

In the Matter of the Application of the Dayton Power and Light Company for an Increase in Electric Distribution Rates.)	Case No. 15-1830-EL-AIR
In the Matter of the Application of the Dayton Power and Light Company for Approval to Change Accounting Methods.)	Case No. 15-1831-EL-AAM
In the Matter of the Application of the Dayton Power and Light Company for Tariff Approval.)	Case No. 15-1832-EL-ATA

**MOTION TO COMPEL RESPONSES TO DISCOVERY
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

OCC's investigation, however, has been delayed due to DP&L's failure to provide information to OCC in discovery. The Utility has been largely uncooperative and dilatory in its responses to discovery. It has perfected using delay tactics in the discovery

¹ See Application of the Dayton Power and Light Company to Increase its Rates for Electric Distribution (the “Application”) (Nov. 30, 2015).

process to preclude fact finding in this proceeding, taking up the precious time and resources of intervenors like OCC.

This motion to compel focuses on, in particular, the Utility's unwillingness to provide timely responses to OCC's eighth and ninth sets of discovery. OCC served interrogatories and requests for production of documents (collectively, the "Discovery Requests") eight and nine on February 25, 2016.² As of the date of this motion, DP&L has not provided any response to OCC's eighth and ninth sets of Discovery Requests.

OCC has attempted to resolve with the Utility the issues surrounding these unanswered Discovery Requests. The Utility has offered little or no accommodation to OCC, despite OCC's attempts to obtain timely responses. The parties have exhausted all other reasonable means of resolving their differences. Thus, under OAC 4901-1-12 and 4901-1-23, OCC moves the Public Utilities Commission of Ohio (the "PUCO" or the "Commission"), the legal director, the deputy legal director, or an attorney examiner for an order compelling DP&L to fully and specifically respond to OCC interrogatories 445-509 and requests for the production of documents ("RPDs") 165-195 (collectively, the "Unanswered Discovery Requests").

OCC needs the requested information and documents as soon as possible to enable it to fully participate in this case. With a Staff Report expected in the near term, OCC asks the PUCO to quickly grant its motion and order DP&L to respond to the Unanswered Discovery Requests within two days of its entry granting this motion. OCC also asks that the PUCO toll the 275 day period set forth under Ohio Revised Code ("R.C.") 4909.42 to give parties, including OCC, intervenors, and the PUCO Staff time to

² OCC served nine sets of Discovery Requests on DP&L between December 4, 2015 and February 25, 2016. This motion to compel pertains to Discovery Request sets 8 and 9, served on February 25, 2016. Copies of sets 8 and 9 are attached as OCC Exhibits 1 and 2.

adequately review the Utility's Application and engage in the ample discovery that they are entitled to under rule and law.

The reasons supporting the motion are set forth in the attached memorandum in support. The motion is supported by the affidavit of Jodi Bair, counsel of record for OCC in this proceeding.

Respectfully submitted,

Bruce J. Weston (0016973)
OHIO CONSUMERS' COUNSEL

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the)	
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Dayton Power and Light Company for)	Case No. 15-1832-EL-ATA
Tariff Approval.)	

**MEMORANDUM IN SUPPORT
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

Over 450,000 Ohioans face the prospect of a thirty percent increase to their distribution utility bills in this case. OCC, as the statutory representative of these consumers, has the right to seek any and all information that is reasonably calculated to lead to the discovery of admissible evidence. DP&L, as the utility seeking this rate hike, has the duty under applicable rules, regulations, and laws too fully, promptly, and expeditiously respond to each of OCC's Discovery Requests.

As demonstrated in this motion, DP&L has consistently failed to fully and timely respond to many of OCC's Discovery Requests—not just the eighth and ninth sets that

are the subject of this motion to compel. From the outset of this case, DP&L has delayed responding to discovery (by days, weeks, and sometimes months).³

Germane to this motion, OCC served its eighth and ninth sets of Discovery Requests on DP&L on February 25, 2016.⁴ Under the Commission's rules, therefore, responses to sets 8 and 9 were due on March 16, 2016.⁵ On March 10, 2016, OCC agreed to extend that deadline to March 22.⁶ But then, on March 17, 2016, counsel for DP&L informed OCC that it would not provide any responses by that date either. DP&L's failure to respond to OCC's Discovery Requests, which are well beyond the 20 day response period under PUCO rules, requires action from the PUCO to compel the Utility to comply with reasonable and diligent discovery practice.

The PUCO rules authorize a party to move to compel answers to interrogatories and production of documents in response to RPDs.⁷ A motion to compel must be accompanied by (a) a memorandum in support, (b) copies of discovery requests that are the subject of the motion to compel and copies of any responses and objections thereto, and (c) an affidavit of counsel setting forth the efforts made to resolve any differences

³ OCC served three sets of Discovery Requests on DP&L in December 2015, and DP&L failed to provide complete responses to many of these requests until March 2016—more than 90 days from the date of service of OCC's first set of Discovery Requests. DP&L repeatedly stated, in response to OCC's fifth set of Discovery Requests, that it would "supplement" its response, even though no initial response had been given that could be supplemented. DP&L ultimately provided some of the promised "supplements," but not until 20 or more days after they were due, even though DP&L never approached OCC to discuss a potential extension for the fifth set of Discovery Requests.

⁴ OCC served two sets simultaneously to separate those Discovery Requests that contain information that the Utility has designated as confidential (set 9) and those Discovery Requests that did not (set 8).

⁵ See OAC 4901-1-19(A) (each interrogatory shall be "answered separately and fully, in writing and under other" within 20 days of service); OAC 4901-1-20(C) (the responding party "shall serve a written response within twenty days after the service of the request" for the production of documents).

⁶ In the past, OCC has agreed to extensions on discovery requests. For example, OCC granted DP&L a 20-day extension to respond to OCC Discovery Request sets 6 and 7.

⁷ See OAC 4901-1-23(A)(1), (2), (4).

with the party from whom discovery is sought.⁸ The memorandum in support must (a) set forth the specific basis of the motion and citations to authorities relied upon, (b) provide a brief explanation of how the information sought is relevant to the pending proceeding, and (c) respond to any objections raised by the party from whom discovery is sought. This motion satisfies each requirement.

For the reasons set forth below, the PUCO should grant OCC's motion to compel and should order DP&L to respond in full to OCC's eighth and ninth set of discovery two days after the PUCO's order granting this motion.

I. OCC HAS A STATUTORY RIGHT TO THE REQUESTED DISCOVERY.

As an intervenor and party in this case, OCC has a statutory right to “full and reasonable discovery.” *See* R.C. 4903.082 (“All parties and intervenors shall be granted ample rights of discovery. The present rules of the public utilities commission should be reviewed regularly by the commission to aid full and reasonable discovery by all parties.”). Consistent with this statutory directive, the PUCO adopted a discovery rule that is similar in scope to the Ohio Civil Rules⁹: “[A]ny party to a commission proceeding may obtain discovery of any matter, not privileged, which is relevant to the subject matter of the proceeding. . . .”¹⁰

⁸ *See* OAC 4901-1-23(C).

⁹ *See Ohio Consumers' Counsel v. PUC*, 111 Ohio St. 3d 300, 320 (2006) (“The text of Ohio Adm. Code 4901-1-16(B), the commission's discovery rule, is similar to Civ.R. 26(B)(1), which governs the scope of discovery in civil cases.”).

¹⁰ OAC 4901-1-16(B). Ohio Civil Rule 26(B)(1) states: “Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, electronically stored information, or other tangible things”

In acknowledging the similarities between the PUCO discovery rules and the Ohio Civil Rules, the Ohio Supreme Court has found that the applicable Ohio Civil Rules have been “liberally construed to allow for broad discovery of any unprivileged matter relevant to the subject matter of the pending proceeding.”¹¹ The PUCO recognizes that “the policy of discovery is to allow the parties to prepare and to encourage them to prepare thoroughly without taking undue advantage of the other side’s industry or efforts.”¹² Furthermore, the PUCO’s rules on discovery “do not create an additional field of combat to delay trials or to appropriate the Commission’s time and resources; they are designed to confine discovery procedures to counsel and to expedite the administration of the Commission proceedings.”¹³

Among other options, a party or intervenor in a case before the PUCO is entitled to obtain discovery through interrogatories and requests for the production of documents.¹⁴ Interrogatories may “elicit facts, data, or other information known or readily available to the party upon whom the interrogatories are served.”¹⁵ Each interrogatory must be answered “separately and fully, in writing and under oath, unless objected to, in which case the reasons for the objection shall be stated in lieu of an

¹¹ *Ohio Consumers’ Counsel*, 111 Ohio St. 3d at 320.

¹² *In re Investigation into the Perry Nuclear Power Plant*, Case No. 85-521-EL-COI, Entry at 23 (Mar. 17, 1987).

¹³ *Id.* (citing *Penn Cent. Transp. Co. v. Armco Steel Corp.* 27 Ohio Misc. 76 (C.P. 1971)) (emphasis added).

¹⁴ OAC 4901-1-16(B) (“Discovery may be obtained through interrogatories, requests for the production of documents and things or permission to enter upon land or other property, depositions, and requests for admission.”). Ohio Civil Rule 26(A) similarly states that parties may obtain discovery by “deposition upon oral examination or written questions, written interrogatories; production of documents, electronically stored information, or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission.”

