

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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1 APPEARANCES:

2 Faruki Ireland Cox Rhinehart & Dusing P.L.L.
 3 By Mr. Jeffrey S. Sharkey,
 4 Mr. D. Jeffrey Ireland,
 5 and Mr. Christopher C. Hollon
 6 110 North Main Street, Suite 1600
 7 Dayton, Ohio 45402

8 Dayton Power and Light Company
 9 By Mr. Michael Schuler,
 10 Regulatory Counsel
 11 1065 Woodman Drive
 12 Dayton, Ohio 45432

13 On behalf of the Applicant.

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

18 On behalf of the Ohio Partners for
 19 Affordable Energy.

20 Boehm, Kurtz & Lowry
 21 By Mr. Kurt J. Boehm,
 22 36 East Seventh Street, Suite 1510
 23 Cincinnati, Ohio 45202

24 On behalf of the Ohio Energy Group.

25 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 Olikier
 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.

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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 McNeese,
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,

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

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

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

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

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

20 MR. ALEXANDER: Good morning. Trevor
21 Alexander with the firm Calfee, Halter & Griswold
22 representing City of Dayton and Honda Manufacturing,
23 41 South High Street, Columbus, Ohio 43215.

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

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

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

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

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

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

22 Your Honor, producing a draft -- the copy
23 of the draft audit report can be done very quickly.
24 We can get that done by today or tomorrow. E-mails
25 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

1 memo contra.

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

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

25 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.

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Any other issues?

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

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

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CERTIFICATE

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

Karen Sue Gibson

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-6549)

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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.