

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
The Dayton Power and Light Company for	)	Case No. 16-395-EL-SSO
Approval of Its Electric Security Plan	)	

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

In the Matter of the Application of	)	
The Dayton Power and Light Company for	)	Case No. 16-397-EL-AAM
Approval of Certain Accounting Authority	)	
Pursuant to Ohio Rev. Code § 4905.13	)	

In the Matter of the Application of	)	Case No. 08-1094-EL-SSO
The Dayton Power and Light Company for	)	
To Establish a Standard Service Offer	)	
In the Form of an Electric Security Plan	)	

In the Matter of the Application of	)	Case No. 08-1095-EL-ATA
The Dayton Power and Light Company for	)	
Approval of Revised Tariffs	)	

In the Matter of the Application of	)	Case No. 08-1096-EL-AAM
The Dayton Power and Light Company for	)	
Approval of Certain Accounting Authority	)	

In the Matter of the Application of	)	Case No. 08-1097-EL-UNC
The Dayton Power and Light Company for	)	
Waiver of Certain Commission Rules	)	

---

**INDUSTRIAL ENERGY USERS OHIO'S RESPONSE TO  
THE DAYTON POWER AND LIGHT COMPANY'S  
NOTICE OF WITHDRAWAL OF ESP III**

---

Matthew R. Pritchard (Reg. No. 0088070)  
(Counsel of Record)  
MCNEES WALLACE & NURICK LLC  
21 East State Street, 17<sup>TH</sup> Floor  
Columbus, OH 43215  
Telephone: (614) 719-2842  
Telecopier: (614) 469-4653  
mpritichard@mcneeslaw.com  
(willing to accept service via email)

**DECEMBER 4, 2019**

**ATTORNEY FOR INDUSTRIAL ENERGY USERS-OHIO**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
The Dayton Power and Light Company for	)	Case No. 16-395-EL-SSO
Approval of Its Electric Security Plan	)	

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

In the Matter of the Application of	)	
The Dayton Power and Light Company for	)	Case No. 16-397-EL-AAM
Approval of Certain Accounting Authority	)	
Pursuant to Ohio Rev. Code § 4905.13	)	

In the Matter of the Application of	)	Case No. 08-1094-EL-SSO
The Dayton Power and Light Company for	)	
To Establish a Standard Service Offer	)	
In the Form of an Electric Security Plan	)	

In the Matter of the Application of	)	Case No. 08-1095-EL-ATA
The Dayton Power and Light Company for	)	
Approval of Revised Tariffs	)	

In the Matter of the Application of	)	Case No. 08-1096-EL-AAM
The Dayton Power and Light Company for	)	
Approval of Certain Accounting Authority	)	

In the Matter of the Application of	)	Case No. 08-1097-EL-UNC
The Dayton Power and Light Company for	)	
Waiver of Certain Commission Rules	)	

---

**INDUSTRIAL ENERGY USERS OHIO'S RESPONSE TO  
THE DAYTON POWER AND LIGHT COMPANY'S  
NOTICE OF WITHDRAWAL OF ESP III**

---

Industrial Energy Users-Ohio ("IEU-Ohio") hereby responds to the Dayton Power and Light Company's ("DP&L") request to withdraw its third electric security plan ("ESP

III”)<sup>1</sup> and DP&L’s proposed tariff for the successor standard service offer (“SSO”) under R.C. 4928.143(C)(2)(b). As discussed in more detail below, DP&L’s notice and proposed tariffs are deficient in at least three respects. First, DP&L’s attempt to withdraw is premature because the Stipulation binds DP&L to a specific process to withdraw its ESP III and DP&L has not complied with those requirements. Second, DP&L’s proposed tariff sheets for the successor SSO do not comply with the Public Utilities Commission of Ohio (“Commission”)-approved Stipulation that provides that the economic development provisions shall continue after the Distribution Modernization Rider (“DMR”) expires if a successor financial stability charge is established. Third, a Rate Stabilization Charge (“RSC”) that is not coupled with the continuation of the economic development provisions of the stipulation would be unjust and unreasonable and should not be reinstated as a nonbypassable charge with a non-zero rate.