¹⁵ OAC 4901-1-19(B).

answer. The answer shall be signed by the person making them, and the objections shall be signed by the attorney or other person making them.”¹⁶

In an RPD, a party may request that a utility “[p]roduce and permit the party making the request . . . to inspect and copy any designated documents . . . which are in the possession, custody, or control” of the utility.¹⁷ Upon receipt of an RPD, the utility is required to produce the requested documents within twenty days, unless the utility objects to the request and states the basis for its objection in writing.¹⁸

In PUCO proceedings, there is no limit on the amount of discovery requested or the frequency of discovery requests.¹⁹

II. OCC HAS A RIGHT TO ENFORCE ITS DISCOVERY REQUESTS THROUGH THIS MOTION TO COMPEL.

The PUCO has authorized parties to enforce their statutory right to discovery by filing a motion to compel. In particular, a party may move to compel discovery with respect to any “failure of a party to answer an interrogatory under rule 4901-1-19 of the Administrative Code” and any “failure of a party to produce a document . . . requested under rule 4901-1-20 of the Administrative Code.”²⁰ For purposes of these rules, “an evasive or incomplete answer shall be treated as a failure to answer.”²¹

¹⁶ OAC 4901-1-19(A).

¹⁷ OAC 4901-1-20(A)(1).

¹⁸ OAC 4901-1-20(C).

¹⁹ OAC 4901-1-16(B). *See also* Ohio Civ. R. 26(A) (“Unless the court orders otherwise, the frequency of use of these methods is not limited.”).

²⁰ OAC 4901-1-23(A)(1), (2).

²¹ OAC 4901-1-23(B).

OAC 4901-1-23(C) details the technical requirements for a motion to compel.

OCC satisfies each requirement:

- This memorandum in support accompanies the motion to compel and sets forth the basis of the motion and authorities relied upon, provides a brief explanation of how the information sought is relevant, and includes responses to objections raised by DP&L.²²
- OCC has attached copies of the relevant Discovery Requests.²³
- OCC has attached the affidavit of Jodi Bair, which explains how OCC exhausted all other reasonable means of resolving its differences with DP&L.²⁴

The discovery sought by OCC is relevant to this case, DP&L's objections have no merit. OCC took reasonable measures to obtain the requested information and documents prior to filing this motion to compel. Its motion should be granted.

A. OCC seeks information and documents that are relevant to this case.

In this rate case, DP&L seeks a thirty percent increase to customers' distribution bills.²⁵ To justify an increase of this magnitude, DP&L must provide detailed and comprehensive information regarding its assets, revenues, costs and expenses, contracts, capital expenditures, and studies, forecasts, and projections, among other things. Without this information, parties in interest, intervenors, and the PUCO will be unable to properly evaluate DP&L's application to increase its rates.

²² OAC 4901-1-23(C)(1).

²³ OAC 4901-1-23(C)(2). DP&L has not provided any responses to OCC's eighth and ninth sets of Discovery Requests, so none are attached.

²⁴ OAC 4901-1-23(C)(3).

²⁵ See Application of the Dayton Power and Light Company to Increase its Rates for Electric Distribution (the "Application") (Nov. 30, 2015).

OCC's Discovery Requests (eighth and ninth sets) are relevant to this case because the OCC Discovery Requests are designed to elicit information regarding DP&L's financial and operational condition. The OCC interrogatories include requests related to DP&L's management policies, practices, and organization, operating income, rate base, allocations, rate of return, rates and tariffs, budgets, account data, liabilities, forecasts, historical spending, and expenses. Likewise, OCC's RPDs seek documents related to DP&L's cost allocation, contracts, account data, journal entries, studies and reports, forecasts, and test year calculations, among other financials.

There can be no dispute that OCC's Discovery Requests seek information that is relevant to this case. DP&L has not communicated that it believes that the Discovery Requests in set 8 or 9 are not relevant. Indeed, DP&L has not informed OCC that it objects to providing the information.²⁶

In light of the foregoing, the PUCO should conclude that the information and documents sought in each of the Unanswered Discovery Requests is relevant for purposes of OAC 4901-1-16(B).

B. DP&L cannot establish that it would be unduly burdensome to respond to OCC Discovery Request sets 8 and 9 by March 22, 2016. Any burden on DP&L has been its own doing.

OCC served its eighth and ninth sets on February 25, 2016, so responses were due on March 16, 2016. OCC agreed to extend the deadline on these sets to March 22, 2016. On March 17, 2016, DP&L informed OCC that it would not provide any responses to the eighth and ninth sets of Discovery Requests by March 22, 2016. DP&L's only

²⁶ After 4:00 pm on March 22, 2016, OCC received rote objections to each of the Discovery Requests in sets 8 and 9. DP&L did not provide any substantive responses to these Discovery Requests. OCC may supplement this motion to compel based on its review of the responses received by DP&L.

justification was that DP&L's employees and professionals have too much work right now. DP&L's counsel further elaborated that "many of the DP&L personnel who must work on discovery requests are the same people who assembled the recently-filed ESP case."²⁷

DP&L made no other attempt to specifically show how the Discovery Requests are unduly burdensome. DP&L submitted no evidence in support of its undue burden objection.²⁸ DP&L, therefore, has failed to meet its burden of proof in establishing an undue burden objection with respect to sets 8 and 9.²⁹

OCC understands that filing and prosecuting a rate case like this one requires significant time and resources for all parties—OCC, intervenors, and DP&L alike. At the same time, however, the PUCO undoubtedly took this into consideration and exercised its reasonable judgment when it provided parties with a generous, 20-day time period (and not an abbreviated time period) to respond to discovery requests.³⁰

More importantly, DP&L cannot justify its delay in responding to OCC's Discovery Requests based on its obligations in the ESP case. DP&L voluntarily filed the ESP case while this case was pending. Indeed, the ESP case was filed on February 22, 2016, at a time when DP&L knew it would be busy responding to discovery requests

²⁷ See OCC Exhibit 3 (March 4, 2016 email from Martin A. Foos, outside counsel to DP&L, to Jodi Bair, lead counsel for the OCC).

²⁸ See *In re Heparin Prods. Liab. Litig.*, 273 F.R.D. 399, 410-11 (N.D. Ohio 2011) ("A general objection that interrogatories are onerous and burdensome and require the party to make research and compile data raises no issue. The objection must make a *specific showing* of reasons why the interrogatory should not be answered.") (quoting *Trabon Eng'g Corp. v. Easton Mfg. Co.*, 37 F.R.D. 51, 54 (N.D. Ohio 1964)); see also *Malibu Media, LLC v. Doe*, 2015 U.S. Dist. LEXIS 59338, at *5 (S.D. Ohio May 6, 2015) (rejecting party's undue burden objection because party "failed to detail with specificity what burden [the] discovery will cause").

²⁹ See *Gulf Oil Corp. v. Schlesinger*, 465 F. Supp. 913, 916-917 (E.D. Pa. 1979) (The burden falls upon the party resisting discovery to clarify and explain its objections and to provide support.).

³⁰ See OAC 4901-1-19(A), 4901-1-20(C).

from the PUCO Staff, OCC, and other intervenors. The PUCO should reject this self-serving delay tactic. DP&L should not be able to use the ESP case as the basis for not providing timely responses to discovery requests in this case.

To avoid this type of gamesmanship, the PUCO should toll or suspend the 275 day period referred to in R.C. 4909.42. Tolling the 275 day period under which the PUCO would have to issue a decision (before allowing the Utility to put rates into effect) is well within the PUCO's authority.³¹

In past cases, the Commission has tolled the 275 day period of R.C. 4909.42 to give applicants more time to address problems with their applications. The PUCO has also recognized that it can toll the 275 day period to punish applicants who were not cooperating with the discovery process.

In a case involving Cincinnati Bell, for example, the PUCO Staff requested that the PUCO use its authority to toll the 275 day period to thwart the utility's delays in responding to discovery.³² The Commission agreed with the Staff that it had the authority to do so but chose to defer taking action until absolutely necessary.³³ Cincinnati Bell is not an isolated instance of the PUCO contemplating tolling the 275 day

³¹ See, e.g., *In re the Application of Lake Buckhorn Utils.*, Case No. 86-518-WW-AIR, Finding and Order at 5 (April 5, 1988); *In re the Application of Cent. Tel. Co. of Ohio*, Case No. 84-1431-TP-AIR, Finding and Order at 3 (May 29, 1985); *In re the Application of The Toledo Edison Co.*, Case No. 85-554-EL-AIR, Finding and Order at 2-3 (July 23, 1985).

³² *In re Application of Cincinnati Bell Tel. Co.*, Case No. 84-1272-TP-AIR, Finding and Order at 3-4 (May 7, 1985).

³³ *Id.* at 4.

period. The PUCO has suspended this deadline when needed and reserved its right to toll the time period in other cases.³⁴

Tolling the 275 day period would allow OCC, the PUCO Staff, and other intervenors the time needed to thoroughly review the Utility's application and develop their case. It would facilitate thorough and adequate participation in this proceeding—something that discovery is supposed to do under the PUCO rules. *See* OAC 4901-1-16 (the purpose of the PUCO discovery rules “is to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). It would also counteract the discovery delays caused by the Utility. It is warranted here where the Utility allegedly needs more time to respond to discovery requests because it has two overlapping cases with the same staff working on both.

C. OCC undertook reasonable efforts to resolve the discovery disputes.

OCC has been cooperative with DP&L throughout the discovery process and has given DP&L significant leeway in providing complete, timely responses to OCC's Discovery Requests. DP&L, however, continues with delay tactics that frustrate OCC's development of a case. The time has come to put an end to DP&L's dilatory tactics. The PUCO can do so by granting this motion.

