

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :  
Application of The Dayton :  
Power and Light Company to:  
Establish a Standard : Case No. 16-395-EL-SSO  
Service Offer in the Form :  
of an Electric Security :  
Plan. :

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In the Matter of the :  
Application of The Dayton :  
Power and Light Company : Case No. 16-396-EL-ATA  
for Approval of Revised :  
Tariffs. :

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In the Matter of the :  
Application of The Dayton :  
Power and Light Company : Case No. 16-397-EL-AAM  
for Approval of Certain :  
Accounting Authority. :

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PREHEARING CONFERENCE

before Mr. Gregory Price and Ms. Patricia A. Schabo,  
Attorney Examiners, at the Public Utilities  
Commission of Ohio, 180 East Broad Street, Room 11-A,  
Columbus, Ohio, called at 9:24 a.m. on Wednesday,  
December 5, 2018.

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ARMSTRONG & OKEY, INC.  
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1 APPEARANCES:

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

7 and

8 The Dayton Power and Light Company  
9 By Mr. Michael Schuler  
10 1065 Woodman Drive  
11 Dayton, Ohio 45402

12 On behalf of the Applicant.

13 IGS Energy  
14 By Mr. Joseph Olikier  
15 6100 Emerald Parkway  
16 Dublin, Ohio 43016

17 On behalf of the IGS Energy.

18 Environmental Law & Policy Center  
19 By Ms. Madeline Fleisher  
20 21 West Broad Street, 8th Floor  
21 Columbus, Ohio 43215

22 On behalf of the Environmental Law &  
23 Policy Center.

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

On behalf of the Ohio Energy Group.

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

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

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APPEARANCES: (Continued)

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.

Vorys, Sater, Seymour & Pease, LLP  
By Mr. Michael J. Settineri  
and Ms. Gretchen L. Petrucci  
52 East Gay Street  
P.O. Box 1008  
Columbus, Ohio 43216-1008

On behalf of the Retail Energy Supply  
Association.

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

On behalf of the Environmental Defense  
Fund.

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

On behalf of the Staff of the PUCO.

Ohio Partners for Affordable Energy  
By Ms. Colleen Mooney  
P.O. Box 12451  
Columbus, Ohio 43212-2451

On behalf of the Ohio Partners for  
Affordable Energy.

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APPEARANCES: (Continued)

Carpenter Lipps & Leland LLP  
By Ms. Kimberly W Bojko  
and Mr. Brian W. Dressel  
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 Paul Whitfield  
280 North High Street, Suite 1300  
Columbus, Ohio 43215

On behalf of the Kroger Company.

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1 Wednesday Morning Session,  
 2 December 5, 2018.

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4 EXAMINER PRICE: Let's go on the record.  
 5 Good morning. The Public Utilities  
 6 Commission has set for a prehearing conference at  
 7 this time and place Case No. 16-395-EL-SSO being in  
 8 the Matter of the Application of The Dayton Power and  
 9 Light Company to Establish a Standard Service Offer  
 10 in the Form of an Electric Security Plan.

11 My name is Gregory Price. With me is  
 12 Patricia Schabo. We are the Attorney Examiners  
 13 assigned to preside over today's prehearing  
 14 conference.

15 Let's begin by taking appearances  
 16 starting with the Company.

17 MR. SHARKEY: Thank you, your Honor.  
 18 Jeff Sharkey from Faruki, Ireland, Cox, Rhinehart &  
 19 Dusing on behalf of The Dayton Power and Light  
 20 Company. I also have with me Michael Schuler,  
 21 regulatory counsel for the company.

22 EXAMINER SCHABO: Mr. Settineri.

23 MR. SETTINERI: Thank you, your Honor.  
 24 On behalf of the Retail Energy Supply Association,  
 25 Michael Settineri and Gretchen Petrucci, Vorys,

1 Sater, Seymour & Pease, 52 East Gay Street, Columbus,  
2 Ohio 43215.

3 MR. PRITCHARD: Good morning, your Honor.  
4 On behalf of IEU-Ohio, Matt Pritchard with the law  
5 firm McNees, Wallace & Nurick, 21 East State Street,  
6 Columbus, Ohio 43215.

