to Ohio Adm. Code 4901-1-02(E), 4901-1-12 and 4901-1-24(D).

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*

Melissa R. Yost, Counsel of Record

Deputy Consumers' Counsel

Michael J. Schuler

Larry S. Sauer

Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone: (614) 466-1291 – Yost

(614) 466-9547 – Schuler

(614) 466-1312 – Sauer

melissa.yost@occ.ohio.gov

michael.schuler@occ.ohio.gov

larry.sauer@occ.ohio.gov

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The)	
Dayton Power and Light Company for)	Case No. 12-3062-EL-RDR
Authority to Recover Certain Storm-)	
Related Services Restoration Costs)	

In the Matter of the Application The)	
Dayton Power and Light Company for)	Case No. 12-3266-EL-AAM
Approval of Certain Accounting)	
Authority.)	

MEMORANDUM IN SUPPORT

OCC files this Motion for Protective Order (“Motion”) contemporaneously with the filing of a portion of the deposition transcript of Bryce W. Nickel under seal. In filing this Motion, OCC does not concede that any of the information in the deposition transcript of Bryce W. Nickel is trade secret information pursuant to R.C. 1333.61(D) and does not concede that any of the information is deserving of protection from public revelation under Ohio Adm. Code 4901-1-24(D).

OCC understands that DP&L considers some of the undisclosed 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 some of 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 some of the information contained in the deposition transcript of Bryce W. Nickel 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/ Melissa R. Yost

Melissa R. Yost, Counsel of Record
Deputy Consumers' Counsel
Michael J. Schuler
Larry S. Sauer
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485

Telephone: (614) 466-1291 – Yost
(614) 466-9547 – Schuler
(614) 466-1312 – Sauer

melissa.yost@occ.ohio.gov

michael.schuler@occ.ohio.gov

larry.sauer@occ.ohio.gov

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 service this 10th day of April 2014.

/s/ Melissa R. Yost
Melissa R. Yost
Deputy Consumers' Counsel

SERVICE LIST

Ryan O'Rourke
Attorney General's Office
Public Utilities Commission of Ohio
180 East Broad St., 6th Fl.
Columbus, Ohio 43215
Ryan.orourke@puc.state.oh.us

Judi L. Sobecki
Randall V. Griffin
The Dayton Power and Light Company
1065 Woodman Drive
Dayton, Ohio 45432
Judi.sobecki@dplinc.com
Randall.griffin@dplinc.com

Mark S. Yurick
Zachary D. Kravitz
Taft Stettinius & Hollister LLP
65 East State Street, Suite 1000
Columbus, Ohio 43215
myurick@taftlaw.com
zkravitz@taftlaw.com

Charles J. Faruki
Jeffrey S. Sharkey
Faruki Ireland & Cox PLL
500 Courthouse Plaza, S.W.
10 North Ludlow Street
Dayton, Ohio 45402
cfaruki@ficlaw.com
jsharkey@ficlaw.com

AEs: Bryce.mckenney@puc.state.oh.us
Gregory.price@puc.state.oh.us

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

4/10/2014 4:04:38 PM

in

Case No(s). 12-3062-EL-RDR, 12-3266-EL-AAM

Summary: Motion Motion for Protective Order by the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Yost, Melissa Ms.