As demonstrated above, OCC has been eminently reasonable in agreeing to a six day extension for sets 8 and 9. Despite this, DP&L told OCC on March 17, 2016 that it

³⁴ *See, e.g., In re the Application of Lake Buckhorn Utils.*, Case No. 86-518-WW-AIR, Finding and Order at 5 (April 5, 1988) (PUCO allowing the utility a two month extension on filing requirements but suspended the 275 day period); *In re the Application of Cent. Tel. Co. of Ohio*, Case No. 84-1431-TP-AIR, Finding and Order at 3 (May 29, 1985); *In re the Application of The Toledo Edison Co.*, Case No. 85-554-EL-AIR, Finding and Order at 2-3 (July 23, 1985).

would not provide responses to sets 8 and 9 by the March 22, 2016 deadline. Rather, DP&L proposed to begin producing responses to sets 8 and 9 on a rolling basis on March 25. DP&L asserted that all documents would be produced by March 30, which is 34 days after sets 8 and 9 were served.

Such undue delay is impeding the ability of OCC to adequately represent DP&L's residential customers. OCC has done everything in its power to resolve its discovery disputes with DP&L. DP&L's continued promises to provide discovery well after the 20-day deadline cannot be relied upon. The delay DP&L is imposing on OCC's efforts to put together a case is unreasonable. Customers have a right to answers from a utility that seeks to impose a double digit increase upon them.

The PUCO should order DP&L to produce complete responses to OCC's eighth and ninth sets of discovery. It should at the same time toll the 275 day period associated with the Utility's application.

III. CONCLUSION

Through this case, DP&L expects Ohioans to pay an additional thirty percent on their distribution utility bills. An increase of this magnitude must be thoroughly scrutinized by the PUCO, OCC, and other parties in interest. Without detailed, complete, and timely responses to discovery regarding all aspects of DP&L's operations, OCC cannot fulfill its statutory duty to protect the people of Ohio from undue rate increases. The Ohio Revised Code and corresponding PUCO rules require DP&L to provide timely, complete responses to each of OCC's Discovery Requests. These rules likewise permit OCC to enforce its lawful right to discovery by filing a motion to compel.

OCC has established that (i) the Discovery Requests seek relevant information, (ii) DP&L's objections to the Discovery Requests lack merit, and (iii) OCC has exhausted all other reasonable means of resolving its differences with DP&L regarding these discovery disputes. The PUCO should grant OCC's motion to compel.

The PUCO should also toll the 275 day period under R.C. 4909.42. Tolling the 275 day period should allow OCC and others more time to develop their case by delaying testimony and any evidentiary hearing until after DP&L is able to timely and fully respond to outstanding discovery requests.

Respectfully submitted,

Bruce J. Weston (0016973)
OHIO CONSUMERS' COUNSEL

/s/ Jodi Bair

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion to Compel and Memorandum in Support, Public Version, was served on the persons stated below via electronic transmission, this 22nd day of March 2016.

/s/ Jodi Bair

Jodi Bair

Assistant Consumers' Counsel

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I, Jodi Bair, attorney for the Ohio Consumers' Counsel ("OCC") in the above-captioned cases, submit this affidavit in support of OCC's Motion to Compel Responses to Discovery and Request for Expedited Ruling (the "Motion to Compel"), filed concurrently.

2. True and correct copies of Set 8 and Set 9 are attached to this affidavit as Exhibits 1 and 2.

3. In my communications with DP&L, DP&L has not asserted that any of the Discovery Requests in Set 8 or Set 9 are not relevant.

4. On a telephone call with Mr. Sharkey and Mr. Foos on March 10, 2016, Mr. Sharkey or Mr. Foos requested an extension on the deadline to respond to Set 8 and Set 9. I agreed to extend the deadline on these sets to March 22, 2016. They informed me that they would consult with their client to determine if that would be sufficient time to respond to Set 8 and Set 9.

5. On March 17, 2016, I spoke to Mr. Sharkey again, and he informed me that DP&L would not provide any responses to Set 8 and Set 9 by March 22, 2016. The only justification that DP&L has provided for its inability to timely respond to Set 8 and Set 9 is that DP&L's employees and professionals have too much work right now and cannot devote enough resources to responding to OCC's Discovery Requests. Mr. Sharkey's colleague, Mr. Foos, further elaborated that the cause for the delay in responding to Discovery Requests is that "many of the DP&L personnel who must work on discovery requests are the same people who assembled the recently-filed ESP case." A true and correct copy of an email from Mr. Foos to me, dated March 4, 2016, is attached to this affidavit as Exhibit 3.

6. On March 18, 2016, I sent a follow-up email to Mr. Sharkey confirming that DP&L did not intend to provide any responses to Set 8 and Set 9 by March 22, 2016. Mr. Foos responded by reaffirming the position from his March 4 email that DP&L cannot respond to OCC's Discovery Requests in this case because DP&L personnel have simultaneous obligations in DP&L's recently-filed ESP case. Mr. Foos proposed, instead, that DP&L would produce some responses to Set 8 and Set 9 beginning on

March 25 and that all responses to Set 8 and Set 9 would be produced by March 30. A true and correct copy of Mr. Foos's March 18, 2016 email to me is attached to this affidavit as Exhibit 4.

STATE OF OHIO)
) SS:
COUNTY OF FRANKLIN)

The undersigned, being of lawful age and duly sworn on oath, hereby certifies,
deposes and state the following:

I have caused to be prepared the attached written affidavit for OCC in the above referenced docket. This affidavit is true and correct to the best of my knowledge, information and belief.


Jodi J. Bair, Affiant

Subscribed and sworn to before me this 22nd day of March, 2016.

Debra Jo Bingham
Notary Public



Debra Jo Bingham, Notary Public
Union County, State of Ohio
My Commission Expires June 13, 2020

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**THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S
INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS
PROPOUNDED UPON DAYTON POWER AND LIGHT COMPANY**

**EIGHTH SET
(DATED FEBRUARY 25, 2016)**

The Office of the Ohio Consumers' Counsel, in the above-captioned proceedings before the Public Utilities Commission of Ohio, submits the following Interrogatories and Requests for Production of Documents pursuant to Sections 4901-1-19, 4901-1-20 and 4901-1-22 of the Ohio Administrative Code for response from the Dayton Power and Light Company ("DP&L" or the "Company") within 20 days. An electronic, non-pdf (*e.g.* Microsoft Excel) response should be provided to the Office of the Ohio Consumers' Counsel at the following addresses:

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Additionally, DP&L must follow the instructions provided herein in responding to the inquiries. Definitions are provided below that are used in the Office of the Ohio Consumers' Counsel's discovery.

DEFINITIONS

As used herein, the following definitions apply:

1. "Document" or "Documentation," when used herein, is used in its customary broad sense and means all originals of any nature whatsoever, identical copies, and all non-identical copies thereof, pertaining to any medium upon which intelligence or information is recorded in your possession, custody, or control, regardless of where located, including any kind of printed, recorded, written, graphic, or photographic matter and things similar to any of the foregoing, regardless of their author or origin. The term specifically includes, without limiting the generality of the following: punchcards, printout sheets, movie film,

slides, PowerPoint slides, phonograph records, photographs, memoranda, ledgers, work sheets, books, magazines, notebooks, diaries, calendars, appointment books, registers, charts, tables, papers, agreements, contracts, purchase orders, checks and drafts, acknowledgments, invoices, authorizations, budgets, analyses, projections, transcripts, minutes of meetings of any kind, telegrams, drafts, instructions, announcements, schedules, price lists, electronic copies, reports, studies, statistics, forecasts, decisions, orders, intra-office and inter-office communications, correspondence, financial data, summaries or records of conversations or interviews, statements, returns, workpapers, maps, graphs, sketches, summaries or reports of investigations or negotiations, opinions or reports of consultants, brochures, bulletins, pamphlets, articles, advertisements, circulars, press releases, graphic records or representations or publications of any kind (including microfilm, videotape and records, however produced or reproduced), electronic (including e-mail), mechanical and electrical records of any kind and computer produced interpretations thereof (including, without limitation, tapes, tape cassettes, disks and records), other data compilations (including, source codes, object codes, program documentation, computer programs, computer printouts, cards, tapes, disks and recordings used in automated data processing together with the programming instructions and other material necessary to translate, understand or use the same), all drafts, prints, issues, alterations, modifications, changes, amendments, and mechanical or electric sound recordings and transcripts to the foregoing. A request for discovery concerning documents addressing, relating or referring to, or discussing a

specified matter encompasses documents having a factual, contextual, or logical nexus to the matter as well as documents making explicit or implicit reference thereto in the body of the documents. Originals and duplicates of the same document need not be separately identified or produced, but drafts of a document or documents differing from one another by initials, interlineations, notations, erasures, file stamps, and the like shall be deemed to be distinct documents requiring separate identification or production. Copies of documents shall be legible.

2. “Communication” shall mean any transmission of information by oral, graphic, written, pictorial, electronic, or otherwise perceptible means, including, but not limited to, telephone conversations, emails, letters, telegrams, and personal conversations. A request seeking the identity of a communication addressing, relating or referring to, or discussing a specified matter encompasses documents having factual, contextual, or logical nexus to the matter, as well as communications in which explicit or implicit reference is made to the matter in the course of the communication.
3. The “substance” of a communication or act includes the essence, purport or meaning of the same, as well as the exact words or actions involved.
4. “And” and “Or” shall be construed conjunctively or disjunctively as necessary to make any request inclusive rather than exclusive.
5. “You,” “Your,” and “Yourself” refer to the party requested to produce documents and any present or former director, officer, agent, contractor, consultant, advisor, employee, partner, or joint venturer of such party.

