

**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. 16-0395-EL-SSO
In the Matter of the Application of the Dayton Power and Light Company for Approval of Revised Tariffs))))	Case No. 16-0396-EL-ATA
In the Matter of the Application of the Dayton Power and Light Company for Approval of Certain Accounting Authority Pursuant to R.C. 4905.13))))	Case No. 16-0397-EL-AAM

**MEMORANDUM OF INTERVENORS MURRAY ENERGY AND CITIZENS TO
PROTECT DP&L JOBS IN OPPOSITION TO MOTIONS OF INTERVENOR SIERRA
CLUB TO STRIKE PORTIONS OF THEIR POST-HEARING BRIEF**

Intervenor Sierra Club has filed motions to strike those portions of the Post-Hearing Brief and the Reply Brief (together, the “Briefs”), respectively, of Intervenors Murray Energy, Inc. and Citizens To Protect DP&L Jobs that reference Dayton Power & Light’s representations made to the Commission in its Original Application¹ concerning the devastating economic impacts that would ensue if DP&L were to shutter its coal-fired generating plants. The Sierra Club contends that the Commission should strike Intervenors’ references to DP&L’s representations to the Commission in its Original Application because that Application has been “withdrawn.” However, that is not true.

DP&L filed its Original Application on February 22, 2016. On September 23, 2016, DP&L filed a “Notice of Withdrawal of Reliable Electricity Rider,” pursuant to which DP&L provided notice of its “withdrawal of its request in this case for a Reliable Electricity Rider (‘RER’).” *See Exhibit A* attached hereto. That filing did not purport to withdraw the Original

¹ DP&L filed its “Application Of The Dayton Power and Light Company For Approval Of Its Electric Security Plan,” the Original Application, on February 22, 2016.

Application in its entirety. Moreover, DP&L's September 2016 filing says nothing about the representations it had made in its Original Application concerning the devastating economic impacts that would be caused by the shuttering of its generating plants.

DP&L's Original Application eloquently details the pervasive and devastating economic effects that the shuttering of its generating assets would have for local residents and others throughout the State of Ohio. The Sierra Club cannot suggest that DP&L was misleading the Commission by those representations. The Sierra Club cannot "un-ring the bell." The Sierra Club's motions to dismiss are without merit and should be denied.

Respectfully submitted,

/s/ John F. Stock
John F. Stock (0004921)
Orla E. Collier (0014317)
BENESCH FRIEDLANDER COPLAN
& ARONOFF, LLP
41 S. High St., 26th Floor
Columbus, Ohio 43215
(614) 223-9300

Attorneys for The Citizens to Protect DP&L Jobs

CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to this case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served upon the persons listed in Exhibit A via electronic mail this 23rd day of May, 2017.

/s/ John F. Stock _____

John F. Stock

EXHIBIT A

cfaruki@ficlaw.com
direland@ficlaw.com
jsharkey@ficlaw.com
mfleisher@elpc.org
fdarr@mwncmh.com
mpritchard@mwncmh.com
jeffrey.mayes@monitoringanalytics.com
evelyn.robinson@pjm.com
schmidt@sppgrp.com
dboehm@BKLlawfirm.com
mkurtz@BKLlawfirm.com
kboehm@BKLlawfirm.com
ikylerncohn@BKLlawfirm.com
william.wright@ohioattorneygeneral.gov
Michelle.d.grant@dyneqy.com
rsahli@columbus.rr.com
slessor@calfee.com
jlant@calfee.com
talaxander@calfee.com
lhawrot@spilmanlaw.com
dwilliamson@spilmanlaw.com
charris@spilmanlaw.com
gthomas@gtpowergroup.com
laurac@chappelleconsulting.net
stheodore@epsa.org
todonnell@dickinsonwright.com
rseiler@dickinsonwright.com
jeanne.kingery@duke-energy.com
kristin.henry@sierraclub.org
thomas.mcnamee@ohioattorneygeneral.gov

