

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The)	
Dayton Power & Light Company To)	Case No. 15-1830-EL-AIR
Increase Its Rates For Electric Distribution)	
)	
In the Matter of the Application of The)	
Dayton Power & Light Company For)	Case No. 15-1831-EL-AAM
Accounting Authority)	
)	
In the Matter of the Application of The)	
Dayton Power & Light Company For)	Case No. 15-1832-EL-ATA
Approval of Revised Tariffs)	
)	
In the Matter of the Application of The)	
Dayton Power & Light Company For)	Case No. 16-0395-EL-SSO
Approval of Its Electric Security Plan)	
)	
In the Matter of the Application of The)	
Dayton Power & Light Company For)	Case No. 16-0396-EL-ATA
Approval of Revised Tariffs)	
)	
In the Matter of the Application of The)	
Dayton Power & Light Company For)	Case No. 16-0397-EL-AAM
Approval of Certain Accounting Authority)	
Pursuant to Ohio Rev. Code § 4905.13)	

**CITY OF DAYTON AND HONDA OF AMERICA MFG., INC. MEMORANDUM IN
OPPOSITION TO DP&L MOTION FOR CASE MANAGEMENT ORDER TO
ESTABLISH DEADLINES AND COORDINATE CASES**

The City of Dayton and Honda of America Mfg., Inc. (“Joint Movants”) hereby oppose the DP&L Motion For Case Management Order to Establish Deadlines And Coordinate Cases (“Motion”) in the above captioned matters, the Distribution Rate Case¹ and the Electric Security Plan (“ESP”) Case.² Many of the logistical flaws with the Motion were already addressed in

¹ Case No. 15-1830-EL-AIR, et al.

² Case No. 16-395-EL-SSO, et al.

detail by IEU-Ohio, and in the interests of efficiency Joint Movants hereby adopt those arguments by reference.

Though IEU-Ohio provided a detailed analysis explaining the difficulties with DP&L's proposed schedule, IEU-Ohio does not affirmatively propose a case schedule for the Commission's consideration. Accordingly, the Joint Movants write separately to offer the following comments regarding the case schedule for the Commission's consideration.

DP&L suggests that the Distribution Case be tried before the ESP Case.³ The Distribution Case was filed on October 30, 2015. The ESP Case was filed on February 22, 2016. DP&L does not explain or justify its suggestion that the ESP Case be heard first. Joint Movants disagree with this request because the Distribution Case has been pending for almost four months longer than the ESP Case. The intervenors have had a longer period of time to prepare for the Distribution Case and it should accordingly be heard first. Moreover, DP&L claims several elements of its ESP Case are impacted by its financial integrity claims. This is an additional reason for the Distribution Case to be heard first. Conducting the Distribution Case prior to the ESP case would serve the dual goals of: (1) allowing testimony to be developed regarding the extent which DP&L (the distribution utility) needs additional revenue; and (2) allowing DP&L to complete the divestment of its generation assets. Once those tasks are complete, or at least more complete than they would be earlier in the year, the Commission will have a better idea of the weight to give DP&L's financial integrity claim.

DP&L also asks that intervenor testimony be filed in a sufficient time prior to hearing for DP&L to engage in an orderly deposition process prior to hearing.⁴ Joint Movants do not oppose

³ Motion, p. 2.

⁴ Motion, p. 3.

providing DP&L with sufficient time prior to hearing to conduct depositions. However, DP&L's proposed schedule illogically assumes that the parties should file their direct testimony in both cases before the first case is heard, effectively making intervenor testimony due 6-8 weeks before the start of the second hearing even if the cases are consolidated. This suggestion is not in line with Commission precedent and should be rejected.

DP&L claims the cases should be effectively consolidated. Joint Movants believe this would be inefficient. Joining the cases would force the parties to prepare for both cases simultaneously. That is not efficient since there is very little overlap in issues between the two cases. Instead, the better option is to try the Distribution Case first, then provide at least 6 weeks after the Distribution Case concludes before the ESP Case begins. During that 6 week period the parties can be both doing post-hearing briefing on the Distribution Case while also filing intervenor testimony and conducting depositions in the ESP Case. That option allows each case to be litigated on its merits, allows intervenors to file testimony in the ESP Case on a more typical Commission case schedule, can give DP&L the time it has requested to conduct depositions prior to hearing, and will not require any party to be drafting post hearing briefs in one case while actually in hearing in the other case. A proposed schedule is provided below showing a representative schedule for how to proceed. As shown, both cases can be completed in 2016 without improperly consolidating these cases while still providing DP&L the time it has requested to prepare prior to hearing.

- Friday, July 1 Estimated Date of Staff Report (distribution)⁵
- Friday, July 15 Written Discovery Cutoff (distribution)⁶

⁵ DP&L Assumption

⁶ OAC 4901-1-17(A).

- Monday, August 1 Objections to Staff Report (distribution)⁷
- Monday, August 8 Intervenor Testimony Due (distribution)
- Tuesday, September 6 Distribution hearing begins⁸
- Tuesday, September 20 Distribution hearing ends
 - Briefing schedule to be determined at hearing, concluding by 11.1.16
- Monday, October 3 Written Discovery Cutoff (ESP)
- Monday, October 3 Intervenor Testimony Due (ESP)
- Tuesday, November 1 ESP hearing begins
- Tuesday, November 22 ESP hearing ends
 - Briefing schedule to be determined at hearing, concluding by 12.31.16.

As shown through this representative case schedule, these cases can proceed in the timeline in which they were filed without unduly impacting any party, while still having both cases tried and briefed by the end of 2016. Accordingly, DP&L's Motion should be denied and the schedule proposed by the Joint Movants be adopted.

⁷ Same as DP&L requests.

⁸ Same as DP&L requests.

WHEREFORE, the City of Dayton and Honda respectfully request that the Commission deny Dayton's Motion.

Respectfully submitted,

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ATTORNEYS FOR THE CITY OF DAYTON
AND HONDA

CERTIFICATE OF SERVICE

I certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 2nd day of May, 2016. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ N. Trevor Alexander

One of the Attorneys for the City of Dayton
and Honda

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in

Case No(s). 15-1830-EL-AIR, 15-1831-EL-AAM, 15-1832-EL-ATA, 16-0395-EL-SSO, 16-0396-EL-ATA, 1

Summary: Memorandum In Opposition to DP&L Motion For Case Management Order
electronically filed by Mr. Nathaniel Trevor Alexander on behalf of City of Dayton and Honda of
America Mfg., Inc.