## **I. INTRODUCTION**

On March 14, 2017, DP&L and a number of Signatory Parties and Non-Opposing Parties signed an Amended Stipulation and Recommendation (“Stipulation”)<sup>2</sup> to resolve DP&L’s third electric security plan (“ESP III”). Although the Stipulation covers many topics, importantly, it set forth provisions regarding a nonbypassable DMR, economic development provisions, new riders including a Distribution Investment Rider (“DIR”), and provisions regarding the process that DP&L and Signatory Parties to the Stipulation must follow to preserve any right to challenge a Commission modification to the Stipulation. The Commission approved the Stipulation on October 20, 2017.

---

<sup>1</sup> *In the Matter of the Application of The Dayton Power and Light Company for Approval of its Electric Security Plan*; Case No. 16-395-EL-SSO, February 22, 2016 (“ESP III”).

<sup>2</sup> ESP III, Stipulation (March 14, 2017).

On November 21, 2019, the Commission issued a Supplemental Opinion and Order (“Supplemental Order”) in DP&L’s ESP III Case, which among other things, found the DMR unlawful and directed it be eliminated. The Commission also directed DP&L to terminate certain economic development provisions that were tied to the existence of DP&L’s DMR (or a successor financial integrity charge).

On November 26, 2019, DP&L filed a Notice of its request to withdraw its ESP III and return to its prior ESP (which was a blend of certain provisions from DP&L’s ESP I<sup>3</sup> and ESP II<sup>4</sup>). Similar to what occurred when DP&L withdrew its ESP II, DP&L has proposed to retain certain aspects of its ESP III in the successor ESP that would be implemented if the ESP III is withdrawn.

On November 27, 2019, the Commission requested interested parties respond to DP&L’s Notice by December 4, 2019. As discussed herein, DP&L’s Notice and proposed tariff sheets are premature, fail to comply with the requirements of the Commission-approved Stipulation and could yield an unjust and unreasonable outcome. Accordingly, IEU-Ohio urges the Commission to adopt IEU-Ohio’s three arguments below.

## **II. ARGUMENT**

### **A. DP&L’s Notice is premature because DP&L did not follow the required procedures in the Stipulation to withdraw its ESP III.**

DP&L agreed, pursuant to the Commission-approved Stipulation, to limit any right to withdraw its ESP. The Stipulation requires DP&L and any other Signatory Party to the Stipulation to enter into good faith negotiations prior to withdrawing. The Stipulation also

---

<sup>3</sup> *In the Matter of the Application of The Dayton Power and Light Company for Approval of its Electric Security Plan*, Case Nos. 08-1094-EL-SSO, et al., (“ESP I”).

<sup>4</sup> *In the Matter of the Application of The Dayton Power and Light Company for Approval of its Electric Security Plan*, Case Nos. 12-426-EL-SSO, et al. (“ESP II”).

sets forth two paths to withdraw: one based on a Commission modification prior to an appeal and one based on a Commission modification mandated by the Ohio Supreme and ordered by the Commission in an Order on Remand. DP&L was required to follow the former path which requires DP&L to seek rehearing of the Commission's supplemental Order prior to any request to withdraw the ESP III. DP&L's Notice is thus premature and should be denied.

Paragraph XI.5 addresses the bargained-for process that DP&L and all Signatory Parties must file before they can seek to withdraw from the Stipulation.

