BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of the Dayton Power and Light Company for Approval of Its Plan to Modernize Its Distribution Grid.	)	Case No. 18-1875-EL-GRD
In the Matter of the Application of the Dayton Power and Light Company for Approval of a Limited Waiver of Ohio Adm. Code 4901:1-18-06(A)(2).	)	Case No. 18-1876-EL-WVR
In the Matter of the Application of the Dayton Power and Light Company for Approval of Certain Accounting Methods.	)	Case No. 18-1877-EL-AAM
In the Matter of the Application of the Dayton Power and Light Company for Administration of the Significantly Excessive Earnings Test Under R.C. 4928.143(F) and Ohio Adm. Code 4901:1-35-10 for 2018.	)	Case No. 19-1121-EL-UNC
In the Matter of the Application of the Dayton Power and Light Company for a Finding that Its Current Electric Security Plan Passes the Significantly Excessive Earnings Test and More Favorable in the Aggregate Test in R.C. 4928.143(E).	)	Case No. 20-680-EL-UNC
In the Matter of the Application of the Dayton Power and Light Company for Administration of the Significantly Excessive Earnings Test Under R.C. 4928.143(F) and Ohio Adm. Code 4901:1-35-10 for 2019.	)	Case No. 20-1041-EL-UNC

REPLY BRIEF OF THE OHIO ENERGY GROUP

The Ohio Energy Group ("OEG") submits this Reply Brief in order to correct misrepresentations contained in the Initial Brief of the Office of the Ohio Consumers' Counsel ("OCC") filed February 12, 2021 in these proceedings. OEG's decision not to respond to other arguments raised in this proceeding should not be construed as implicit agreement with those arguments.

As an initial matter, OCC offers an extremely constrained reading of R.C. 4928.143(E) that would unduly limit the Commission's broad discretion in resolving cases brought under that statute. Specifically, OCC claims that if the Commission chooses to terminate The Dayton Power and Light Company's ("Company" or "DP&L") current Electric Security Plan ("ESP") in this proceeding - which the Commission is not required to do even if it finds that the ESP fails the More Favorable in the Aggregate ("MFA") test or would result in future significantly

excessive earnings - then DP&L must move to a Market Rate Offer ("MRO"). OCC's claim hinges almost entirely on the meaning of the word "*the*" in the statutory phrase "*the more advantageous alternative*" within R.C. 4928.143(E) and essentially disregards the remainder of the statute.[1] But the additional language matters. Indeed, the remainder of the statute sheds light on how "*the more advantageous alternative*" could be developed, allowing for the Commission to hold a hearing on the potential alternative plan, to impose terms and conditions that the Commission "*considers reasonable and necessary to accommodate the transition*" to that alternative plan, and to continue existing deferrals and phase-ins in that alternative plan. This language grants the Commission broad authority to craft "*the more advantageous alternative*" and allows for the continuation or establishment of rate mechanisms that may be unavailable in the context of an MRO. OCC's constrained reading or R.C. 4928.143(E) does not comport with this broad statutory language. Moreover, and perhaps most fundamentally, if the Ohio General Assembly had intended to mandate that any utility whose ESP failed the MFA/SEET test must transition to an MRO, then it would have used specific language to that effect within the statute.

With respect to OCC's arguments regarding the "*redistributive coalition*," OCC omits or intentionally disregards critical details in its attempt to portray the settlement process as unfair. For instance, OCC claims that the settlement process "*favors a small group of interests, by design, so that the small group gains a competitive advantage over the truly diverse parties that are not part of the coalition*,"[2] while avoiding any mention of PUCO Staff's role in the negotiation process. As OCC is well-aware, Staff typically plays a major role in settlement discussions, as it did in this case, actively seeking to help balance the interests of *all* stakeholders, not just signatory parties. It is therefore disingenuous for OCC to insinuate that the interests of all stakeholders are not considered in the settlement process.

[1] OCC Brief at 18-20.
[2] OCC Brief at 41.

Additionally, OCC's claims of partiality ignore or underplay the many benefits to residential customers that would result from approval of the Stipulation. Such benefits, including DP&L shareholder-funded commitments aimed at helping residential customers conserve energy through weatherization and water heater programs, were detailed extensively in the Initial Briefs filed in this proceeding and notably absent from OCC's discussion of the Stipulation.[3] Accordingly, OCC's skewed mischaracterization of the Stipulation should be rejected.

Respectfully submitted,

/s/ Michael L Kurtz

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[3] Initial Brief of Staff at 11-21; Initial Brief of DP&L at 11-29; Initial Brief of The Kroger Co. at 9-14; Initial Brief of OMAEG at 9-18; Initial Brief of IEU-Ohio at 79; -Initial Brief of Environmental Policy & Law Center and Ohio Environmental Council at 1-6;

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing was served upon the persons listed below via electronic transmission this 5th day of March, 2021.

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Summary: Brief Ohio Energy Group (OEG) Reply Brief electronically filed by Mr. Michael L. Kurtz on behalf of Ohio Energy Group