6. Each singular shall be construed to include its plural, and vice versa, so as to make the request inclusive rather than exclusive.
7. Words expressing the masculine gender shall be deemed to express the feminine and neuter genders and vice versa. Words expressing the past tense shall be deemed to express the present tense and vice versa.
8. “Person” includes any firm, corporation, partnership, joint venture, association, entity, or group of natural individuals, unless the context clearly indicates that only a natural individual is referred to in the discovery request.
9. “Identify,” “the identity of,” and “identified” mean as follows:
 - A. When used in reference to an individual, to state his full name, his present or last known position and business affiliation, and his position and business affiliation at the time in question;
 - B. When used in reference to a commercial or governmental entity, to state its full name, type of entity (*e.g.*, corporation, partnership, single proprietorship), and its present or last known address;
 - C. When used in reference to a document, to state the date, author, title, type of document (*e.g.*, letter, memorandum, photograph, tape recording, etc.), general subject matter of the document, and its present or last known location and custodian;
 - D. When used in reference to a communication, (i) to state the type of communication (*e.g.*, letter, personal conversation, etc.), the date thereof, and the parties thereto and the parties thereto; and (ii) in the case of a

conversation, to state the substance, place, and approximate time thereof and identity of other persons in the presence of each party thereto;

E. When used in reference to an act, to state the substance of the act, the date, time, and place of performance, and the identity of the actor and all other persons present.

F. When used in reference to a place, to state the name of the location and provide the name of a contact person at the location (including that person's telephone number), state the address, and state a defining physical location (*e.g.*, a room number, file cabinet, and/or file designation).

10. The terms "PUCO" and "Commission" refer to the Public Utilities Commission of Ohio, including its Commissioners, personnel (including Persons working for the PUCO Staff as well as in the Public Utilities Section of the Ohio Attorney General's Office), and offices.
11. The term "*e.g.*" connotes illustration by example, not limitation.
12. "OCC" means the Office of the Ohio Consumers' Counsel.
13. "DP&L" and "Company" mean the Dayton Power and Light Company.
14. "Application" or "Applications" means the DP&L filings made in Case No. 15-1830-EL-AIR et al., including but not limited to the filing on November 30, 2015.

INSTRUCTIONS FOR ANSWERING

1. All information is to be divulged that is in your possession or control or within the possession or control of your attorney, agents, or other representatives of yours or your attorney.
2. Where an interrogatory calls for an answer in more than one part, each part should be separate in the answer so that the answer is clearly understandable.
3. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections are to be signed by the attorney making them.
4. If any answer requires more space than provided, continue the answer on the reverse side of the page or on an added page.
5. Your organization is requested to produce responsive materials and information within its physical control or custody, as well as materials and information physically controlled or possessed by any other person acting or purporting to act on your behalf, whether as an officer, director, employee, agent, independent contractor, attorney, consultant, witness, or otherwise.
6. Where these requests seek quantitative or computational information (*e.g.*, models, analyses, databases, and formulas) stored by your organization(s) or its consultants in computer-readable form, in addition to providing hard copy (if an electronic response is not otherwise provided as requested), you are requested to produce such computer-readable information, in order of preference:
 - A. Microsoft Excel worksheet files on compact disk;

- B. Other Microsoft Windows or Excel compatible worksheet or database diskette files;
 - C. ASCII text diskette files;
 - D. Such other magnetic media files as your organization(s) may use.
7. Conversion from the units of measurement used by your organization(s) in the ordinary course of business need not be made in your response; *e.g.*, data requested in kWh may be provided in mWh or gWh as long as the unit measure is made clear.
8. Unless otherwise indicated, the following requests shall require you to furnish information and tangible materials pertaining to, in existence, or in effect for the whole or any part of the period from January 1, 2004 through and including the date of your response.
9. Responses must be complete when made and must be supplemented with subsequently-acquired information at the time such information is available.
10. In the event that a claim of privilege is invoked as the reason for not responding to discovery, the nature of the information with respect to which privilege is claimed shall be set forth in responses together with the type of privilege claimed and a statement of all circumstances upon which the respondent to discovery will rely to support such a claim of privilege (*i.e.*, provide a privilege log). Respondent to the discovery must (a) identify (see definition) the individual, entity, act, communication, and/or document that is the subject of the withheld information based upon the privilege claim, (b) identify all persons to whom the information has

already been revealed, and (c) provide the basis upon which the information is being withheld and the reason that the information is not provided in discovery.

11. To the extent that any interrogatory requests the production of documents, such interrogatory shall be treated as a request for the production of documents, and such documents shall be produced as if the interrogatory were designated a request for the production of documents.
12. To the extent that any request the production of documents seeks an interrogatory response (in addition to, or in place of, a request for a document), such request for the production of a documents shall be treated as an interrogatory, and such request shall be responded to as if it were designated an interrogatory.

INTERROGATORIES

* In accordance with Ohio Administrative Code 4901-1-16(D)(5), OCC requests that all responses be supplemented with subsequently-acquired information at the time such information is available.

INT-445. Regarding Workpaper B-3; Response to PUCO Staff Data Request #7, Question 2 - Reconciliation of Trial Balance to Rate Schedule B-3 (Retirement Work in Progress).” The Company appears to have included in rate base the jurisdictional portion of total Company Retirement Work in Progress (“RWIP”) balances at 9/30/2015 for Cost of Removal and Salvage of \$(17,364,562) and \$4,076,738, respectively. Are these amounts associated with retirement activity not yet completed as of September 30, 2015?

RESPONSE:

INT-446. If you response to INT-445 is affirmative, please explain why any portion of these amounts is included in the jurisdictional rate base.

RESPONSE:

INT-447. Regarding Workpaper B-3; Response to PUCO Staff Data Request #7, Question 2 – Reconciliation of Trial Balance to Rate Schedule B-3 (Retirement Work in Progress). The Company appears to have included in rate base the jurisdictional portion of total Company Retirement Work in Progress (“RWIP”) balances at 9/30/2015 for Cost of Removal and Salvage of \$(17,364,562) and \$4,076,738, respectively. Has the Company reduced Plant in Service balances to reflect the removal of the original cost of all Plant in Service assets that are associated with this retirement activity, prior to calculating annualized depreciation expense that is included in the asserted jurisdictional revenue requirement? Why or why not?

RESPONSE:

INT-448. If your response to INT-447 is negative, please provide a detailed breakdown of the Account 101 original cost amounts at 9/30/2015 for each work order that is associated with Cost of Removal and Salvage amounts referenced in the Interrogatory RWIP amounts, indicating the jurisdictional portion of each original cost balance in Account 101 that has been included in the Company’s asserted rate base.

RESPONSE:

INT-449. Regarding response to PUCO Staff Data Request #7, Question 2 – Reconciliation of Trial Balance to Rate Schedule B-3 (Accum Property Value Res.). According to this response, rate base has been increased by the jurisdictional portion of Account 1082100 that is captioned “Accum Property Value Res.” Has any jurisdictional portion of this \$50,779,688 balance been included in the Company’s asserted rate base?

RESPONSE:

INT-450. Regarding Appendix A, (C)(16) Roll Forward of Fixed Assets (Negative Plant Additions in 2015). What specific transactions or other facts contributed to significantly negative total “Additions” to Plant in Service in the “Time Period” 1/1/2015 – 9/30/2015 within in the Company’s “Roll Forward of Fixed Assets” reports:

- a. Structures and Improvements Account 361?
- b. Station Equipment Account 362?
- c. Poles, Towers and Fixtures Account 364?
- d. Underground Conductors and Devices Account 367?
- e. Line Transformers Account 368?
- f. Meters Account 370?

RESPONSE:

INT-451. In support of your response to Interrogatory 450, please provide a detailed itemization of the transactions contributing to the negative plant additions in each referenced Plant in Service Account.

RESPONSE:

INT-452. Regarding Appendix A, (C)(16) Roll Forward of Fixed Asset, page 24 (Power Operated Equipment). Were all of the assets recorded within the \$2,229,175 balance of Power Operated Equipment at 9/30/2015 actually in service and used and useful at that date?

RESPONSE:

INT-453. With respect to your response to INT-452, please provide detailed continuing property record itemized property listings, including detailed identification of all assets within the balance of Power Operated Equipment at 9/30/2015 by location, indicating the vintage year when the asset was added to the Company's Plant in Service.

RESPONSE:

INT-454. Regarding Workpaper E-4.1a, page 1, line 5; Response to Staff 11-01, Attachment 1 (Residential Non-Heating KWH). According to this workpaper, the Company has forecasted test year KWH sales to Residential Non-Heating customers at levels lower than actual KWH sales to such customers in prior years 2012, 2013 and 2014. Please explain the basis for the Company's belief that its forecasted level of sales to this customer class is reasonable despite higher historical actual sales levels.

RESPONSE:

INT-455. Regarding Workpaper E-4.1a, page 1, lines 15, 16 and 18; Response to Staff 11-01, Attachment 1 (Secondary Service KWH). According to this workpaper, the Company has forecasted test year KWH sales to Secondary Service customers at levels lower than actual KWH sales to such customers in prior years 2012, 2013 and 2014. Please explain the basis for the Company's belief that its forecasted level of sales to this customer class is reasonable despite higher historical actual sales levels.

