

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of : Case No. 16-0395-EL-SSO
The Dayton Power and Light Company for
Approval of Its Electric Security Plan :

In the Matter of the Application of : Case No. 16-0396-EL-ATA
The Dayton Power and Light Company for
Approval of Revised Tariffs :

In the Matter of the Application of : Case No. 16-0397-EL-AAM
The Dayton Power and Light Company for
Approval of Certain Accounting Authority :
Pursuant to Ohio Rev. Code § 4905.13

**MOTION OF THE DAYTON POWER AND LIGHT COMPANY TO ADOPT
STIPULATION AND RECOMMENDATION AND FOR CONTINUANCE**

Pursuant to Ohio Admin. Code § 4901-1-30, The Dayton Power and Light Company ("DP&L") asks the Commission to adopt the January 30, 2017 Stipulation and Recommendation ("Stipulation") submitted by DP&L, DPL Inc., seven additional Signatory Parties, and two Non-Opposing Parties. As will be shown at a hearing in support of the Stipulation, the Stipulation is the product of serious negotiations among knowledgeable parties, benefits customers and the public interest, and does not violate any important regulatory principle or practice. Office of Ohio Consumers' Counsel v. Pub. Util. Comm., 64 Ohio St.3d 123, 126, 592 N.E.2d 1370 (1992).

In addition, pursuant to Ohio Admin. Code § 4901-1-13(A), DP&L moves to continue the evidentiary hearing currently scheduled to begin on February 1, 2017. Jan. 24, 2017 Entry. DP&L requests that the Commission, instead, hold a scheduling conference on February 1, 2017 to establish a schedule. DP&L proposes that the hearing begin on February 8, 2017.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT OF THE
MOTION OF THE DAYTON POWER AND LIGHT COMPANY TO ADOPT
STIPULATION AND RECOMMENDATION AND FOR CONTINUANCE**

The Commission should adopt the January 30, 2017 Stipulation and Recommendation ("Stipulation") submitted by DP&L, DPL Inc., seven additional Signatory Parties, and two signing Non-Opposing Parties. If adopted, the Stipulation – which is the result of months of lengthy negotiations among 27 parties – would allow DP&L to continue to provide safe and reliable service and maintain its financial integrity.

The ultimate issue for the Commission's review is whether the Stipulation, "which embodies considerable time and effort by the parties, is reasonable and should be adopted." Mar. 31, 2016 Opinion and Order, Case No. 14-1693-EL-RDR, p. 39 (emphasis added).

"In considering the reasonableness of a stipulation, the Commission has used the following criteria: (1) Is the settlement a product of serious bargaining among capable, knowledgeable parties? (2) Does the settlement, as a package, benefit ratepayers and the public interest? (3) Does the settlement package violate any important regulatory principle or practice?"

Id. Accord: Office of Ohio Consumers' Counsel v. Pub. Util. Comm., 64 Ohio St.3d 123, 126, 592 N.E.2d 1370 (1992) (endorsing that test).

At the hearing, the evidence will show that the Stipulation satisfies the Commission's three-prong test and, therefore, is reasonable and should be adopted. Moreover, as the Supreme Court of Ohio has long held, the terms of a stipulation "are properly accorded substantial weight," and its findings are "entitled to careful consideration." Akron v. Pub. Util. Comm., 55 Ohio St.2d 155, 157, 378 N.E.2d 480 (emphasis added).

The Commission also should continue the evidentiary hearing scheduled to begin on February 1, 2017. The Commission has granted prior continuances in order for the parties to engage in settlement negotiations.¹ At this point, any evidentiary hearing on DP&L's as-filed case not only would be unnecessary, but also would disregard the hard work and many hours spent by the parties to negotiate the Stipulation. Thus, there are good grounds for a continuance. Ohio Admin. Code § 4901-1-13(A).

Accordingly, DP&L asks that Commission to (a) schedule a hearing on the reasonableness of the Stipulation starting on February 8, 2017; and (b) convert the first day of the currently scheduled hearing (February 1, 2017) to a pre-hearing scheduling conference.

Respectfully submitted,

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¹ Jan. 10, 2017 Entry (extending the evidentiary hearing by two weeks for the parties to engage in settlement negotiations); Jan. 24 2017 Entry (extending the evidentiary hearing by one week for the same reason).

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion of The Dayton Power and Light Company to Adopt Stipulation and Recommendation and for Continuance has been served via electronic mail upon the following counsel of record, this 30th day of January, 2017:

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

1/30/2017 4:39:30 PM

in

Case No(s). 16-0395-EL-SSO, 16-0396-EL-ATA, 16-0397-EL-AAM

Summary: Motion Motion of The Dayton Power and Light Company to Adopt Stipulation and Recommendation and for Continuance electronically filed by Mr. Jeffrey S Sharkey on behalf of The Dayton Power and Light Company