loliker@lqsenergy.com
boiko@carpenterlipps.com
ghiloni@carpenterlipps.com
missettineri@vorvs.com
smhoward@vorvs.com
qipetrucci@vorvs.com
ibatkov@vorvs.com
wasiack@vorvs.com
william.michael@occ.ohio.gov
kevin.moore@occ.ohio.gov
mdortch@kravitzllc.com
tdougherty@theOEC.org
cmooney@ohiopartners.org
sechler@carpenterlipps.com
gpoulos@enernoc.com
rick.sites@ohiohospitals.org
amy.spiller@duke-energy.com
elizabeth.watts@duke-energy.com
stephen.chriss@walmart.com
greg.tillman@walmart.com
mwarnock@bricker.com
dborchers@bricker.com
ejacobs@ablelaw.org
tony.mendoza@sierraclub.org
chris@envlaw.com
jdoll@djflawfirm.com
mcrawford@djflawfirm.com
dparram@bricker.com
paul@carpenterlipps.com

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 :

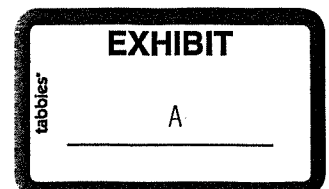
In the Matter of the Application of : Case No. 16-0397-EL-AAM
The Dayton Power and Light Company for
Approval of Certain Accounting Authority :
Pursuant to Ohio Rev. Code § 4905.13

**THE DAYTON POWER AND LIGHT COMPANY'S NOTICE
OF WITHDRAWAL OF RELIABLE ELECTRICITY RIDER PROPOSAL**

The Dayton Power and Light Company ("DP&L") provides notice of the withdrawal of its request in this case for a Reliable Electricity Rider ("RER"). DP&L will continue to pursue an alternative to the RER, which has been named the Distribution Modernization Rider ("DMR").

Pursuant to DP&L's withdrawal of its request for an RER, DP&L withdraws its filed tariffs and provides notice of the following changes to its testimony:

<u>Witness</u>	<u>Pages/Lines/Exhibits</u>	<u>Status</u>
Robert Adams, Claire Hale, Nathan Parke, Tom Raga	Entire testimony	Change "Reliable Electricity Rider" to "Distribution Modernization Rider" each time that it occurs
	Entire testimony	Change "RER" to "DMR" each time it occurs



<u>Witness</u>	<u>Pages/Lines/Exhibits</u>	<u>Status</u>
Robert Adams	p. 6, ll. 11-14	Strike question and answer
	Ex. RJA-4	Entire Exhibit withdrawn
Eric Brown	p.9, l. 5-6	Strike "that are being provided and supported by Company Witness Meehan to project proxy auction clearing prices"
	Ex. ERB-1	Entire Exhibit withdrawn
	Ex. ERB-2	Entire Exhibit withdrawn
Angelique Collier	Entire Direct Testimony	Entire Direct Testimony withdrawn
Carlos Grande-Moran	Entire Direct Testimony	Entire Direct Testimony withdrawn
Claire Hale	p. 2, l. 6	Strike "Company obligations regarding the RER"
	p. 2, ll. 14-16	Delete "will be updated annually. DP&L will file an updated rate by November 1st of each year, which will become effective January 1st of the following year unless otherwise ordered by the Commission. This rider"
	p. 2, l. 18 through p. 3, l. 9	Strike question and answer
	p. 3, ll. 18-20	Strike "All rate design changes will be implemented in the first year of the RER and then held steady, with rates adjusted only to reflect the updated RER revenue requirement."
	p. 3, l. 23 through p. 4, l. 2	Strike "The remaining pages of the exhibit show the calculation of future years' rates simply by applying a scaling factor for the next

<u>Witness</u>	<u>Pages/Lines/Exhibits</u>	<u>Status</u>
		year's RER revenue requirement."
	p. 5, l. 11 - p. 7, l. 8	Strike questions and answers
	p. 8, l. 10	Strike "As discussed in Company Witness Collier's Testimony" and capitalize the "t" in "There"
	p. 8, ll. 11-12	Strike "As she explains more fully" and capitalize the "t" in "The"
	p. 9, ll. 7-8	Strike "RER true-up mechanism and"
	Exhibit CEH-1	Entire Exhibit withdrawn
Kevin Hall	No changes	
David Harrison	Entire Direct Testimony	Entire Direct Testimony withdrawn
Craig Jackson	Entire Direct and Supplemental Testimony	Entire Direct and Supplemental Testimony withdrawn
Robert Lee	No changes	
Jeff Malinak	Entire Direct and Supplemental Testimony	Entire Direct and Supplemental Testimony withdrawn
Eugene Meehan	Entire Direct Testimony	Entire Direct Testimony withdrawn
Mark Miller	Entire Direct Testimony	Entire Direct Testimony withdrawn
Roger Morin	Entire Direct Testimony	Entire Direct Testimony withdrawn
Nathan Parke	p. 2, ll. 14-15	Strike "Reliable Electricity Rider ("RER") and"