This Stipulation is conditioned upon adoption of the Stipulation by the Commission in its entirety and without material modification. If the Commission rejects or modifies all or any part of this Stipulation, any Signatory Party shall have the right to apply for rehearing. If the Commission does not adopt the Stipulation without material modification upon rehearing, or if the Commission makes a material modification to any Order adopting the Stipulation pursuant to any reversal, vacation and/or remand by the Supreme Court of Ohio, then within thirty (30) days of the Commission's Entry on Rehearing or Order on Remand: (a) any Signatory Party may withdraw from the Stipulation by filing a notice with the Commission ("Notice of Withdrawal"); or (b) DP&L may terminate and withdraw from the Stipulation by filing a notice ("Utility Notice"). Upon the filing of such Utility Notice by DP&L, the Stipulation shall immediately become null and void. No Signatory Party shall file a Notice of Withdrawal or Utility Notice without first negotiating in good faith with the other Signatory Parties to achieve an outcome that substantially satisfies the intent of the Stipulation. If a new agreement achieves such an outcome, the Signatory Parties will file the new agreement for Commission review and approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are unsuccessful, and a Signatory Party files a Notice of Withdrawal, then the Commission will convene an evidentiary hearing to afford that Signatory Party the opportunity to contest the Stipulation by presenting evidence through witnesses, to cross-examine witnesses, to present rebuttal testimony, and to brief all issues that the Commission shall decide based upon the record and briefs. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are successful, then some or all of the Signatory Parties shall submit the amended Stipulation to the Commission for approval after a hearing if necessary.

The Stipulation is clear that DP&L cannot withdraw its ESP III if it has not conducted good faith settlement negotiations. “No Signatory Party shall file a Notice of Withdrawal or Utility Notice **without first negotiating in good faith** with the other Signatory Parties to achieve an outcome that substantially satisfies the intent of the Stipulation.” (emphasis added). DP&L has not conducted good faith negotiations with the other parties.

Although DP&L claims in its Notice that its right to withdraw is absolute, that is not the case. DP&L Notice at 3. Whatever right DP&L may have had pursuant to R.C. 4928.143(C)(2)(b) to withdraw its ESP III upon the Commission rejecting the DMR in the Supplemental Order, DP&L agreed to limit its right by agreement. That is, as part of the bargained-for exchange reflected in the Stipulation, DP&L agreed it would have to follow certain procedures before it could exercise its statutory right to withdraw an ESP. DP&L must be held to the procedures it agreed upon.

Furthermore, DP&L is also required to seek rehearing of the Supplemental Order before it could have filed a proper Notice to withdraw its ESP III. The Stipulation sets forth rehearing as a prerequisite to a withdrawal if the Commission modifies the Stipulation. A separate withdrawal process applies following an Order on Remand that does not mandate. More specifically, rehearing is not required if the Commission modification is pursuant to “any reversal, vacation and/or remand by the Supreme Court of Ohio” as part of a ruling in an “Order on Remand”. Not requiring rehearing for an order on remand is practical because parties already went through the rehearing process and the Commission has no discretion except to carry out the Supreme Court’s mandate. But that is not the case here. Thus, DP&L should also be required to comply with the rehearing

requirement specified in the Stipulation before it can exercise any right it may have to withdraw its ESP III.

**B. DP&L's Proposed Tariff Sheets are deficient because they do not continue the economic development provisions.**

DP&L's proposed tariff sheets for the successor ESP do not comply with the terms of the Commission-approved ESP III Stipulation, which specify that the economic development provisions continue as long as the DMR or a successor financial integrity charge exists. If the Commission authorizes a withdrawal of DP&L's ESP III, the EDR provisions should continue for as long as a successor financial integrity charge, *i.e.* for as long as the Rate Stability Charge ("RSC") continues.

Section IV and V of the Stipulation set forth certain economic development provisions. These economic development provisions were tied to the duration of the DMR, an extended DMR, "or when an equivalent economic stability charge intended to provide financial stability to DP&L or DPL Inc., whether proposed in this case or another proceeding, expires."<sup>5</sup> The RSC is such a successor charge.

As the Commission made clear in the Supplemental Order, two types of nonbypassable charges have been authorized by the Commission under the ESP statute: those related to recovery of identified specific costs, and those that provide financial integrity.<sup>6</sup> The RSC does not track recovery of any actual identified costs and thus does not qualify as the former. Moreover, in the Supplemental Order the Commission included provider of last resort ("POLR") charges in its definition of financial integrity charges.<sup>7</sup> In

---

<sup>5</sup> Stipulation at 11-12.

<sup>6</sup> Supplemental Order at 45-47.

