

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

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

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

---

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

---

The Office of the Ohio Consumers' Counsel ("OCC") hereby moves the Public Utilities Commission ("PUCO") for a protective order regarding information asserted to be confidential by Dayton Power & Light ("DP&L" or "Utility").<sup>1</sup> As part of discovery in this proceeding, DP&L provided certain information to OCC, subject to a protective agreement. The Utility asserts that this information is proprietary and confidential, and constitutes trade secrets under Ohio law, and that non-disclosure is not inconsistent with the purposes of R.C. Title 49.

Based on the alleged confidential information, OCC drafted discovery requests to the Utility, which became OCC's 8<sup>th</sup> and 9th sets of discovery. Said discovery contains

---

<sup>1</sup> This Motion is filed pursuant to Ohio Adm. Code 4901-1-24(D).

confidential information, and is now attached to OCC's Reply to DP&L's Memorandum Contra OCC's Motion to Compel as Exhibits.<sup>2</sup>

OCC hereby requests that the Commission issue such order as is necessary to protect OCC's Exhibits attached to its Reply. The Exhibits contain information that DP&L deems confidential. OCC is filing Exhibits under seal, as part of its Reply. OCC is also publicly filing a redacted version, subject to OCC's rights under the protective agreement and provisions of Ohio law.

By filing the instant motion, OCC does not concede that the information constitutes trade secrets or is confidential. However, OCC acknowledges that it has obtained this information pursuant to a protective agreement with DP&L. That Protective Agreement provides for such information to be treated as confidential and protected (subject to OCC's right to initiate a process for the PUCO to rule whether the information deserves confidential treatment under Ohio law).

The grounds for this Motion are more fully described in the accompanying Memorandum in Support.

---

<sup>2</sup> Under Ohio Adm Code 4901-1-23(C)(2), a Motion to Compel must be accompanied with a copy of the discovery requests that the motion concerns.

Respectfully submitted,

BRUCE J. WESTON (0016973)  
OHIO CONSUMERS' COUNSEL

*/s/ Jodi Bair*

---

Jodi Bair (0062921)

Counsel of Record

Ajay Kumar (0092208)

Christopher Healey (0086027)

Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**

10 W. 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](mailto:jodi.bair@occ.ohio.gov)

(will accept service via email)

[ajay.kumar@occ.ohio.gov](mailto:ajay.kumar@occ.ohio.gov)

(will accept service via email)

[christopher.healey@occ.ohio.gov](mailto:christopher.healey@occ.ohio.gov)

(will accept service via email)

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

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

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

---

**MEMORANDUM IN SUPPORT**

---

Contemporaneously with the filing of this Motion, OCC is filing a Reply to DP&L’s Memorandum Contra OCC’s Motion to Compel with Exhibits that contain information gained during discovery that the Utility asserts is confidential. Accordingly, OCC is filing said Exhibits under seal, pursuant to Ohio Adm. Code 4901-1-24(D)(2) and the protective agreement between OCC and DP&L. OCC is also filing a public version with the purportedly confidential information redacted pursuant to Ohio Adm. Code 4901-1-24(D)(1) and the protective agreement between OCC and DP&L.

Without conceding that the allegedly confidential information meets the standard for trade secrets and deserves protection from public revelation under R.C. 1333.61(D), OCC files the instant Motion to protect the information. Accordingly, OCC requests that the PUCO issue such order as is necessary to protect OCC’s Exhibits as filed under seal. Such information was designated as confidential by DP&L, subject to OCC’s rights

under the protective agreement. OCC, nonetheless, retains the right to initiate the process for the PUCO to decide if confidential treatment is appropriate.

OCC understands that DP&L considers the redacted information to be confidential and deserving of the status of trade secrets as defined in R.C. 1333.61(D). Such assertions would be based on claims by the Utility that the information (1) derives economic value, actual or potential, from not being known to, and not being readily ascertainable by proper means by others, and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Under such assertions, confidential treatment of the unredacted Exhibits would be appropriate, subject to OCC's rights under the protective agreement to initiate a process to determine whether the information should be protected.

For the foregoing reasons and subject to the foregoing reservations of rights, this Motion for Protective Order should be granted.

Respectfully submitted,

BRUCE J. WESTON (0016973)  
OHIO CONSUMERS' COUNSEL

*/s/ Jodi Bair*

---

Jodi Bair (0062921)

Counsel of Record

Ajay Kumar (0092208)

Christopher Healey (0086027)

Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**

10 W. 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](mailto:jodi.bair@occ.ohio.gov)

(will accept service via email)

[ajay.kumar@occ.ohio.gov](mailto:ajay.kumar@occ.ohio.gov)

(will accept service via email)

[christopher.healey@occ.ohio.gov](mailto:christopher.healey@occ.ohio.gov)

(will accept service via email)

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion for Protective Order by the Office of the Ohio Consumers' Counsel has been served electronically upon those persons listed below this 13th day of April, 2016.