7 MR. ALEXANDER: Good morning. Trevor  
8 Alexander and Steve Lesser of the law firm of Calfee,  
9 Halter & Griswold representing the City of Dayton and  
10 Honda of America Manufacturing, Inc.

11 MR. OLIKER: Good morning, your Honors.  
12 On behalf of IGS Energy, Joseph Olikier, 6100 Emerald  
13 Parkway, Dublin, Ohio 43016.

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

19 MS. FLEISHER: Good morning, your Honors.  
20 Madeline Fleisher on behalf of the Environmental Law  
21 & Policy Center, 21 West Broad Street, 8th Floor,  
22 Columbus, Ohio 43215.

23 MS. LEPPLA: Good morning, your Honors.  
24 Miranda Leppla on behalf of the Environment Defense  
25 Fund, 1145 Chesapeake Avenue, Suite I, Columbus, Ohio

1 43212.

2 MS. WHITFIELD: Good morning, your  
3 Honors. On behalf of the Kroger Company, Angie Paul  
4 Whitfield, Carpenter Lipps & Leland.

5 MR. BOEHM: Good morning, your Honors.  
6 Kurt Boehm with the law firm Boehm, Kurtz & Lowry, 36  
7 East Seventh Street, Cincinnati Ohio 45202 appearing  
8 on behalf of the Ohio Energy Group.

9 MS. MOONEY: On behalf of Ohio Partners  
10 for Affordable Energy, I'm Colleen Mooney, Post  
11 Office Box 12451, Columbus, Ohio.

12 EXAMINER PRICE: Thank you.

13 MR. McNAMEE: On behalf of the Staff of  
14 the Public Utilities Commission of Ohio, Thomas W.  
15 McNamee. The address is 30 East Broad Street, 16th  
16 Floor, Columbus, Ohio 43215.

17 EXAMINER PRICE: Thank you. At this time  
18 we will go off the record.

19 (Discussion off the record.)

20 EXAMINER PRICE: Go back on the record.

21 At this time we will take up IGS's notice  
22 of withdrawal. On October 19, 2018, Interstate Gas  
23 Supply filed a notice of withdrawal from the  
24 stipulation and motion for a procedural schedule. In  
25 response Dayton filed a memo contra, a motion for a

1 procedural schedule, and a motion to strike on  
2 October 26, 2018.

3 The motion for a procedure schedule will  
4 be granted. The motion to strike will be denied.  
5 Dayton Power and Light raised three objections to  
6 withdrawal, none of which were persuasive. No. 1,  
7 Dayton Power and Light argued that the rehearing  
8 process is not complete. This argument is moot as  
9 the Commission issued its fourth entry on rehearing  
10 on November 7, 2018, and the time for filing after  
11 rehearing regarding that entry has come and gone.

12 IGS also -- or Dayton Power and Light  
13 also claims IGS is not a signatory party to Section  
14 6.1.A.II. We believe that this argument is counter  
15 to the plain language of the stipulation under which  
16 IGS signed as a signatory party and is entitled to  
17 the ability to withdraw as a signatory party.

18 Dayton Power and Light reads words into  
19 the stipulation which do not exist. Dayton could  
20 have protected itself against this but did not have  
21 language in the stipulation precluding IGS from  
22 withdrawing on the footnoted non-objection section.

23 Finally, Dayton Power and Light argues  
24 the modification is not material. The Bench believes  
25 that the bypassable rider is plainly material,



1 especially to Interstate Gas Supply which is, of  
2 course, a competitive retail electric supplier in the  
3 state.

4 Any requests for clarification?

5 MR. SHARKEY: Not from DP&L, your Honor.

6 EXAMINER PRICE: Great. At this time we  
7 will take up the do-over hearing. The scope of the  
8 hearing we can address first. As we discussed off  
9 the record, No. 1, IGS may re-call witnesses for  
10 cross-examination. We'll ask IGS to file a notice of  
11 witness intent to re-call by December 28, 2018. At  
12 the hearing IGS may cross-examine any of these  
13 witnesses. The company or other sponsoring party may  
14 do redirect within the scope of IGS's cross, and all  
15 parties may conduct recross subject to the  
16 prohibition against friendly cross-examination and  
17 subject to staying within the scope of redirect.