<sup>7</sup> Supplemental Order at 44 (*citing In re Columbus S. Power Co.*, 2011-Ohio-1788).



its order authorizing new tariffs when DP&L withdrew from its ESP II, the Commission defined the RSC as a POLR charge.<sup>8</sup> DP&L did so too, testifying in the ESP II Case that the RSC was a POLR charge:

Q. What is your understanding of the purpose of the RSC?

A. The RSC was a POLR charge that was developed based on the 2005 case.<sup>9</sup>

Thus, the RSC is a financial integrity charge.

The bargain struck in the Stipulation recognized the potential for the RSC to be reinstated. The parties in the ESP I case agreed to the RSC for the term of ESP I, but by operation of law and over the objection of many parties including IEU-Ohio, the Commission extended the RSC beyond the agreed-upon confines of the ESP I term.<sup>10</sup> After parties successfully challenged the nonbypassable financial integrity charge contained in DP&L's ESP II, the RSC was again reinstated; again over the objections of many parties. Thus, when the ESP III Stipulation was negotiated, the parties were quite aware of the potential for ESP III to be withdrawn and for DP&L to seek to reinstate the RSC financial integrity charge again. The bargained-for exchange, which was approved by the Commission, specifies that if the RSC succeeds the DMR, then the economic development provisions contained in Section IV and V of the Stipulation would continue.

Moreover, continuing provisions from a withdrawn ESP during the period of the successor SSO under R.C. 4928.143(C)(2)(b) occurred the last time DP&L withdrew an ESP and is what DP&L again proposes here. When DP&L withdrew its ESP II, DP&L

---

<sup>8</sup> *ESP I Case*, Finding and Order at 7 (August 26, 2016).

<sup>9</sup> *ESP II Case*, Tr. Vol. V at 1274-75.

<sup>10</sup> See *ESP I Case*, Joint Motion Seeking Enforcement of Approved Settlement Agreements and Orders Issued by the Public Utilities Commission of Ohio and Memorandum in Support (September 26, 2012). The ESP I Stipulation provided that the term of the ESP I was through December 31, 2012.

was authorized to continue the generation supply secured for the SSO through a competitive bidding process (“CBP”) auction even though DP&L’s ESP I did not contain similar provisions.<sup>11</sup> When DP&L withdrew ESP II, it also sought to continue the nonbypassable transmission charge authorized in ESP II; ESP I had a fully bypassable transmission charge. The Commission approved both of DP&L’s requests to continue provisions of the withdrawn ESP that did not exist in the prior ESP.

Here, DP&L again seeks to retain the results of the CBP auctions under ESP III for the generation supply of SSO customers. DP&L also proposes to continue the DIR, which was first authorized as part of ESP III.

There is thus precedent to continue terms of an ESP even after it is withdrawn. Moreover, here the Commission already ordered (by approving the Stipulation) the continuation of these terms if the ESP III was withdrawn and a successor financial integrity charge established. DP&L’s proposed tariff sheets for the successor SSO, however, are deficient because they do not propose to continue the economic development provisions contained within Section IV and V of the Stipulation. If the Commission authorizes DP&L to withdraw the ESP III the Commission should modify DP&L’s proposed tariff sheets and order the continuation of the economic development provisions contained in Section IV and V of the Stipulation.

**C. Continuing a financial integrity charge without the economic development provisions would yield an unjust, unreasonable, and unlawful result.**

---

<sup>11</sup> IEU-Ohio is not suggesting that the Commission should have then, or should now, upset the results of the CBP auctions used to secure generation supply for SSO customers.

If the RSC is reauthorized without the continuation of the economic development provisions of the ESP III Stipulation, an unjust and unreasonable result would be imposed on Ohio businesses including the members of IEU-Ohio served by DP&L. Accordingly, if the Commission authorizes DP&L to withdraw from its ESP III and also refuses to order the continuation of the economic development provisions from the Stipulation, the Commission should exercise its independent authority and proactively terminate the RSC, set the RSC rates to zero, or make the RSC bypassable.