<u>Witness</u>	<u>Pages/Lines/Exhibits</u>	<u>Status</u>
	p. 3, ll. 4-5	Strike "Reliable Electricity Rider"
	Exhibit NCP-1	In Column 2, Strike "G11 Reliable Electricity Rider"
Thomas Raga	Table of Contents	Strike "III. Benefits and Allocation of Risks of the Reliable Electricity Rider . . 8"
	p. 2, l. 20 - p. 3, l. 4	Strike "(2) summarize the economic benefits that will accrue to DP&L customers and the Ohio economy as a whole from the Reliable Electricity Rider ("RER") proposal, including a description of future risks and how those risks are allocated between DP&L and its customers; (3) introduce the importance of the Ohio generation plants in maintaining fuel diversity, price stability, reliability and economic development;"
	p. 3, l. 3	Change "(4)" to "(2)"
	p. 3, ll. 8-13	Strike "This ESP is designed to promote economic growth and stability in Ohio by allowing at-risk generation plants to remain operational. If those plants were to close, then the adverse effects would include \$26.5 billion in economic losses in Ohio, the loss of almost 19,000 jobs, and an increase in reliability risks. This ESP is in the customers' best interest not only because it avoids those risks, but also because customers will receive \$454.8 million in credits under

<u>Witness</u>	<u>Pages/Lines/Exhibits</u>	<u>Status</u>
		the proposed RER."
	p. 4, l. 1 - p. 11, l. 11	Strike testimony
	p. 12	Strike the following witnesses and their associated topics: Angelique Collier; Carlos Grande-Moran (Siemens PTI); David Harrison (NERA); Eugene T. Meehan (NERA); Mark Miller. For topics under Claire Hale, strike "information sharing and Commission oversight." For topics under Craig L. Jackson, strike "severability clause;". For topics under R. Jeffrey Malinak, strike "the RER generation plants and"

In addition, to support and explain DP&L's DMR, DP&L will be filing replacement Direct Testimony. DP&L's proposed ESP still retains key components that benefit customers:

1. Retains customers' option to shop for a competitive electric supplier
2. Maintains the 100% competitive bidding structure for non-shopping customers
3. Introduces a Distribution Investment Rider to support continued investment in distribution system reliability
4. Introduces a Clean Energy Rider that will facilitate future investment in renewable and advanced technologies
5. Maintains DP&L's financial integrity and its ability to provide reliable, safe and stable customer service

Respectfully submitted,

/s/ Charles J. Faruki

Charles J. Faruki (0010417)

(Counsel of Record)

D. Jeffrey Ireland (0010443)

Jeffrey S. Sharkey (0067892)

FARUKI IRELAND & COX P.L.L.

110 North Main Street, Suite 1600

Dayton, OH 45402

Telephone: (937) 227-3705

Telecopier: (937) 227-3717

Email: cfaruki@ficlaw.com

djireland@ficlaw.com

jsharkey@ficlaw.com

Attorneys for The Dayton Power
and Light Company

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing The Dayton Power and Light Company's Notice of Withdrawal of Reliable Electricity Rider Proposal, has been served via electronic mail upon the following counsel of record, this 23rd day of September, 2016:

Thomas McNamee
Natalia Messenger
Public Utilities Commission of Ohio
180 East Broad Street, 12th Floor
Columbus, OH 43215
Email: Thomas.McNamee@ohioattorneygeneral.gov
Natalia.Messenger@ohioattorneygeneral.gov

Attorneys for PUCO Staff

Kimberly W. Bojko
Danielle M. Ghiloni
Carpenter Lipps & Leland LLP
280 North High Street, Suite 1300
Columbus, OH 43215
Email: Bojko@carpenterlipps.com
Ghiloni@carpenterlipps.com