RESPONSE:

INT-456. Regarding Workpaper E-4.1a, page 1, lines 21, 22 and 24; Response to Staff 11-01, Attachment 1 (Primary Service KWH). According to this workpaper, the Company has forecasted test year KWH sales to Primary Service customers at levels lower than actual KWH sales to such customers in prior years 2012, 2013 and 2014. Please explain the basis for the Company's belief that its forecasted level of sales to this customer class is reasonable despite higher historical actual sales levels.

RESPONSE:

INT-457. Regarding Workpaper E-4.1a, page 1, line 33; Response to Staff 11-01, Attachment 1 (Schools KWH). According to this workpaper, the Company has forecasted test year KWH sales to Schools customers at levels lower than actual KWH sales to such customers in prior years 2012, 2013 and 2014. Please explain the basis for the Company's belief that its forecasted level of sales to this customer class is reasonable despite higher historical actual sales levels.

RESPONSE:

INT-458. Regarding response to Staff 11-01, Attachment 1 (Historical Sales Data). What was the Company's weather normalized kWh and kW sales volume to each customer class shown in this attachment, for each year 2012 through 2015 (including December 2015)?

RESPONSE:

INT-459. Please provide complete copies of all input weather and sales data as well as complete and detailed electronic files associated with all calculations relied upon in developing your response to INT-458.

RESPONSE:

INT-460. Regarding Schedule B-6, page 1, line 13; Response to Staff 28, DP&L-AIR 0002144 (Unamortized Investment Tax Credits). Please explain the reasons that the Company has included all of the \$646,120 of unamortized ITC balances associated with its "Distribution" function as a reduction to rate base, but none of the \$723,748 of "General/Other" unamortized ITC balances shown in DP&L-AIR 0002144.

RESPONSE:

INT-461. Regarding your response to INT-460, if an allocation of General/Other unamortized ITC should be in rate base, please provide calculations supportive of this revision.

RESPONSE:

INT-462. Regarding Schedule C-4.1, page 2, line 17; Response to Staff 28, DP&L-AIR 0002144 (Unamortized Investment Tax Credits). For what reasons has the Company included only \$169,278 as “unadjusted jurisdictional” Amortization of Deferred Federal Investment Tax Credits in determining test year income tax expenses?

RESPONSE:

INT-463. Regarding the Direct Testimony of Tyler Teuscher, page 7 (Deferred Costs). What monthly amounts of charges for Company direct labor and labor overheads, affiliate Company labor and labor overheads and monthly non-labor costs by payee were incurred and have been accumulated within the accumulated deferral balances as of September 30, 2015 that are identified by Mr. Teuscher as:

- a. Consumer Education Campaign costs?
- b. Retail Settlement System costs?
- c. Green Pricing Tariff costs?
- d. Bill Format Redesign costs?
- e. Generation Separation costs?
- f. Unbilled Fuel Costs?

RESPONSE:

INT-464. Did the Company's rate case filing fully reflect the impact upon jurisdictional Accumulated Deferred Income Taxes, as of September 30, 2015, that will result from the extension of 50% Bonus Depreciation for tax year 2015 or any other tax law changes signed into law in December 2015 as a result of the tax extenders package commonly referred to as Protecting Americans from Tax Hikes (PATH) Act of 2015? Why or why not?

RESPONSE:

INT-465. If your response to INT-464 is negative, please provide a detailed calculation showing the impacts upon Accumulated Deferred Income Taxes that would result from accounting for the PATH Act and explain whether and why the Company opposes reflecting such changes in test year rate base.

RESPONSE:

INT-466. Have studies of the Company's operational efficiency, productivity or effectiveness of cost savings programs been undertaken by or for the Company in any of the past three calendar years, 2013 through 2015?

RESPONSE:

INT-467. Have any workforce reduction measures, process re-engineering efforts, or other individually significant cost savings initiative been undertaken by the Company since January of 2013?

RESPONSE:

INT-468. Regarding the AES Corporation Proxy Statement, SEC Form DEF 14A, filed 3/9/15; page 12 (Executive Compensation – Named Executive Officers). Has the Company included any salary, incentive compensation, employee benefits, or payroll tax expenses associated with its “Named Executive Officers” (Glusky, O’Flynn, Miller, Da Santos, Vesey or Hackenson) in the test year?

RESPONSE:

INT-469. If your response to INT-468 is affirmative, please provide detailed calculations showing the gross amounts of salary, incentives, benefits and payroll taxes, as well as each applicable allocation factor that is applied to determine DP&L portions of such gross amounts, by FERC Account, that have been included.

RESPONSE:

INT-470. If your response to INT-468 is affirmative, please describe with specificity all written work product that was produced by each Named Executive Officer for the benefit of DP&L operations in 2015 or 2016, to date.

RESPONSE:

INT-471. Has the Company included within its asserted revenue requirement any costs associated with the ownership or operation of corporate fixed wing aircraft or helicopters?

RESPONSE:

INT-472. If your response to INT-471 is affirmative, please provide detailed calculations showing the gross amounts of aircraft-related costs, as well as each applicable allocation factor that is applied to determine DP&L portions of such gross amounts, by FERC Account, that have been included.

RESPONSE:

INT-473. Regarding response to Staff DR 12-01, Attachment 1 (Rate Case Expense). Were written agreements or invoices utilized in connection with the services of each of the following vendors that are included within the Company's proposed rate case expenses:

- a. Laurits Christensen Associates?
- b. Management Applications Consulting Inc.?
- c. PricewaterhouseCoopers LLC?
- d. Roger Morin?
- e. Accounting Contract Labor?

RESPONSE:

INT-474. Regarding response to Staff DR 12-01, Attachment 1 (Rate Case Expense). Were any of the actual costs incurred in 2013, 2014 or 2015 that are summarized as rate case expenses for each the DRC or the ESP proceedings deferred on the Company's books, rather than being charged to expense as incurred?

RESPONSE:

INT-475. If your response to INT-474 is affirmative, please itemize all deferred costs, by payee and year.

RESPONSE:

INT-476. Regarding response to Staff DR 12-01, Attachment 1 (Rate Case Expense). What is the monthly breakdown of “Total Projected 2016” spending with each vendor included in the Company’s estimated rate case expense and what are the comparable actual expenses incurred by vendor in each month of 2016, to date?

RESPONSE:

INT-477. Regarding response to Staff DR 12-01, Attachment 1 (Rate Case Expense). For what reasons has the Company proposed only a two year amortization of DRC and ESP expenses, rather than some longer period of time more consistent with the Company’s historical frequency of filing rate cases?

RESPONSE:

INT-478. Regarding schedule D-5, page 4 (Rate of Return Measures). With respect to each of the past five calendar years (2011, 2012, 2013, 2014, 2015), please state whether the Company contends that it has earned less than its PUCO-authorized return on equity on its PUCO-jurisdictional operations.

RESPONSE:

INT-479. Regarding Schedule C-3.10, Allamanno Testimony page 5, line 6 (Ohio Commercial Activity Tax). This adjustment is said to calculate and adjust to an “Annualized Commercial Activity Tax” jurisdictional amount of \$765,664 for the test year. Has any election been made by AES Corporation or the Company to file as a group including other entities under common ownership with DP&L?

RESPONSE:

INT-480. If your response to INT-479 is affirmative, please provide all calculations relied upon to determine the gross receipts that are subject to Commercial Activity Tax in each quarter of calendar year 2015.

RESPONSE:

INT-481. If your response to INT-479 is negative, please state and explain each reason for not filing and paying Commercial Activity Tax as a group with other commonly owned entities and why such a filing basis should not be imputed for ratemaking purposes.

RESPONSE:

INT-482. Regarding the testimony of Craig Forestal, page 12, line 5 (Miscellaneous Expense Adjustments). According to Mr. Forestal, “This adjustment includes the results of a detailed review of the operation and maintenance expense accounts activity for the test year.” He also lists certain “[e]xamples of items included in this adjustment” in his testimony. What were the specific review criteria and sets of data reviewed by Mr. Forestal to determine the amounts included within his adjustment and to conclude that no other adjustments to test year data under such criteria were needed?

RESPONSE:

INT-483. Please state all assumptions made and provide detailed calculations supportive of your response to INT-482, including supporting calculations for each individual element of the Company’s Miscellaneous Expense Adjustments listed on Schedule C-3.21.

RESPONSE:

INT-484. Regarding Workpaper C-9.1c, page 3 (Payroll Hours/Costs data). What are the comparable calendar year 2015 amounts that can be used to expand the Lines 2-17 for “DP&L-Union” and Lines 21-36 for “DP&L Non-Union” so as to add calendar year 2015 data?

RESPONSE:

INT-485. Regarding Workpaper C-9.1c, page 4 (Payroll Hours/Costs data). What are the comparable January 2015 through December 2015 monthly amounts that can be used to compare to the Lines 2-17 for “DP&L-Union” and Lines 21-36 for “DP&L Non-Union” shown for the 4&8 test year, so as to understand how calendar year 2015 data on a monthly basis compares to the proposed test year monthly values?

RESPONSE:

INT-486. Regarding Workpaper C-9.1c, Lines 2-4 at page 3 versus page 4 (Union Payroll Hours). From 2010 through 2014, the Company was able to reduce the required number of Union straight-time and union total labor hours (including overtime) each year, but for the proposed test year, the trend is reversed and proposed Union straight-time and total hours are higher than in all historical years since 2011. Please explain the basis for this change, including all applicable calculation in support of your response.