The Commission has an overarching duty to ensure the charges it authorizes are lawful as well as just and reasonable. R.C. 4905.22. For example, when the Commission authorized DP&L to withdraw from its ESP II the Commission modified certain provisions of the ESP I to ensure a just and reasonable outcome. Specifically, the Commission directed DP&L to set its Environmental Investment Rider (“EIR”) rates to zero on the basis that the EIR was related to generation costs for plants no longer providing generation service to SSO customers. To comply with the mandate to restore the terms and conditions of the prior SSO under R.C. 4928.143(C)(2)(b) while ensuring rates are just and reasonable the Commission reauthorized the EIR but directed DP&L to set the EIR rates to zero.

In other contexts, the Commission has invoked its authority under R.C. 4905.26 holding that it has “considerable authority to initiate proceedings to investigate the reasonableness of any rate or charge rendered or proposed to be rendered by a public utility, which the Ohio Supreme Court has affirmed on several occasions.”<sup>12</sup> The Commission’s authority under R.C. 4905.26 also permits collateral attacks on prior

---

<sup>12</sup> AEP-Ohio Capacity Case, 10-2929-EL-UNC, Entry on Rehearing at 9 (October 17, 2012).

Commission decisions.<sup>13</sup> The Supreme Court has also confirmed that the Commission has authority to revisit prior decisions and change course so long as the new course is substantively lawful and reasonable.<sup>14</sup> Based on the Commission's duty to ensure rates are just and reasonable, the precedent with respect to DP&L's EIR, the Commission's authority under R.C. 4905.26, and the Commission's ability to prospectively change course, the Commission has clear authority to review and consider whether the RSC should be reinstated at all or reinstated at a zero rate.

Initially, reinstating the RSC at a zero rate fully reflects the basis upon which the Commission previously set the EIR rates to zero. The RSC was the result of a settlement in which DP&L claimed to have increased generation costs (see Case No. 05-276-EL-AIR). Like the EIR, the generation plants at issue in Case No. 05-276-EL-AIR are not providing generation service to SSO customers. In fact, many of the plants at issue in the 2005 case are not providing generation service to anyone as they have been closed.

Furthermore, the RSC is a POLR charge, but can no longer be validly justified based on Case No. 05-276-EL-AIR. "POLR costs are those costs incurred by [the utility] for risks associated with its legal obligation as the default provider, or electricity provider, of last resort, for customers who shop and then return to [the utility] for generation service."<sup>15</sup> The Supreme Court has "admonished the commission to 'carefully consider

---

<sup>13</sup> *Martin Marietta Magnesia Specialties, L.L.C. v. Pub. Util. Comm.*, 129 Ohio St. 3d 485 (the Commission's "prior orders can be collaterally attacked through R.C. 4905.26 complaint proceedings.").

<sup>14</sup> *In re Application of Columbus S. Power Co.*, 128 Ohio St.3d 512, 2011-Ohio-1788 ¶ 52.

<sup>15</sup> *In re Columbus S. Power Co.* 128 Ohio St.3d 512, 2011-Ohio-1788 at ¶ 23.

what costs it is attributing' to 'POLR obligations.'" And, the Commission ultimately concluded that a POLR charge must be based on out of pocket costs.<sup>16</sup>

As noted above, the RSC was originally justified based on DP&L's claim of increased generation costs of the plants it used to own and operate, *circa* 2005. DP&L does not own any of the generation plants at issue in the 2005 case anymore. Moreover, the cost and risk to provide generation service to SSO customers is now borne by the winners of the SSO CBP auctions, with DP&L simply acting as an intermediary to collect costs from customers and remit that revenue to the auction winners. To the extent that DP&L has any remaining POLR costs or risks, they are minimal. Moreover, these minor costs related to supporting the SSO have been alleged by some parties to already be recovered through distribution rates.<sup>17</sup>