Attorneys for The Ohio Manufacturers' Association
Energy Group

Kevin R. Schmidt
88 East Broad Street, Suite 1770
Columbus, OH 43215
Email: Schmidt@sppgrp.com

Attorney for The Energy Professionals of Ohio

Frank P. Darr (Counsel of Record)
Matthew R. Pritchard
McNees Wallace & Nurick
21 East State Street, 17th Floor
Columbus, OH 43215
Email: fdarr@mwncmh.com
mpritchard@mwncmh.com

Attorneys for Industrial Energy Users –
Ohio

David F. Boehm
Michael L. Kurtz
Kurt J. Boehm
Jody Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, OH 45202
Email: dboehm@BKLawfirm.com
mkurtz@BKLawfirm.com
kboehm@BKLawfirm.com
jkylercohn@BKLawfirm.com

Attorneys for The Ohio Energy Group

Joseph Olikier
IGS Energy
6100 Emerald Parkway
Dublin, OH 43016
Email: joliker@igsenergy.com

Attorney for IGS Energy

Jeffrey W. Mayes
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Valley Forge Corporate Center
Eagleville, PA 19403
Email: Jeffrey.mayes@monitoringanalytics.com

Evelyn R. Robinson
PJM Interconnection, LLC
2750 Monroe Blvd
Audubon, PA 19403
Email: evelyn.robinson@pjm.com

Attorney for Monitoring Analytics, LLC as
The Independent Market Monitor for PJM

Trent Dougherty
Ohio Environmental Council
1145 Chesapeake Ave., Suite 1
Columbus, OH 43212-3449
Email: tdougherty@the OEC.org

Attorney for the Ohio Environmental
Council and Environmental Defense Fund

William J. Michael
Kevin F. Moore
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215-3485
Email: William.Michael@occ.ohio.gov
Kevin.Moore@occ.ohio.gov

Attorneys for Ohio Consumers' Counsel

Michael D. Dortch
Richard R. Parsons
Kravitz, Brown & Dortch, LLC
65 East State Street, Suite 200
Columbus, OH 43215
Email: mdortch@kravitzllc.com
rparsons@kravitzllc.com

Attorneys for Noble Americas
Energy Solutions LLC

Joel E. Sechler
Carpenter Lipps & Leland
280 N. High St., Suite 1300
Columbus, OH 43215
Email: Sechler@carpenterlipps.com

Gregory J. Poulos
EnerNOC, Inc.
P.O. Box 29492
Columbus, OH 43229
Email: gpoulos@enernoc.com

Attorneys for EnerNOC, Inc.

Ryan P. O'Rourke
Carpenter Lipps & Leland LLP
280 Plaza, Suite 1300
280 North High Street
Columbus, OH 43215
Email: O'Rourke@carpenterlipps.com

Attorney for The Kroger Company

Colleen Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
P.O. Box 1793
Findlay, OH 45839-1793
Email: cmooney@ohiopartners.org

Attorney for Ohio Partners for Affordable
Energy

Madeline Fleisher
Environmental Law & Policy Center
21 West Broad Street, Suite 500
Columbus, OH 43215
Email: mfleisher@elpc.org

Attorneys for The Environmental Law &
Policy Center

Steven D. Lesser
James F. Lang
N. Trevor Alexander
Calfee, Halter & Griswold LLP
41 South High Street
1200 Huntington Center
Columbus, OH 43215
Email: slesser@calfee.com
jlang@calfee.com
talAlexander@calfee.com

Attorneys for The City of Dayton and
Honda of America Mfg., Inc.

Michael J. Settineri
Stephen M. Howard
Gretchen L. Petrucci
Ilya Batikov
Vorys, Sater, Seymour and Pease LLP
52 E. Gay Street
Columbus, OH 43215
Email: mjsettineri@vorys.com
smhoward@vorys.com
glpetrucci@vorys.com
ibatikov@vorys.com

Attorneys for Dynegy Inc. and
PJM Power Providers Group and
The Retail Energy Supply Association

Michelle Grant
Dynegy Inc.
601 Travis Street, Suite 1400
Houston, TX 77002
Email: michelle.d.grant@dynegy.com

Attorneys for Dynegy Inc.