RESPONSE:

INT-487. Regarding Schedule C-10.1, page 2, line 24 (Other Regulatory Assets). What are the discrete balances for each individual Other Regulatory Asset item, as of Date Certain September 30, 2015, that sum to the \$172,568,267 total?

RESPONSE:

INT-488. Regarding Schedule C-10.1, page 2, line 24 (Other Regulatory Assets).
Which of the individual Other Regulatory Asset items, as of Date Certain September 30, 2015, that sum to the \$172,568,267 total at that date, have been explicitly authorized by the PUCO or some other regulatory authority?

RESPONSE:

INT-489. Regarding Schedule C-10.1, page 2, line 28 (Miscellaneous Deferred Debits) . What are the discrete balances for each individual Miscellaneous Deferred Debit item, as of Date Certain September 30, 2015, that sum to the \$31,248,458 total?

RESPONSE:

INT-490. Regarding Schedule C-10.1, page 2, line 28 (Miscellaneous Deferred Debits). Which of the individual Miscellaneous Deferred Debit items, as of Date Certain September 30, 2015, that sum to the \$31,248,458 total at that date, have been explicitly authorized by the PUCO or some other regulatory authority?

RESPONSE:

INT-491. Regarding Schedule C-10.1, page 4, line 13 (Miscellaneous Current and Accrued Liabilities) . What are the discrete balances for each individual Miscellaneous Current and Accrued Liabilities item, as of Date Certain September 30, 2015, that sum to the \$30,573,378 total?

RESPONSE:

INT-492. Regarding Schedule C-10.1, page 4, line 13 (Miscellaneous Current and Accrued Liabilities). Which of the individual Miscellaneous Current and Accrued Liabilities items, as of Date Certain September 30, 2015, that sum to the \$30,573,378 total at that date, have been explicitly created by action of the PUCO or some other regulatory authority?

RESPONSE:

INT-493. Regarding Schedule C-10.1, page 4, line 23 (Other Regulatory Liabilities). What are the discrete balances for each individual Other Regulatory Liabilities item, as of Date Certain September 30, 2015, that sum to the \$24,938,230 total?

RESPONSE:

INT-494. Regarding Schedule C-10.1, page 4, line 23 (Other Regulatory Liabilities). Which of the individual Other Regulatory Liability items, as of Date Certain September 30, 2015, that sum to the \$24,938.230 total at that date, have been explicitly created by action of the PUCO or some other regulatory authority?

RESPONSE:

INT-495. Regarding Schedule C-10.1, page 3, line 27 (Provision for Injuries and Damages). What was the recorded monthly balance in Account 228.2 for each month of calendar 2015 and within each forecasted month of the test year in 2016?

RESPONSE:

INT-496. Regarding Schedule C-10.1, page 3, line 27 (Provision for Injuries and Damages). For what reasons has the Company's accrued provision for injuries and damages claims not been recognized as a reduction to the Company's asserted date certain rate base?

RESPONSE:

INT-497. Regarding Schedule C-2.1, page 4, line 6; Schedule C-7, line 29 (Miscellaneous General Expenses). What are the monthly expense amounts by payee of each test year non-labor expense element contained within the \$4,800,603 of total company expense proposed by the Company in Account 930.2 (prior to jurisdictional allocation)?

RESPONSE:

INT-498. Regarding Schedule C-2.1, page 4, line 6; Schedule C-7, line 29 (Miscellaneous General Expenses). What is the business purpose of each test year non-labor expense element contained within the \$4,800,603 of total company expense proposed by the Company in Account 930.2 (prior to jurisdictional allocation)?

RESPONSE:

INT-499. Regarding Schedule C-7, line 7; Supplemental Information (C)(15) (Informational and Instructional Expenses). What are the monthly expense amounts by payee of each test year non-labor expense element contained within the \$2,270,531 of total company expense proposed by the Company in Account 909?

RESPONSE:

INT-500. Regarding Schedule C-7, line 7; Supplemental Information (C)(15) (Informational and Instructional Expenses). What is the business purpose of each test year non-labor expense element contained within the \$2,270,531 of total company expense proposed by the Company in Account 909?

RESPONSE:

INT-501. Regarding Schedule C-7, line 9 (Miscellaneous Customer Service and Informational Expenses). What are the monthly expense amounts by payee of each test year non-labor expense element contained within the \$12,573,498 of total company expense proposed by the Company in Account 910?

RESPONSE:

INT-502. Regarding Schedule C-7, line 9 (Miscellaneous Customer Service and Informational Expenses). What is the business purpose of each test year non-labor expense element contained within the \$12,573,498 of total company expense proposed by the Company in Account 910?

RESPONSE:

INT-503. Does DP&L keep bill frequency data in any form?

RESPONSE:

INT-504. If your response to INT-503 is affirmative, please describe the form and manner in which such data is kept.

RESPONSE:

INT-505. If your response to INT-503 is negative, please explain why no bill frequency data is kept.

RESPONSE:

REQUESTS FOR PRODUCTION OF DOCUMENTS

* In accordance with Ohio Adm. Code 4901-1-16(D)(5), the OCC requests that all responses be supplemented with subsequently acquired information at the time such information is available.

- RPD-165. Please provide complete copies of all reports, studies, workpapers, prior PUCO Orders and other documents associated with your response to INT-445 or relied upon to determine that the proposed test year amounts of RWIP balances are properly includable in jurisdictional rate base.
- RPD-166. If your response to INT-449 is affirmative, please provide complete copies of all reports, studies, valuation analyses and other documents supportive of rate base inclusion of such amounts or relied upon to determine the jurisdictional portion of the Account 1082100 balance referenced in your response.
- RPD-167. In support of your response to INT-450, please provide supporting reports, analyses, workpapers and other documentation for individually significant transactions with such itemization.

RPD-168. Please provide complete copies of all available documentation referenced in your response to INT-454, as well as all available reports, studies, analyses, and workpapers associated with the Company's determination of test year KWH sales to Residential Non-Heating customers.

RPD-169. Please provide complete copies of all available documentation referenced in your response to INT-455, as well as all available reports, studies, analyses, and workpapers associated with the Company's determination of test year KWH sales to Secondary Service customers.

RPD-170. Please provide complete copies of all available documentation referenced in your response to INT-456, as well as all available reports, studies, analyses, and workpapers associated with the Company's determination of test year KWH sales to Primary Service customers.

RPD-171. Please provide complete copies of all available documentation referenced in your response to INT-457, as well as all available reports, studies, analyses, and workpapers associated with the Company's determination of test year KWH sales to Schools customers.

- RPD-172. Please provide copies of contracts with the Company and related invoices associated with and supportive of each vendor contributing \$50,000 or more to non-labor costs identified in your response to each sub-part of INT-463.
- RPD-173. If your response to INT-466 is affirmative, please provide complete copies of all reports, studies, analyses, workpapers, calculations, projections, correspondence and other documents associated with all such efforts.
- RPD-174. If your response to INT-467 is affirmative, please provide complete copies of all reports, studies, analyses, workpapers, calculations, projections, correspondence and other documents associated with all such efforts.
- RPD-175. If your response to INT-471 is affirmative, please provide complete copies of flight logs and all other documents associated with or supportive of aircraft charges to DP&L in the test year.
- RPD-176. If your response to the subparts of INT-473 is affirmative, please provide complete copies of all contracts, service agreements and detailed invoices associated with services provided by each vendor.

- RPD-177. If your response to INT-474 is affirmative, provide complete copies of all prior rate orders, accounting authority orders, and other documents associated with or relied upon by the Company to defer such costs.
- RPD-178. If your response to INT-478 is affirmative, please provide complete copies of all studies, reports, analyses, workpapers, calculations and other documents associated with or relied upon in formulating your response.
- RPD-179. If your response to INT-479 is affirmative, please provide all calculations and source documents relied upon to determine the gross receipts that are subject to Commercial Activity Tax in each quarter of calendar year 2015 and provide copies of tax returns filed on behalf of the Company to determine the amounts of tax actually payable on such gross receipts.
- RPD-180. Please provide copies of all electronic files, workpapers and all other documents relied upon, and provide detailed calculations supportive of your response to INT-482, including supporting documentation and calculations for each individual element of the Company's Miscellaneous Expense Adjustments listed on Schedule C-3.21.
- RPD-181. Please explain and provide copies of all documents and calculations supportive of your response to INT-486.

- RPD-182. Please provide copies of, or complete references to, PUCO Orders and other sources of regulatory authority associated with or supportive of your response to INT-488.
- RPD-183. Please provide copies of, or complete references, to PUCO Orders and other sources of regulatory authority associated with or supportive of your response to INT-490.
- RPD-184. Please provide copies of, or complete references to, PUCO Orders and other sources of regulatory authority associated with or supportive of your response to INT-492.
- RPD-185. Please provide copies of, or complete references to, PUCO Orders and other sources of regulatory authority associated with or supportive of your response to INT-494.
- RPD-186. Provide copies of vendor invoices, vendor contracts and other documentation supportive of any discrete charges exceeding \$50,000 associated with your responses to INT-497 and INT-498.
- RPD-187. Provide copies of vendor invoices, vendor contracts and other documentation supportive of any discrete charges exceeding \$50,000 associated with your responses to INT-499 and INT-500.