18 Also at the hearing IGS may present  
19 witnesses on its own they choose to sponsor. All  
20 parties may cross, redirect, or recross these  
21 witnesses as if they had been presented in the first  
22 phase of the hearing.

23 Dayton may file -- may choose to present  
24 rebuttal witnesses. These witnesses should directly  
25 rebut any IGS witnesses, facts presented only. Other

1 parties may request rebuttal, and we'll deal with  
2 that if the time -- if it's necessary.

3           Finally, all parties may file  
4 supplemental initial and supplemental reply briefs.  
5 These briefs should directly relate to issues raised  
6 at the hearing. That may include citations, evidence  
7 presented at the prior phase of the hearing which  
8 supports their arguments on any given issue. The  
9 Bench notes that there will be no incorporation by  
10 reference. Any party which attempts -- any attempts  
11 to incorporate the prior briefs by reference will be  
12 stricken by the Bench without notice to the parties.

13           Finally, as we discussed off the record,  
14 we need to do a procedural schedule for this phase of  
15 the hearing. As we agreed, the initial hearing --  
16 the hearing will commence on January 31, 2019, at  
17 which time Dayton will be present for  
18 cross-examination by IGS its witness Sharon Schroder.  
19 We'll adjourn the hearing and recommence on February  
20 26, 2019.

21           IGS should prefile any testimony it  
22 chooses to present at that phase of the hearing by  
23 January 28, 2019. As previously stated, IGS should  
24 provide a notice to the parties and the Bench by  
25 December 28, 2018, of any witnesses it intends to

1 re-call.

2 And, finally, discovery cutoff, discovery  
3 will be cut off except for notices of deposition on  
4 February 4, 2019. From this -- from today forward  
5 we'll go with a 10-day response period for discovery.

6 Yes, sir.

7 MR. PRITCHARD: Two questions. One, on  
8 the hearing dates, did you -- I'm sorry if I missed  
9 it. Did we establish a start time for the 31st and  
10 26th?

11 EXAMINER PRICE: They'll be 10 o'clock.  
12 For those days it will be 10 o'clock. I suspect  
13 we'll commence at 9 o'clock for the remainder of the  
14 hearing.

15 MR. PRITCHARD: And then there is an  
16 expedited briefing schedule on motions from a couple  
17 years ago now. Is that schedule still applicable?

18 EXAMINER PRICE: No. That schedule is no  
19 longer applicable.

20 MR. PRITCHARD: Thank you.

21 MS. BOJKO: Thank you.

22 EXAMINER PRICE: Well, let's go off the  
23 record.

24 (Discussion off the record.)

25 EXAMINER PRICE: Okay. We'll just

1 confirm the previous expedited schedule for motions  
2 is no longer applicable. The usual Commission 15 and  
3 7 days will apply.

4 MR. PRITCHARD: Thank you, your Honor.

5 EXAMINER PRICE: Any other questions  
6 about the scope of the hearing, the procedural  
7 schedule?

8 Mr. McNamee, did you have a question?

9 MR. McNAMEE: Oh, no, no.

10 EXAMINER PRICE: I'm sorry.

11 Hearing none, we'll adjourn at this time.

12 See you all on January 31, 10 o'clock.

13 We're off the record.

14 (Thereupon, at 9:33 a.m., the hearing was  
15 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 Wednesday, December 5, 2018, and carefully compared with my original stenographic notes.

*Karen Sue Gibson*

Karen Sue Gibson, Registered Merit Reporter.

(KSG-6661)

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**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**12/20/2018 9:18:05 AM**

**in**

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

Summary: Transcript In the Matter of the Application of The Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan; In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs and In the Matter of the Application of The Dayton Power and Light Company for Approval of Certain Accounting Authority, hearing held on December 5th, 2018. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.