Glen Thomas
1060 First Avenue, Suite 400
King of Prussia, PA 19406
Email: gthomas@gtpowergroup.com

Sharon Theodore
Electric Power Supply Association
1401 New York Ave. NW 11th Floor
Washington, DC
Email: stheodore@epsa.org

Richard C. Sahli
Richard C. Sahli Law Office, LLC
981 Pinewood Lane
Columbus, OH 43230-3662
Email: rsahli@columbus.rr.com

Tony G. Mendoza, Staff Attorney (pro hac
vice)
Sierra Club Environmental Law Program
2101 Webster Street, 13th Floor
Oakland, CA 94612
Email: tony.mendoza@sierraclub.org

Attorneys for Sierra Club

Lisa M. Hawrot
Spilman Thomas & Battle, PLLC
Century Centre Building
1233 Main Street, Suite 4000
Wheeling, WV 26003
Email: lhawrot@spilmanlaw.com

Derrick Price Williamson
Spilman Thomas & Battle, PLLC
1100 Bent Creek Blvd., Suite 101
Mechanicsburg, PA 17050
Email: dwilliamson@spilmanlaw.com

Carrie M. Harris
Spilman Thomas & Battle, PLLC
310 First Street, Suite 1100
P.O. Box 90
Roanoke, VA 24002-0090
Email: charris@spilmanlaw.com

Steve W. Chriss
Senior Manager, Energy Regulatory Analysis
Greg Tillman
Senior Manager, Energy Regulatory Analysis
Wal-Mart Stores, Inc.
2001 SE 10th Street
Bentonville, AR 72716-0550
Email: Stephen.Chriss@walmart.com
Greg.Tillman@walmart.com

Attorneys for Wal-Mart Stores East, LP
and Sam's East, Inc.

Laura Chappelle
201 North Washington Square, Suite 910
Lansing, MI 48933
Email: laurac@chappelleconsulting.net

Attorneys for PJM Power Providers Group

Ellis Jacobs
Advocates for Basic Legal Equality, Inc.
130 West Second Street, Suite 700 East
Dayton, OH 45402
Email: ejacobs@ablelaw.org

Attorney for Edgemont Neighborhood Coalition

Amy B. Spiller
Jeanne W. Kingery
Elizabeth H. Watts
Duke-Energy Ohio, Inc.
139 East Fourth Street
1303-Main
Cincinnati, OH 45202
Email: amy.spiller@duke-energy.com
elizabeth.watts@duke-energy.com
jeanne.kingery@duke-energy.com

Attorneys for Duke-Energy Ohio, Inc.

John R. Doll
Matthew T. Crawford
Doll, Jansen & Ford
111 West First Street, Suite 1100
Dayton, OH 45402-1156
Email: jdoll@djflawfirm.com
mcrawford@djflawfirm.com

Attorneys for Utility Workers of
America Local 175

Richard L. Sites
Ohio Hospital Association
155 East Broad Street, 3rd Floor
Columbus, OH 43215-3620
Email: rick.sites@ohiohospitals.org

Matthew W. Warnock
Dylan F. Borchers
Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215-4291
Email: mwarnock@bricker.com
dborchers@bricker.com

Attorneys for The Ohio Hospital Association

Raymond D. Seiler
Terrence N. O'Donnell
Dickinson Wright PLLC
150 East Gay Street, Suite 2400
Columbus, OH 43215
Email: todollell@dickinsonwright.com
rseiler@dickinsonwright.com

Attorneys for Mid-Atlantic Renewable
Energy Coalition

/s/ Jeffrey S. Sharkey
Jeffrey S. Sharkey

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in

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

Summary: Notice of withdrawal The Dayton Power and Light Company's Notice of Withdrawal of Reliable Electricity Rider Proposal electronically filed by Mr. Charles J. Faruki on behalf of The Dayton Power and Light Company

This foregoing document was electronically filed with the Public Utilities

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5/23/2017 3:30:34 PM

in

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

Summary: Memorandum of Intervenors Murray Energy and Citizens to Protect DP&L Jobs in Opposition to Motions of Intervenor Sierra Club to Strike Portions of Their Post-Hearing Brief electronically filed by John F Stock on behalf of Citizens to Protect DP&L Jobs and Murray Energy Corporation