- RPD-188. Provide copies of vendor invoices, vendor contracts and other documentation supportive of any discrete charges exceeding \$50,000 associated with your responses to INT-501 and INT-502.
- RPD-189. If your response to INT-503 is affirmative, please provide bill frequency data for all residential customers in any form that is kept by the Company.
- RPD-190. Please provide an updated Schedule B-5.1 Non-Cash Working Capital and all associated workpapers WPB-5.1B through WPB-5.1f with 13 months ending date certain September 30, 2015.
- RPD-191. Please provide trial balances to support monthly balances for Non-Cash Working Capital associated for all 13 months ending date certain September 30, 2015.
- RPD-192. Please provide, in Excel format, the actual budget by FERC account by month.
- RPD-193. Please provide a letter signed by a corporate officer attesting to the fact that the 2016 budget submitted in response to RPD-192 is the actual budget approved by the President and Board of Directors of the Company.

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing Office of the Ohio Consumers' Counsel's Interrogatories and Requests for Production of Documents Propounded Upon The Dayton Power and Light Company, Eighth Set, was served upon the persons listed below via electronic transmission this 25th day of February, 2016.

/s/ Jodi Bair

Jodi Bair

Assistant Consumers' Counsel

SERVICE LIST

Michael.schuler@aes.com

cfaruki@ficlaw.com

djireland@ficlaw.com

jsharkey@ficlaw.com

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the Dayton Power and Light Company for an Increase in Electric Distribution Rates.)	Case No. 15-1830-EL-AIR
)	
)	
)	

In the Matter of the Application of the Dayton Power and Light Company for Approval to Change Accounting Methods.)	Case No. 15-1831-EL-AAM
)	
)	
)	

In the Matter of the Application of the Dayton Power and Light Company for Tariff Approval.)	Case No. 15-1832-EL-ATA
)	
)	

CONFIDENTIAL

**THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S
INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS
PROPOUNDED UPON DAYTON POWER AND LIGHT COMPANY**

**NINTH SET
(DATED FEBRUARY 25, 2016)**

The Office of the Ohio Consumers' Counsel, in the above-captioned proceedings before the Public Utilities Commission of Ohio, submits the following Interrogatories and Requests for Production of Documents pursuant to Sections 4901-1-19, 4901-1-20 and 4901-1-22 of the Ohio Administrative Code for response from the Dayton Power and Light Company ("DP&L" or the "Company") within 20 days. An electronic, non-pdf (*e.g.* Microsoft Excel) response should be provided to the Office of the Ohio Consumers' Counsel at the following addresses:

Jodi Bair (0062921), Counsel of Record
Ajay Kumar (0092208)
Christopher Healey (0086027)
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: Bair – (614) 466-9559
Telephone: Kumar – (614) 466-1292
Telephone: Healey – (614) 466-9571
jodi.bair@occ.ohio.gov
(will accept service via email)
ajay.kumar@occ.ohio.gov
(will accept service via email)
christopher.healey@occ.ohio.gov
(will accept service via email)

Additionally, DP&L must follow the instructions provided herein in responding to the inquiries. Definitions are provided below that are used in the Office of the Ohio Consumers' Counsel's discovery.

DEFINITIONS

As used herein, the following definitions apply:

1. "Document" or "Documentation," when used herein, is used in its customary broad sense and means all originals of any nature whatsoever, identical copies, and all non-identical copies thereof, pertaining to any medium upon which intelligence or information is recorded in your possession, custody, or control, regardless of where located, including any kind of printed, recorded, written, graphic, or photographic matter and things similar to any of the foregoing, regardless of their author or origin. The term specifically includes, without limiting the generality of the following: punchcards, printout sheets, movie film,

slides, PowerPoint slides, phonograph records, photographs, memoranda, ledgers, work sheets, books, magazines, notebooks, diaries, calendars, appointment books, registers, charts, tables, papers, agreements, contracts, purchase orders, checks and drafts, acknowledgments, invoices, authorizations, budgets, analyses, projections, transcripts, minutes of meetings of any kind, telegrams, drafts, instructions, announcements, schedules, price lists, electronic copies, reports, studies, statistics, forecasts, decisions, orders, intra-office and inter-office communications, correspondence, financial data, summaries or records of conversations or interviews, statements, returns, workpapers, maps, graphs, sketches, summaries or reports of investigations or negotiations, opinions or reports of consultants, brochures, bulletins, pamphlets, articles, advertisements, circulars, press releases, graphic records or representations or publications of any kind (including microfilm, videotape and records, however produced or reproduced), electronic (including e-mail), mechanical and electrical records of any kind and computer produced interpretations thereof (including, without limitation, tapes, tape cassettes, disks and records), other data compilations (including, source codes, object codes, program documentation, computer programs, computer printouts, cards, tapes, disks and recordings used in automated data processing together with the programming instructions and other material necessary to translate, understand or use the same), all drafts, prints, issues, alterations, modifications, changes, amendments, and mechanical or electric sound recordings and transcripts to the foregoing. A request for discovery concerning documents addressing, relating or referring to, or discussing a

specified matter encompasses documents having a factual, contextual, or logical nexus to the matter as well as documents making explicit or implicit reference thereto in the body of the documents. Originals and duplicates of the same document need not be separately identified or produced, but drafts of a document or documents differing from one another by initials, interlineations, notations, erasures, file stamps, and the like shall be deemed to be distinct documents requiring separate identification or production. Copies of documents shall be legible.

2. “Communication” shall mean any transmission of information by oral, graphic, written, pictorial, electronic, or otherwise perceptible means, including, but not limited to, telephone conversations, emails, letters, telegrams, and personal conversations. A request seeking the identity of a communication addressing, relating or referring to, or discussing a specified matter encompasses documents having factual, contextual, or logical nexus to the matter, as well as communications in which explicit or implicit reference is made to the matter in the course of the communication.
3. The “substance” of a communication or act includes the essence, purport or meaning of the same, as well as the exact words or actions involved.
4. “And” and “Or” shall be construed conjunctively or disjunctively as necessary to make any request inclusive rather than exclusive.
5. “You,” “Your,” and “Yourself” refer to the party requested to produce documents and any present or former director, officer, agent, contractor, consultant, advisor, employee, partner, or joint venturer of such party.

6. Each singular shall be construed to include its plural, and vice versa, so as to make the request inclusive rather than exclusive.
7. Words expressing the masculine gender shall be deemed to express the feminine and neuter genders and vice versa. Words expressing the past tense shall be deemed to express the present tense and vice versa.
8. “Person” includes any firm, corporation, partnership, joint venture, association, entity, or group of natural individuals, unless the context clearly indicates that only a natural individual is referred to in the discovery request.
9. “Identify,” “the identity of,” and “identified” mean as follows:
 - A. When used in reference to an individual, to state his full name, his present or last known position and business affiliation, and his position and business affiliation at the time in question;
 - B. When used in reference to a commercial or governmental entity, to state its full name, type of entity (*e.g.*, corporation, partnership, single proprietorship), and its present or last known address;
 - C. When used in reference to a document, to state the date, author, title, type of document (*e.g.*, letter, memorandum, photograph, tape recording, etc.), general subject matter of the document, and its present or last known location and custodian;
 - D. When used in reference to a communication, (i) to state the type of communication (*e.g.*, letter, personal conversation, etc.), the date thereof, and the parties thereto and the parties thereto; and (ii) in the case of a

conversation, to state the substance, place, and approximate time thereof and identity of other persons in the presence of each party thereto;

- E. When used in reference to an act, to state the substance of the act, the date, time, and place of performance, and the identity of the actor and all other persons present.
 - F. When used in reference to a place, to state the name of the location and provide the name of a contact person at the location (including that person's telephone number), state the address, and state a defining physical location (*e.g.*, a room number, file cabinet, and/or file designation).
- 10. The terms "PUCO" and "Commission" refer to the Public Utilities Commission of Ohio, including its Commissioners, personnel (including Persons working for the PUCO Staff as well as in the Public Utilities Section of the Ohio Attorney General's Office), and offices.
 - 11. The term "*e.g.*" connotes illustration by example, not limitation.
 - 12. "OCC" means the Office of the Ohio Consumers' Counsel.
 - 13. "DP&L" and "Company" mean the Dayton Power and Light Company.
 - 14. "Application" or "Applications" means the DP&L filings made in Case No. 15-1830-EL-AIR et al., including but not limited to the filing on November 30, 2015.

INSTRUCTIONS FOR ANSWERING

1. All information is to be divulged that is in your possession or control or within the possession or control of your attorney, agents, or other representatives of yours or your attorney.
2. Where an interrogatory calls for an answer in more than one part, each part should be separate in the answer so that the answer is clearly understandable.
3. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections are to be signed by the attorney making them.
4. If any answer requires more space than provided, continue the answer on the reverse side of the page or on an added page.
5. Your organization is requested to produce responsive materials and information within its physical control or custody, as well as materials and information physically controlled or possessed by any other person acting or purporting to act on your behalf, whether as an officer, director, employee, agent, independent contractor, attorney, consultant, witness, or otherwise.
6. Where these requests seek quantitative or computational information (*e.g.*, models, analyses, databases, and formulas) stored by your organization(s) or its consultants in computer-readable form, in addition to providing hard copy (if an electronic response is not otherwise provided as requested), you are requested to produce such computer-readable information, in order of preference:

- A. Microsoft Excel worksheet files on compact disk;
 - B. Other Microsoft Windows or Excel compatible worksheet or database diskette files;
 - C. ASCII text diskette files;
 - D. Such other magnetic media files as your organization(s) may use.
7. Conversion from the units of measurement used by your organization(s) in the ordinary course of business need not be made in your response; *e.g.*, data requested in kWh may be provided in mWh or gWh as long as the unit measure is made clear.
8. Unless otherwise indicated, the following requests shall require you to furnish information and tangible materials pertaining to, in existence, or in effect for the whole or any part of the period from January 1, 2004 through and including the date of your response.
9. Responses must be complete when made and must be supplemented with subsequently-acquired information at the time such information is available.
10. In the event that a claim of privilege is invoked as the reason for not responding to discovery, the nature of the information with respect to which privilege is claimed shall be set forth in responses together with the type of privilege claimed and a statement of all circumstances upon which the respondent to discovery will rely to support such a claim of privilege (*i.e.*, provide a privilege log). Respondent to the discovery must (a) identify (see definition) the individual, entity, act, communication, and/or document that is the subject of the withheld information based upon the privilege claim, (b) identify all persons to whom the information has

already been revealed, and (c) provide the basis upon which the information is being withheld and the reason that the information is not provided in discovery.

