

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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

In the Matter of the :
Application of The Dayton :
Power and Light Company : Case No. 15-1831-EL-AAM
for Accounting Authority. :

In the Matter of the :
Application of The Dayton :
Power and Light Company : Case No. 15-1832-EL-ATA
for Approval of Revised :
Tariffs. :

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PROCEEDINGS

before Mr. Gregory Price and Ms. Patricia Schabo,
Attorney Examiners, at the Public Utilities
Commission of Ohio, 180 East Broad Street, Room 11-A,
Columbus, Ohio, called at 10:00 a.m. on Monday,
May 14, 2018.

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APPEARANCES:

Faruki Ireland Cox Rhinehart & Dusing P.L.L.
By Mr. Jeffrey S. Sharkey,
Mr. D. Jeffrey Ireland,
and Mr. Christopher C. Hollon
110 North Main Street, Suite 1600
Dayton, Ohio 45402

Dayton Power and Light Company
By Mr. Michael Schuler,
Regulatory Counsel
1065 Woodman Drive
Dayton, Ohio 45432

On behalf of the Applicant.

Ohio Partners for Affordable Energy
By Ms. Colleen L. Mooney
P.O. Box 12451
Columbus, Ohio 43212

On behalf of the Ohio Partners for
Affordable Energy.

Boehm, Kurtz & Lowry
By Mr. Kurt J. Boehm,
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202

On behalf of the Ohio Energy Group.

McNees, Wallace & Nurick LLC
By Mr. Matthew Pritchard
21 East State Street, 17th Floor
Columbus, Ohio 43215

On behalf of the Industrial Energy Users
of Ohio.

IGS Energy
By Mr. Joseph Oliker
and Mr. Michael A. Nugent
6100 Emerald Parkway
Dublin, Ohio 43016

On behalf of IGS Energy.

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APPEARANCES: (Continued)

Carpenter Lipps & Leland LLP
By Ms. Kimberly W. Bojko
280 North High Street, Suite 1300
Columbus, Ohio 43215

On behalf of the Ohio Manufacturers'
Association Energy Group.

Carpenter Lipps & Leland LLP
By Ms. Angela M. Paul Whitfield
280 North High Street, Suite 1300
Columbus, Ohio 43215

On behalf of The Kroger Company.

Environmental Law & Policy Center
By Ms. Madeline Fleisher
21 West Broad Street, Suite 500
Columbus, Ohio 43215

On behalf of the Environmental Law &
Policy Center.

Bricker & Eckler, LLP
By Mr. Dylan Borchers
and Mr. Devin Parram
100 South Third Street
Columbus, Ohio 43215-4291

On behalf of the Ohio Hospital
Association.

Ohio Environmental Council
By Ms. Miranda Leppla
1145 Chesapeake Avenue, Suite I
Columbus, Ohio 43212

On behalf of the Ohio Environmental
Council and Environmental Defense Fund.

The Law Office of Robert Dove
By Mr. Robert Dove
P.O. Box 13442
Columbus, Ohio 43213

On behalf of the Natural Resources
Defense Council.

APPEARANCES: (Continued)

Mike DeWine, Ohio Attorney General
Mr. William Wright,
Section Chief
By Mr. Thomas W. McNamee,
Assistant Attorney General
30 East Broad Street, 16th Floor
Columbus, Ohio 43215

On behalf of the Staff of the PUCO.

Bruce E. Weston, Ohio Consumers' Counsel
By Mr. Christopher Healey,
Assistant Consumers' Counsel
65 East State Street, 7th Floor
Columbus, Ohio 43215-3485

On behalf of the Residential Consumers of
The Dayton Power and Light Company.

Calfee, Halter & Griswold LLP
By Mr. N. Trevor Alexander,
1200 Huntington Center
41 South High Street
Columbus, Ohio 43215

On behalf of Honda of America
Manufacturing, Inc., and City of Dayton.

Whitt Sturtevant LLP
By Mr. Mark Whitt
and Ms. Rebekah J. Glover
88 East Broad Street, Suite 1590
Columbus, Ohio 43215

On behalf of the Retail Energy Supply
Association.

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1 Monday Morning Session,
2 May 14, 2018.