DP&L's lack of substantiated ongoing POLR risks and costs was also previously confirmed. As part of the ESP II and ESP III cases, DP&L did not present any evidence of any ongoing POLR costs.<sup>18</sup> As of the ESP II Case in 2013, DP&L did not "specifically account for its POLR costs."<sup>19</sup> As of the ESP II Case in 2013, DP&L had "not performed [a] subsequent analysis in the magnitude of costs and risks of providing POLR service since the '05 case."<sup>20</sup> The "'05" case being 05-276-EL-AIR, the case that established the

---

<sup>16</sup> *AEP ESP I*, Case No. 08-917-EL-SSO, Order on Remand at 22; *see also In re Columbus S. Power Co.* 128 Ohio St.3d 512, 2011-Ohio-1788 at ¶ 23-30.

<sup>17</sup> *DP&L Distribution Rate Case*, Case No. 15-1830-EL-AIR, Opinion and Order at 5-12 \*September 26, 2018).

<sup>18</sup> *See, e.g., ESP II Case*, Tr. Vol. 5 at 1357-58.

<sup>19</sup> *Id.* at 1358.

<sup>20</sup> *Id.* at 1359.

RSC. Suffice it to say, there is no basis to justify ongoing POLR risk or costs approximating the \$73 million per year that will be collected through the RSC.

Finally, the Commission has ruled that POLR charges should be bypassable by customers who agree to shop and return to the SSO at market-based rates.<sup>21</sup> If the RSC is reinstated at a non-zero rate and without the continuation of the economic development provisions, the Commission should hold that the RSC will prospectively be bypassable for shopping customers that agree to return to the SSO at market-based rates.

IEU-Ohio would therefore urge the Commission to find that in the absence of the continuation of the economic development provisions contained in Section IV and V of the Stipulation, that the RSC would produce an unjust, unreasonable, and unlawful outcome on IEU-Ohio's members served by DP&L, and therefore, hold that the RSC will either not be reinstated or alternatively hold that the RSC will be reinstated at a zero based rate. If the RSC is reinstated at a non-zero rate without the continuation of the economic development provisions, it should be made bypassable consistent with Commission precedent.

### **III. CONCLUSION**

DP&L seeks to withdraw its ESP III and proposes tariff sheets for its successor SSO under R.C. 4928.143(C)(2)(b). DP&L's Notice of withdrawal and proposed tariff sheets are defective. DP&L has not complied with the agreed-upon procedures that serve as a prerequisite for any withdrawal of ESP III. Moreover, even if DP&L could withdraw its ESP III, the proposed tariff sheets for the successor SSO do not contain the economic

---

<sup>21</sup> *AEP ESP I*, Case No. 08-917-EL-SSO, Opinion and Order at 40 (March 18, 2009).

development provisions in the Stipulation that are required to be continued for as long as DP&L collects a financial integrity charge (which DP&L is proposing). Finally, if the ESP III is withdrawn without the continuation of the economic development provisions, the RSC should not be reinstated, should be reinstated at a zero rate, or should be made bypassable; to do otherwise would subject IEU-Ohio's members served by DP&L to an unjust, unreasonable, and unlawful result.

Respectfully submitted,

/s/ Matthew R. Pritchard

Matthew R. Pritchard (Reg. No. 0088070)  
(Counsel of Record)

MCNEES WALLACE & NURICK LLC  
21 East State Street, 17<sup>TH</sup> Floor  
Columbus, OH 43215  
Telephone: (614) 719-2842  
Telecopier: (614) 469-4653  
mpritichard@mcneeslaw.com

## **CERTIFICATE OF SERVICE**

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Industrial Energy Users-Ohio's Response to The Dayton Power and Light Company's Notice of Withdrawal*, was sent by, or on behalf of, the undersigned counsel for IEU-Ohio to the following parties of record this 4<sup>th</sup> day of December 2019, *via* electronic transmission.