11. To the extent that any interrogatory requests the production of documents, such interrogatory shall be treated as a request for the production of documents, and such documents shall be produced as if the interrogatory were designated a request for the production of documents.
12. To the extent that any request the production of documents seeks an interrogatory response (in addition to, or in place of, a request for a document), such request for the production of a documents shall be treated as an interrogatory, and such request shall be responded to as if it were designated an interrogatory.

INTERROGATORIES

* In accordance with Ohio Administrative Code 4901-1-16(D)(5), OCC requests that all responses be supplemented with subsequently-acquired information at the time such information is available.

INT-506.

[REDACTED]

RESPONSE:

INT-507.

[REDACTED]

RESPONSE:

INT-508.

[REDACTED]

RESPONSE:

INT-509.

[REDACTED]

[REDACTED]

RESPONSE:

REQUESTS FOR PRODUCTION OF DOCUMENTS

* In accordance with Ohio Adm. Code 4901-1-16(D)(5), the OCC requests that all responses be supplemented with subsequently acquired information at the time such information is available.

RPD-194. [REDACTED]
[REDACTED]
[REDACTED]

RPD-195. [REDACTED]
[REDACTED]
[REDACTED]

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing Office of the Ohio Consumers' Counsel's Interrogatories and Requests for Production of Documents Propounded Upon The Dayton Power and Light Company, Ninth Set, CONFIDENTIAL was served upon the persons listed below via electronic transmission this 25TH day of February, 2016.

/s/ Jodi Bair
Jodi Bair
Assistant Consumers' Counsel

SERVICE LIST

Michael.schuler@aes.com
cfaruki@ficlaw.com
djireland@ficlaw.com
jsharkey@ficlaw.com

Bair, Jodi

From: Foos, Martin A. <MFoos@ficlaw.com>
Sent: Friday, March 04, 2016 4:42 PM
To: Bair, Jodi
Cc: Faruki, Charles J.; Ireland, D. Jeffrey; Sharkey, Jeffrey S.
Subject: DP&L/DRC; Case No. 15-1830-EL-AIR, et al. [IWOV-DMS.FID92418]

Jodi,

I am writing to provide you with an update as to the items we have been discussing.

RPD-3

OCC has narrowed its request to just the allocation manual itself. Jeff and I thought that this approach was worth considering. We are in the process of discussing it with DP&L and will respond soon.

INT-11

This information is being produced to you today, as previously indicated, at DP&L-AIR 0003821 through DP&L-AIR 0003827.

INT-12

The update to INT-12 will be provided by March 9.

INT-14

DP&L is discussing some questions regarding this information with Staff. DP&L will be able to provide further information once it has concluded its discussions with Staff.

INT-20 and 21

As we explained on our call, the response to DR #108 will be provided to Staff by the end of next week. DP&L will produce a copy of that information, which is responsive to these interrogatories, promptly after providing it to Staff.

RPD-16

As we explained on our call, the response to DR #104 will be provided to Staff by March 7. DP&L will produce a copy of that information, which is responsive to these interrogatories, promptly after providing it to Staff.

RPD-17

DP&L is in the process of gathering budget information for 2016 for Staff and will provide OCC with the same information promptly after providing it to Staff.

RPD-19

OCC has said that it wants standard journal entries included in the test year with descriptions. We are still discussing this issue with DP&L and will get back with you soon.

Extension for the Eighth and Ninth Sets of Discovery Requests

We will get back with you next week regarding the time needed to respond to these requests.

In order that you not think that DP&L is deliberately dilatory in discovery, allow me to explain the company's workload in both this case and the recently-filed ESP case. First, the people at DP&L with knowledge to respond to discovery requests must respond to requests not only from OCC, but also from Staff. Second, to date, Staff has served over 130 Data Requests (many that are multi-part), and OCC has served 509 interrogatories and 195 requests for production; in

addition OCC has repeatedly asked where various documents are and DP&L has had, repeatedly, to explain to OCC how to locate documents within Bates number ranges, even though the organization of those documents is simple. Third, many of the Staff Data Requests and OCC's discovery requests are not simple, and require significant efforts, such as assembly of data for certain time periods, or updates in tabular or schedule form. Fourth, many of the DP&L personnel who must work on discovery requests are the same people who assembled the recently-filed ESP case. These facts are, simply put, the facts of life in a pair of complex cases before the Commission. OCC can continue to express its impatience, but the fact remains that DP&L's employees are working hard to respond, doing the best that they can.

Marty

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Bair, Jodi

From: Foos, Martin A. <MFoos@ficlaw.com>
Sent: Friday, March 18, 2016 2:37 PM
To: Bair, Jodi
Cc: 'Michael Schuler'; Faruki, Charles J.; Ireland, D. Jeffrey; Sharkey, Jeffrey S.
Subject: FW: 15-1830 OCC discovery [IWOV-DMS.FID92418]

Jodi,

Jeff Sharkey is out of the office so I am responding to your email from earlier today. DP&L is doing everything that it can to respond to OCC's discovery requests as quickly as possible. We previously provided a detailed explanation in my March 4, 2016, email to you:

"In order that you not think that DP&L is deliberately dilatory in discovery, allow me to explain the company's workload in both this case and the recently-filed ESP case. First, the people at DP&L with knowledge to respond to discovery requests must respond to requests not only from OCC, but also from Staff. Second, to date, Staff has served over 130 Data Requests (many that are multi-part), and OCC has served 509 interrogatories and 195 requests for production; in addition OCC has repeatedly asked where various documents are and DP&L has had, repeatedly, to explain to OCC how to locate documents within Bates number ranges, even though the organization of those documents is simple. Third, many of the Staff Data Requests and OCC's discovery requests are not simple, and require significant efforts, such as assembly of data for certain time periods, or updates in tabular or schedule form. Fourth, many of the DP&L personnel who must work on discovery requests are the same people who assembled the recently-filed ESP case. These facts are, simply put, the facts of life in a pair of complex cases before the Commission. OCC can continue to express its impatience, but the fact remains that DP&L's employees are working hard to respond, doing the best that they can."

In our conversations with you, we never said that March 22 would be sufficient time to provide responses to the Eighth and Ninth Sets of discovery. Instead, we informed you that March 22 was the same deadline as the responses for the Sixth and Seventh Sets (which themselves consist of over 400 discovery requests), and therefore, was insufficient time to respond. We proposed deadlines that would give OCC the responses as quickly as possible, namely that DP&L would provide roughly half of the responses to OCC's Eighth and Ninth Sets to OCC by March 25 with the rest of the responses provided by March 30.

My understanding is that yesterday you told Jeff you would file a motion to compel and a deposition notice for next week. Both of those actions will be counterproductive to your goal (and ours) of responding as quickly as possible. By the time any motion to compel is filed and briefed, OCC will already have its responses. Thus, the motion will be a waste of time and effort that would best be spent on getting the responses to you. A deposition will simply distract us (and the client) from getting you the discovery. If your goal is to get answers on the pending discovery, then that goal is best served by letting the witnesses work on responses and not spend time preparing for a deposition. Next week is too soon for DP&L to retrieve answers to the pending discovery, as you know. The witness would have to respond truthfully, "I don't know," to many of the questions. Furthermore, setting a deposition for next week would only serve to interfere with DP&L's efforts to get the responses to you as quickly as possible. All of the time spent in the deposition itself, or on preparing for the deposition, is time taken away from getting the responses to you.

I urge you to reconsider your position and agree to the extension that we have proposed. It is the most reasonable and efficient way to get OCC the responses that it seeks.

Marty

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----- Forwarded message -----

From: "Jodi.Bair@occ.ohio.gov" <Jodi.Bair@occ.ohio.gov>

To: "Sharkey, Jeffrey S." <JSharkey@ficlaw.com>

Subject: 15-1830 OCC discovery

Date: Fri, Mar 18, 2016 8:06 AM

I'm writing to confirm our discussion yesterday regarding DP&L's responses to OCC's discovery sets 8 and 9 in PUCO Case No. 15-1830-EL-AIR. This discovery was issued on February 25, 2016, therefore, the responses were originally due on March 16, 2016; however, by agreement, the deadline was extended to March 22, 2016. After yesterday's discussion, I understand that DP&L will be unable to meet the extended deadline of March 22, 2016 and will not have any responses to Sets 8 and 9 by March 22nd.

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Case No(s). 15-1830-EL-AIR, 15-1831-EL-AAM, 15-1832-EL-ATA

Summary: Motion Motion to Compel Responses to Discovery (Public Version) by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Bair, Jodi Ms.