

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

**THE DAYTON POWER AND LIGHT COMPANY'S
APPLICATION FOR REHEARING**

Pursuant to Ohio Rev. Code § 4903.10 and Ohio Admin. Code § 4901-1-35, The Dayton Power and Light Company ("DP&L") seeks rehearing of the Commission's September 17, 2014 Finding and Order on the following ground:

- A. The finding and Order contains a typographical error: "the sale of the divestiture of the generation assets constitutes an extraordinary event. Consistent with our past practice, the financial impact of the divestiture should be excluded from the SEET test." Sept. 17, 2014 Finding and Order, ¶ 22 (emphasis added). DP&L asks the Commission simply to clarify that the word "of" was intended to be the word "or," which would lead to a result that is consistent with Commission precedent.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT OF THE DAYTON POWER AND LIGHT
COMPANY'S APPLICATION FOR REHEARING**

DP&L seeks rehearing for the sole reason that the Commission's September 17, 2014 Finding and Order contained a typographical error: "the sale of the divestiture of the generation assets constitutes an extraordinary event. Consistent with our past practice, the financial impact of the divestiture should be excluded from the SEET test." Sept. 17, 2014 Finding and Order, ¶ 22 (emphasis added). DP&L asks the Commission to clarify that the word "of" was intended to be the word "or."

**I. THE FINANCIAL IMPACT OF A SALE OR TRANSFER OF ITS
SHOULD BE EXCLUDED FROM THE SIGNIFICANTLY EXCESSIVE
EARNINGS TEST**

In the May 23, 2014 Amended Supplemental Application of The Dayton Power and Light Company to Transfer or Sell Its Generation Assets ("Amended Supplemental Application"), DP&L sought authority either to transfer its generation assets to an affiliate or to sell those assets indirectly to a third party. Amended Supplemental Application, ¶ 5. When DP&L either transfers or sells its generation assets, and the equity balance carried on its books is reduced, DP&L may realize an artificial increase in its return on equity ("ROE") that may put it above the 12% SEET threshold.¹ Each of these sale or transfer related effects should be excluded when considering the SEET threshold.²

¹ Id. ¶¶ 23-25; July 15, 2014 Reply Comments in Support of the Amended Supplemental Application of The Dayton Power and Light Company to Transfer or Sell Its Generation Assets, pp. 4-7.

² Past Commission precedent has been to exclude extraordinary items from SEET calculations. In Case No. 13-1495-EL-UNC, an adjustment removing a fixed asset impairment loss was made. In the Matter of the Determination of the Existence of Significantly Excessive Earnings for 2012 Under the Electric Security Plan of The Dayton Power and Light Company, Case No. 13-1495-EL-UNC, Application of The Dayton Power and Light Company, Direct Testimony of Gregory S. Campbell, CPA, p. 5 (July 31, 2013). The Commission approved a Stipulation that significant earnings did not occur. Opinion and Order, pp. 2-4 (Feb. 13, 2014).

(footnote cont'd...)

Additionally, any financial impact from the sale or transfer of DP&L's generation assets should be excluded from the SEET because Section 4928.143(F) of the Ohio Revised Code requires the Commission to determine whether "any such adjustments [to DP&L's ESP] resulted in excessive earnings." Any financial impact that results from the sale or transfer of DP&L's generation assets would not result from an adjustment to its ESP. Financial impacts from the sale or transfer should thus be excluded from the SEET for this additional reason.

II. THE COMMISSION'S ORDER SHOULD BE CLARIFIED TO CORRECT A TYPOGRAPHICAL ERROR

In the September 17, 2014 Finding and Order, the Commission found that

"the sale of the divestiture of the generation assets constitutes an extraordinary event. Consistent with our past practice, the financial impact of the divestiture should be excluded from the SEET test. *See, in re Ohio Edison Co., Cleveland Elec. Illum. Co., and Toledo Edison Co.*, Case No. 10-1265-EL-UNC, Opinion and Order (November 22, 2010) at 3." Finding and Order, ¶ 22 (emphasis added).

DP&L believes that the Commission intended to find that "the sale or the divestiture of the generation assets" will constitute an extraordinary event for purposes of SEET.

(...cont'd)

In Case No. 10-1265-EL-UNC, an adjustment removing impairments in the value of investments held in nuclear decommissioning trusts was made. In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Administration of the Significantly Excessive Earnings Test Under Section 4928.143(F), Revised Code, and Rule 4901:1-35-10, Ohio Administrative Code, Case No. 10-1265-EL-UNC, Application, Direct Testimony of Harvey L. Wagner, p. 7 (Sept. 1, 2010). The Commission approved a Stipulation that significant earnings did not occur. Opinion and Order, pp. 4-6 (Nov. 22, 2010).

In Case No. 11-4553-EL-UNC, an adjustment was made to remove the reduction in equity resulting from any write-off of goodwill and an actual adjustment to its net income was made. In the Matter of the Determination of the Existence of Significantly Excessive Earnings for 2010 Under the Electric Security Plan of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company, Case No. 11-4553-EL-UNC, Application, Direct Testimony of Kevin R. Burgess, pp. 6-7 (July 29, 2011). The Commission approved a Stipulation that significant earnings did not occur. Opinion and Order, pp. 3-5 (Jan. 18, 2012).

Thus, DP&L asks the Commission to clarify that in the event of a transfer or sale, any financial impact of the divestiture of DP&L's generation assets should be excluded from SEET.

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/17/2014 3:53:14 PM

in

Case No(s). 13-2420-EL-UNC

Summary: Application The Dayton Power and Light Company's Application for Rehearing electronically filed by Mr. Jeffrey S Sharkey on behalf of The Dayton Power and Light Company