

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The Dayton Power and Light Company For Approval of its Electric Security Plan.)))	Case No. 08-1094-EL-SSO
In the Matter of the Application of The Dayton Power and Light Company For Approval of Revised Tariff.)))	Case No. 08-1095-EL-ATA
In the Matter of the Application of The Dayton Power and Light Company For Approval of Certain Accounting Authority Pursuant to Section 4905.13, Revised Code.))))	Case No. 08-1096-EL-AAM
In the Matter of the Application of The Dayton Power and Light Company For Approval of its Amended Corporate Separation Plan.))))	Case No. 08-1097-EL-UNC

**COMMENTS OF
THE RETAIL ENERGY SUPPLY ASSOCIATION
REGARDING
THE DAYTON POWER AND LIGHT COMPANY’S NOTICE OF FILING PROPOSED
TARIFFS**

I. INTRODUCTION

Pursuant to the August 3, 2016 Entry in this proceeding, the Retail Energy Supply Association¹ (“RESA”) submits these comments on The Dayton Power and Light Company’s (“DP&L”) August 1, 2016 Notice of Filing Proposed Tariffs. RESA submits these comments to emphasize that because the competitive retail marketplace requires certainty, any modification of

¹ The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

DP&L's existing tariffs should not upset and negatively interfere with existing customer contracts and relationships as well as the default service auctions. RESA, in responding to DP&L's proposed tariffs, does not waive its continued opposition to DP&L's attempt to unilaterally change its tariffs over two and a half years after DP&L filed tariffs accepting the Public Utilities Commission of Ohio's (the "Commission") decision on DP&L's application in Case Nos. 12-426-EL-SSO et al. Although a reply comment date has not been set, RESA reserves its right to submit reply comments to any initial comments submitted by DP&L or any other party to this proceeding.

II. PROCEDURAL HISTORY

These proceedings involved the establishment of DP&L's first electric security plan ("ESP I"). DP&L's ESP I was followed by DP&L's ESP II, which began on January 1, 2014, and continues to be in effect today.² On June 20, 2016, the Supreme Court of Ohio issued a decision in *In re Dayton Power & Light Co.*, 2016-Ohio-3490 (the "June 20, 2016 Supreme Court Decision"). Following that ruling, on July 27, 2016, DP&L filed the following three motions with the Commission:

- DP&L moved to withdraw its Application in ESP II pursuant to R.C. 4928.143(C)(2)(a). This motion was filed in the ESP II proceedings.
- DP&L moved to implement the rates that were in effect before the ESP II Decision (the "2013 Rates"). This was also filed in the ESP II proceedings.
- DP&L filed another motion to implement the 2013 Rates (a duplicate of the second motion), which was docketed in these ESP I proceedings.

² *In the Matter of the Application of The Dayton Power and Light Company for Approval of its Electric Security Plan*, Case Nos. 12-426-EL-SSO et al., Opinion and Order (September 4, 2013).

DP&L's filed a notice of filing proposed tariffs in the ESP I proceedings on August 1, 2016, stating that the proposed tariffs are:

consistent with the tariffs that the Commission approved in its June 24, 2009 Opinion and Order in this matter * * * and that were in effect before the Commission's Order in ESP II. The attached tariffs should remain in effect until the Commission issues a ruling in DP&L's pending ESP case, Case No. 16-395-EL-SSO ("ESP III").

On August 3, 2016, the Attorney Examiner provided interested parties an opportunity to file comments regarding DP&L's proposed tariffs by August 12, 2016. On August 11, 2016, RESA filed a motion for leave to intervene in these proceedings, as well as a memorandum contra the above-noted motions.

III. ANY MODIFICATION TO DP&L'S EXISTING TARIFFS THROUGH THIS PROCEEDING SHOULD PROTECT AND ENSURE CERTAINTY IN THE COMPETITIVE RETAIL MARKETPLACE.