/s/Matthew R. Pritchard

Matthew R. Pritchard

Jeffrey S. Sharkey  
(Counsel of Record)  
D. Jeffrey Ireland  
Christopher C. Hollon  
FARUKI IRELAND & COX P.L.L.  
110 North Main Street, Suite 1600  
Dayton, OH 45402  
jsharkey@ficlaw.com  
djireland@ficlaw.com  
chollon@ficlaw.com

### **COUNSEL FOR THE DAYTON POWER AND LIGHT COMPANY**

Caroline Cox  
Environmental Law & Policy Center  
21 West Broad St., Suite 500  
Columbus, OH 43215  
ccox@elpc.org

### **COUNSEL FOR THE ENVIRONMENTAL LAW & POLICY CENTER**

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

### **COUNSEL FOR MONITORING ANALYTICS, LLC**

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

### **COUNSEL FOR OHIO ENERGY GROUP**

Kevin R. Schmidt (Reg. No. 0086722)  
Strategic Public Partners  
88 East Broad Street, Suite 1770  
Columbus, OH 43215  
schmidt@sppgrp.com

### **COUNSEL FOR ENERGY PROFESSIONALS OF OHIO**

William J. Michael  
Office of the Ohio Consumers' Counsel  
65 East State Street, 7th Floor  
Columbus, OH 43215-4203  
William.Michael@occ.ohio.gov

### **COUNSEL FOR OFFICE OF THE OHIO CONSUMERS' COUNSEL**



Angela Paul Whitfield  
Carpenter Lipps & Leland LLP  
280 Plaza, Suite 1300  
280 North High Street  
Columbus, OH 43215  
paul@carpenterlipps.com

**COUNSEL FOR THE KROGER CO.**

Kimberly W. Bojko  
Brian W. Dressel  
Carpenter Lipps & Leland LLP  
280 North High Street, Suite 1300  
Columbus, OH 43215  
Bojko@carpenterlipps.com  
dressel@carpenterlipps.com

**COUNSEL FOR THE OHIO MANUFACTURERS'  
ASSOCIATION ENERGY GROUP**

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

**COUNSEL FOR DYNEGY INC., PJM POWER  
PROVIDERS GROUP AND THE ELECTRIC POWER  
SUPPLY ASSOCIATION AND THE RETAIL ENERGY  
SUPPLY ASSOCIATION**

Joseph Olikier  
Michael Nugent  
IGS Energy  
6100 Emerald Parkway  
Dublin, OH 43016  
joe.oliker@igs.com  
michael.nugent@igs.com

**COUNSEL FOR IGS ENERGY**

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

**COUNSEL FOR NOBLE AMERICAS ENERGY  
SOLUTIONS LLC**

Colleen L. Mooney  
231 West Lima Street  
PO Box 1793  
Findlay, OH 45839-1793  
cmooney@ohiopartners.org

**COUNSEL FOR OHIO PARTNERS FOR AFFORDABLE  
ENERGY**

Miranda Leppla  
1145 Chesapeake Ave., Suite I  
Columbus, OH 43212-3449  
mleppla@theoec.org

**COUNSEL FOR THE ENVIRONMENTAL DEFENSE  
FUND**

Trent Dougherty  
1145 Chesapeake Ave., Suite I  
Columbus, OH 43212-3449  
tdougherty@theOEC.org

**COUNSEL FOR THE OHIO ENVIRONMENTAL COUNCIL**

Joel E. Sechler  
Carpenter Lipps & Leland LLP  
280 North High Street, Suite 1300  
Columbus, OH 43215  
Sechler@carpenterlipps.com

**COUNSEL FOR ENERNOC, INC.**

Elizabeth H. Watts  
Jeanne W. Kingery  
139 East Fourth Street  
1303-Main  
Cincinnati, OH 45202  
elizabeth.watts@duke-energy.com  
Jeanne.kingery@duke-energy.com

**COUNSEL FOR DUKE ENERGY OHIO, INC.**

Regulatory Counsel  
Ohio Hospital Association  
155 East Broad Street, 3<sup>rd</sup> Floor  
Columbus, OH 43215-3620

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

**COUNSEL FOR THE OHIO HOSPITAL ASSOCIATION**

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

Tony Mendoza  
Kristin Henry  
Greg Wannier  
Sierra Club Environmental Law Program  
2101 Webster St., 13<sup>th</sup> Floor  
Oakland, CA 94612  
Tony.mendoza@sierraclub.org  
Kristin.henry@sierraclub.org  
Greg.Wannier@sierraclub.org