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4 EXAMINER PRICE: Let's go on the record.
5 Good morning. The Public Utilities
6 Commission of Ohio has set for hearing at this time
7 and place Case No. 15-1830-EL-AIR, being in the
8 Matter of the Application of The Dayton Power and
9 Light Company for an Increase in Its Electric
10 Distribution Rates.

11 My name is Gregory Price. With me is
12 Patricia Schabo. We're the Attorney Examiners
13 assigned to preside over today's hearing. We'll
14 begin by taking appearances starting with the
15 company.

16 MR. SHARKEY: Yes, your Honor. Jeff
17 Sharkey, Jeff Ireland, and Chris Hollon from the law
18 firm of Faruki Ireland Cox Rhinehart & Dusing
19 representing The Dayton Power and Light Company.
20 Also here is Michael Schuler, regulatory counsel for
21 the company.

22 MR. HEALEY: Good morning, your Honor.
23 Christopher Healey representing the Ohio Consumers'
24 Counsel, 65 East State Street, Columbus, Ohio 43215.
25 Thank you.

1 MR. BOEHM: Good morning, your Honor.
2 Kurt Boehm appearing on behalf of the Ohio Energy
3 Group.

4 MR. PRITCHARD: Good morning, your
5 Honors. On behalf of the Industrial Energy Users of
6 Ohio, Matt Pritchard with the law firm McNees,
7 Wallace & Nurick, 21 East State Street, Columbus,
8 Ohio 43215.

9 MR. BORCHERS: Good morning, your Honor.
10 On behalf of the Ohio Hospital Association, Dylan
11 Borchers and Devin Parram with the law firm of
12 Bricker & Eckler.

13 MR. OLIKER: Good morning, your Honors.
14 On behalf of the IGS Energy, Joseph Olikier and
15 Michael Nugent, 6100 Emerald Parkway, Dublin, Ohio
16 43016.

17 MR. WHITT: Good morning. On behalf of
18 Retail Energy Supply Association, Mark Whitt and
19 Rebekah Glover, Whitt Sturtevant LLP, 88 East Broad
20 Street, Suite 1590, Columbus, Ohio 43215.

21 MS. FLEISHER: Good morning. Madeline
22 Fleisher on behalf of the Environmental Law and
23 Policy Center, 21 West Broad Street, 8th Floor,
24 Columbus, Ohio 43215.

25 MS. LEPPLA: Good morning, your Honors,

Miranda Leppla on behalf of the Ohio Environmental Council and Environmental Defense Fund, 1145 Chesapeake Avenue, Suite I, Columbus, Ohio 43212.

MR. DOVE: Good morning. On behalf of Natural Resources Defense Council, Robert Dove, the Law Office of Robert Dove, P.O. Box 13442, Columbus, Ohio 43213.

MS. MOONEY: On behalf of the Ohio Partners for Affordable Energy, Colleen Mooney, P.O. Box 12451, Columbus, Ohio 43212.

MS. BOJKO: Good morning, your Honors. On behalf of the Ohio Manufacturers' Association Energy Group, Kimberly W. Bojko with the law firm Carpenter Lipps & Leland, 280 North High Street, Suite 1300, Columbus, Ohio 43215.

MS. WHITFIELD: Good morning, your Honors. On behalf of the Kroger Company, Angie Paul Whitfield, law firm of Carpenter Lipps & Leland, 280 North High Street, Suite 1300, Columbus, Ohio 43215.

MR. ALEXANDER: Good morning. Trevor Alexander with the firm Calfee, Halter & Griswold representing City of Dayton and Honda Manufacturing, 41 South High Street, Columbus, Ohio 43215.

MR. McNAMEE: On behalf of the staff of the Public Utilities Commission of Ohio, I'm Thomas

McNamee. The address is 30 East Broad Street,
Columbus, Ohio 43215.

EXAMINER PRICE: Thank you. We have
pending motions that we owe you rulings on before we
continue the case. First, OCC's motion to compel
filed on October 31, 2017, will be granted. The
draft staff report is reasonably calculated to lead
to admissible evidence, and the discovery of e-mails
between Dayton Power and Light and the auditors which
are in Dayton Power and Light's possession.

Irrespective of whether the staff is subject to
discovery is not relevant -- is irrelevant, I'm
sorry. Even if Revised Code 4901.16 precluded
disclosure prior to release of the staff report, the
staff report has, in fact, been released and those
conversations should be disclosed to OCC.

