

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The	)	
Dayton Power and Light Company for a	)	
Finding That Its Current Electric Security	)	Case No. 20-680-EL-UNC
Plan Passes the Significantly Excessive	)	
Earnings Test and More Favorable in the	)	
Aggregate Test in R.C. 4928.143(E).	)	

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**MOTION FOR PROTECTIVE ORDER  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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The Office of the Ohio Consumers' Counsel ("OCC") hereby moves the Public Utilities Commission of Ohio ("PUCO") for a protective order regarding information asserted to be confidential by the Dayton Power and Light Company ("DP&L").<sup>1</sup> As part of discovery in this proceeding, DP&L provided information to OCC, subject to a protective agreement, and DP&L asserts that this information constitutes trade secret information under Ohio law.

OCC hereby requests that, in accordance with Ohio Adm. Code. 4901-1-02(E), the PUCO issue such order as is necessary to protect the undisclosed (redacted) portions of the Testimony of Matthew I. Kahal on Behalf of the Office of the Ohio Consumers' Counsel (the "Kahal Testimony") that are asserted to be confidential by DP&L. Subject to OCC's rights under the protective agreement, OCC is filing the Kahal Testimony under seal and is also filing a public version that shows all information not claimed by the DP&L to be confidential.

By filing this motion, OCC does not concede that the information constitutes trade secret information. But OCC acknowledges that it has obtained this information under a protective agreement with DP&L that provides for such information to be treated as confidential and

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<sup>1</sup> This Motion is filed pursuant to Ohio Adm. Code 4901-1-02(E), 4901-1-12, and 4901-1-24(D).

protected unless and until the PUCO rules that the information must be publicly disclosed under Ohio law.

The grounds for this motion are more fully described in the accompanying memorandum in support.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ Christopher Healey

Christopher Healey (0086027)  
Counsel of Record

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**MEMORANDUM IN SUPPORT**

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OCC files this Motion contemporaneously with the filing of the Kahal Testimony. In filing this motion, OCC does not concede that the information in the Kahal Testimony is trade secret information pursuant to R.C. 1333.61(D) and does not concede that the information deserves protection from public revelation under Ohio Adm. Code 4901-1-24(D).

OCC understands that DP&L considers the undisclosed (redacted) information to be confidential and deserving of the protection of trade secret information as defined in R.C. 1333.61(D). OCC's understanding is based on allegations by DP&L that the information (1) derives economic value, actual or potential, from not being known to, and not being readily ascertainable by proper means by others, and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. *See* R.C. 1333.61(D). Under the assertions made by DP&L, at this time, confidential treatment of the redacted information in the Kahal Testimony would be appropriate, unless and until the PUCO rules that the information must be publicly disclosed under Ohio law.

In addition, OCC is filing a public version of the Kahal Testimony so that all information not claimed by the DP&L to be confidential is accessible for the public's review. The public version does not contain information that was asserted by DP&L to be confidential.

For the foregoing reasons and subject to the foregoing reservations of rights, this motion should be granted at this time.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ Christopher Healey  
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(willing to accept service by e-mail)

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the Motion for Protective Order was served on the persons stated below via electronic transmission this 22nd day of October 2020.

*/s/ Christopher Healey* \_\_\_\_\_  
Christopher Healey  
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Summary: Motion Motion for Protective Order by The Office of The Ohio Consumers' Counsel electronically filed by Mrs. Tracy J Greene on behalf of Healey, Christopher