**COUNSEL FOR SIERRA CLUB**

Steven D. Lesser  
James F. Lang  
N. Trevor Alexander  
Mark T. Keaney  
Calfee, Halter & Griswold LLP  
41 S. High St.  
1200 Huntington Center  
Columbus, OH 43215  
slesser@calfee.com  
jlang@calfee.com  
talexander@calfee.com  
mkeaney@calfee.com

**COUNSEL FOR THE CITY OF DAYTON AND HONDA  
OF AMERICA MFG., INC.**

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

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

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

Stephen W. Chriss  
Greg Tillman  
Wal-Mart Stores, Inc.  
2001 SE 10<sup>th</sup> Street  
Bentonville, AR 72716-0550  
Stephen.chriss@walmart.com  
Greg.tillman@walmart.com

**COUNSEL TO WAL-MART STORES EAST, LP AND  
SAM'S EAST, INC.**

Terrence O'Donnell  
Christine M.T. Pirik  
William V. Vorys  
Dickinson Wright PLLC  
150 E. Gay Street, Suite 2400  
Columbus, OH 43215  
todonnell@dickinsonwright.com  
cpirik@dickinsonwright.com  
wvorys@dickinsonwright.com

**COUNSEL TO MID-ATLANTIC RENEWABLE ENERGY  
COALITION**

Ellis Jacobs  
130 West Second Street, Suite 700 East  
Dayton, OH 45402  
ejacobs@ablelaw.org

**COUNSEL TO EDMONT NEIGHBORHOOD  
COALITION AND ADVOCATES FOR BASIC LEGAL  
EQUALITY**

John R. Doll  
111 W. First Street, Suite 1100  
Dayton, OH 45402-1156  
jdoll@djflawfirm.com

**COUNSEL FOR UTILITY WORKERS OF AMERICA,  
LOCAL 175**

Devin Parram  
Bricker and Eckler LLP  
100 South Third Street  
Columbus, OH 43215  
dparram@bricker.com

**COUNSEL FOR PEOPLE WORKING COOPERATIVELY,  
INC.**

Carl Tamm  
Classic Connectors, Inc.  
382 Park Avenue East  
Mansfield, OH 44905  
crtamm@classicconnectors.com

**ON BEHALF OF CLASSIC CONNECTORS, INC.**

C. David Kelley  
Dana N. Whalen  
Adams County Prosecutor's Office  
West Union, OH 45693  
prosecutorkelly@usa.org  
dana.whalen@adamscountyoh.gov

**ON BEHALF OF ADAMS COUNTY OHIO VALLEY  
SCHOOL DISTRICT AND SPRIGG TOWNSHIP**

Thomas McNamee  
Assistant Attorneys General  
Public Utilities Section  
Office of the Attorney General  
30 E. Broad St, 16th Floor  
Columbus, Ohio 43215  
Thomas.mcnamee@ohioattorneygeneral.gov

**COUNSEL FOR THE STAFF OF THE PUBLIC UTILITIES  
COMMISSION OF OHIO (PUCO)**

Patricia Schabo  
Gregory Price  
Attorney Examiners  
Legal Department  
Public Utilities Commission of Ohio  
180 East Broad Street, 12<sup>th</sup> Floor  
Columbus OH 43215  
Patricia.schabo@puc.state.oh.us  
gregory.price@puc.state.oh.us

**ATTORNEY EXAMINERS**

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

**Commission of Ohio Docketing Information System on**

**12/4/2019 4:49:10 PM**

**in**

**Case No(s). 16-0395-EL-SSO, 16-0396-EL-ATA, 16-0397-EL-AAM, 08-1094-EL-SSO, 08-1095-EL-ATA,**

Summary: Response to The Dayton Power & Light Company's Notice of Withdrawal  
electronically filed by Mr. Matthew R. Pritchard on behalf of Industrial Energy Users-Ohio