As an initial point, RESA maintains its opposition as set forth in its August 11, 2016 memorandum contra to DP&L's attempt to unilaterally change its tariffs over two and a half years after DP&L filed tariffs accepting the Commission's decision in the ESP II proceeding. Without waiving any argument in the memorandum contra, RESA submits that regardless whether the Commission accepts or rejects DP&L's proposed tariff filings, any action taken by the Commission should ensure certainty in the competitive retail marketplace and avoid any interruptions in the competitive retail marketplace during the term of an electric security plan.

Providing certainty in the retail markets is very important to all customers, whether shopping or not shopping. With DP&L's ESP II well into its term (it started in January 2014), competitive retail electric service ("CRES") providers have entered into contracts and relationships with customers based on DP&L's ESP II tariffs, including tariffs relating to the allocation of transmission charges. Additionally, default service customers are being served based on wholesale supply auctions provided by CRES providers. Tariff changes that negatively

impact CRES contracts and relationships will lead to customer confusion and unreasonably interfere with existing contracts and pricing components within those contracts. Such changes as well as changes to the default service auctions should be avoided to ensure that certainty in the competitive retail marketplace remains in place throughout the remaining term of DP&L's ESP II.

IV. REPLY COMMENTS COULD PROVIDE FURTHER GUIDANCE FOR THE COMMISSION.

The comment schedule in this matter was established quickly and provided little time for an in-depth, deliberative review of the proposed tariffs and positions of the other parties. To the extent the Commission is willing to allow parties the opportunity to submit reply comments filed on this date, RESA would appreciate the opportunity.

Respectfully Submitted,

/s/ Gretchen L. Petrucci

Michael J. Settineri (0073369), Counsel of Record

Gretchen L. Petrucci (0046608)

Ilya Batikov (0087968)

Vorys, Sater, Seymour and Pease LLP

52 E. Gay Street

Columbus, OH 43215

614-464-5462

mjsettineri@vorys.com

glpetrucci@vorys.com

ibatikov@vorys.com

Counsel for the Retail Energy Supply Association

CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket cards who have electronically subscribed to these cases. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served upon the persons below via electronic mail this 12th day of August, 2016.

/s/ Gretchen L. Petrucci

thomas.lindgren@ohioattorneygeneral.gov
thomas.mcnamee@ohioattorneygeneral.gov
jsharkey@ficlaw.com
cfaruki@ficlaw.com
sam@mwncmh.com
fdarr@mwncmh.com
joliker@igsenergy.com
drinebolt@ohiopartners.org
cmooney@ohiopartners.org
ned.ford@fuse.net
ricks@ohanet.org
wis29@yahoo.com
smhoward@vorys.com
mjsettineri@vorys.com
ibatikov@vorys.com
BarthRoyer@aol.com
gary.a.jeffries@dom.com
Bojko@carpenterlipps.com
sechler@carpenterlipps.com
orourke@carpenterlipps.com
ghiloni@carpenterlipps.com
walter@carpenterlipps.com
jlang@calfee.com
talexander@calfee.com

mwhite@igsenergy.com
amy.spiller@duke-energy.com
jeanne.kingery@duke-energy.com
Elizabeth.Watts@duke-energy.com
haydenm@firstenergycorp.com
mjsatterwhite@aep.com
stnourse@aep.com
judi.sobecki@dplinc.com
jbentine@cwslaw.com
henryeckhart@aol.com
dboehm@BKLawfirm.com
mkurtz@BKLawfirm.com
jkylereohn@BKLawfirm.com
Cynthia.Brady@constellation.com
lgearhardt@ofbf.org
cmiller@icemiller.com
gdunn@icemiller.com
TDougherty@theoec.org
williams.toddm@gmail.com
ejacobs@able.law.org
glover@whitt-sturtevant.com
whitt@whitt-sturtevant.com
campbell@whitt-sturtevant.com
Stephen.chriss@wal-mart.com

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Summary: Comments Regarding The Dayton Power and Light Company's Notice of Filing Proposed Tariffs electronically filed by Mrs. Gretchen L. Petrucci on behalf of Retail Energy Supply Association