Mr. Sharkey, how long do you think it
will take to accomplish that task?

MR. SHARKEY: Your Honor, I don't know as
I sit here right now. Give me one second, if you
would, please.

Your Honor, producing a draft -- the copy
of the draft audit report can be done very quickly.
We can get that done by today or tomorrow. E-mails
will take a little bit longer but there's not many of

1 those either. Best estimate is a week as we sit
2 here.

3 EXAMINER PRICE: Okay. Mr. Healey, a
4 week?

5 MR. HEALEY: A week sounds good, your
6 Honor.

7 MR. SHARKEY: I may have to get back if
8 that turns out to be more difficult than I think, but
9 we think a week is reasonable.

10 EXAMINER PRICE: Thank you.

11 Our second motion is DP&L's motion to
12 strike the objections filed by Honda and the City on
13 April 18, 2018. That motion will be denied. We'll
14 accept counsel's clarification the objections merely
15 cross-reference previous objections and break no new
16 ground.

17 OCC's motion to strike objections on
18 April 18, 2018, also will also be denied. The
19 Supreme Court has upheld the use of past test year
20 adjustments specifically related to vegetation
21 management expenses under appropriate circumstances.
22 The objection does not lack specificity. The Supreme
23 Court case we're referring to is Board of
24 Commissioners vs. Public Utilities Commission 1 Ohio
25 St. 3d 125 (1982). It was actually cited in DP&L's

memo contra.

OCC's motion to strike DP&L's testimony filed on May 2, 2018, will also be denied. Similar to the motion to strike the objection, the court has upheld the use of past test year adjustments of expenses in appropriate circumstances. Dayton Power and Light shall have the opportunity to demonstrate a change in operations through a dramatic -- alleged dramatic increase in expenses for vegetation management. Their reliance on the prohibition against single ratemaking by OCC is misplaced. The Commission is taking a complete review of all rate issues -- rate-based issues and test year expenses in the proceeding; therefore, there is no single-issue ratemaking here.

Likewise, OCC's motion to strike Edward Hess's testimony filed on April 2, 2018, will also be denied. There is no single-issue ratemaking in this case. Testimony is offered as part of a comprehensive review of Dayton Power and Light's rate-based expenses and rate design. The testimony relates to cost causation, how and from whom certain expenses should be collected. It does not constitute single-issue ratemaking.

I would just like to note the rulings are

1 limited to the motions to strike and the testimony in
2 which to strike objections. We are not ruling on the
3 admission of any testimony; and, of course, no
4 rulings will be made on the merits of any issues
5 raised in the objections or in the testimony.

6 With that we will continue the hearing to
7 June 6, 2018, at 10:00 a.m.

8 MR. HEALEY: Your Honor, may I make a
9 brief oral motion?

10 EXAMINER PRICE: You may. I was going to
11 ask for other issues.

12 MR. HEALEY: In light of your denial of
13 our motions to strike the two sets of testimony, I
14 would ask that the Attorney Examiner reopen discovery
15 under 4901-1-17(G) so we can address these post test
16 year potential adjustments. If the company is going
17 to have an opportunity to file testimony asking for
18 post-hearing adjustments that occurred somewhere in
19 the vicinity of two to three years after the case was
20 over, I would like an opportunity to explore test
21 year adjustments.

22 EXAMINER PRICE: Outside of what the
23 company has offered?

24 MR. HEALEY: Yes, your Honor.

25 EXAMINER PRICE: Denied.

1 Any other issues?

2 Okay. We are adjourned. Let's go off
3 the record.

4 (Thereupon, at 10:09 a.m., the hearing
5 was adjourned.)

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7 CERTIFICATE

8 I do hereby certify that the foregoing is
9 a true and correct transcript of the proceedings
10 taken by me in this matter on Monday, May 14, 2018,
11 and carefully compared with my original stenographic
12 notes.

13
14 

15 Karen Sue Gibson, Registered
16 Merit Reporter.

17 (KSG-6549)

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This foregoing document was electronically filed with the Public Utilities

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5/22/2018 2:46:16 PM

in

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

Summary: Transcript In the Matter of the Application of The Dayton Power and Light Company for an Increase in Its Electric Distribution Rates; In the Matter of the Application of The Dayton Power and Light Company for Accounting Authority and In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs, hearing held on May 14th, 2018. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.