*/s/ Jodi Bair*  
\_\_\_\_\_  
Jodi Bair  
Assistant Consumers' Counsel

## **SERVICE LIST**

[thomas.mcnamee@puc.state.oh.us](mailto:thomas.mcnamee@puc.state.oh.us)  
[Natalia.Messenger@puc.state.oh.us](mailto:Natalia.Messenger@puc.state.oh.us)  
[Bojko@carpenterlipps.com](mailto:Bojko@carpenterlipps.com)  
[ORourke@carpenterlipps.com](mailto:ORourke@carpenterlipps.com)  
[ghiloni@carpenterlipps.com](mailto:ghiloni@carpenterlipps.com)  
[sechler@carpenterlipps.com](mailto:sechler@carpenterlipps.com)  
[dboehm@BKLawfirm.com](mailto:dboehm@BKLawfirm.com)  
[mkurtz@BKLawfirm.com](mailto:mkurtz@BKLawfirm.com)  
[jkylereohn@BKLawfirm.com](mailto:jkylereohn@BKLawfirm.com)  
[sam@mwncmh.com](mailto:sam@mwncmh.com)  
[fdarr@mwncmh.com](mailto:fdarr@mwncmh.com)  
[mpritchard@mwncmh.com](mailto:mpritchard@mwncmh.com)  
[jlang@calfee.com](mailto:jlang@calfee.com)  
[talexander@calfee.com](mailto:talexander@calfee.com)  
[slessor@calfee.com](mailto:slessor@calfee.com)  
[jvickers@elpc.org](mailto:jvickers@elpc.org)  
[tdougherty@theOEC.org](mailto:tdougherty@theOEC.org)  
[jfinnigan@edf.org](mailto:jfinnigan@edf.org)  
[swilliams@nrdc.org](mailto:swilliams@nrdc.org)  
[rdove@attorneydove.com](mailto:rdove@attorneydove.com)

[Michael.schuler@aes.com](mailto:Michael.schuler@aes.com)  
[cfaruki@ficlaw.com](mailto:cfaruki@ficlaw.com)  
[djireland@ficlaw.com](mailto:djireland@ficlaw.com)  
[jsharkey@ficlaw.com](mailto:jsharkey@ficlaw.com)  
[Kurt.Helfrich@ThompsonHine.com](mailto:Kurt.Helfrich@ThompsonHine.com)  
[Stephanie.Chmiel@ThompsonHine.com](mailto:Stephanie.Chmiel@ThompsonHine.com)  
[Michael.Austin@ThompsonHine.com](mailto:Michael.Austin@ThompsonHine.com)  
[mfleisher@elpc.org](mailto:mfleisher@elpc.org)  
[dparram@taftlaw.com](mailto:dparram@taftlaw.com)  
[thomas.jernigan.3@us.af.mil](mailto:thomas.jernigan.3@us.af.mil)  
[cmooney@ohiopartners.org](mailto:cmooney@ohiopartners.org)  
[jschlesinger@kfwlaw.com](mailto:jschlesinger@kfwlaw.com)  
[dborchers@bricker.com](mailto:dborchers@bricker.com)  
[ejacobs@ablelaw.org](mailto:ejacobs@ablelaw.org)  
[joliker@igsenergy.com](mailto:joliker@igsenergy.com)  
[lhawrot@spilmanlaw.com](mailto:lhawrot@spilmanlaw.com)  
[dwilliamson@spilmanlaw.com](mailto:dwilliamson@spilmanlaw.com)  
[charris@spilmanlaw.com](mailto:charris@spilmanlaw.com)  
[tobrien@bricker.com](mailto:tobrien@bricker.com)  
[bargetsinger@kfwlaw.com](mailto:bargetsinger@kfwlaw.com)

Attorney Examiners:

[Bryce.mckenney@puc.state.oh.us](mailto:Bryce.mckenney@puc.state.oh.us)  
[Gregory.price@puc.state.oh.us](mailto:Gregory.price@puc.state.oh.us)

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**4/13/2016 4:26:20 PM**

**in**

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

Summary: Motion Motion for Protective Order by The Office of the Ohio Consumers' Counsel electronically filed by Ms. Jamie Williams on behalf of Bair, Jodi Mrs.