

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of	:	Case No. 08-1094-EL-SSO
The Dayton Power and Light Company for		
Approval of Its 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	:	
Pursuant to Ohio Rev. Code § 4905.13.		

In the Matter of the Application of	:	Case No. 08-1097-EL-UNC
The Dayton Power and Light Company for		
Approval of Its Amended Corporate	:	
Separation Plan.	:	

**THE DAYTON POWER AND LIGHT COMPANY D/B/A AES OHIO'S
MEMORANDUM IN OPPOSITION TO OFFICE OF THE OHIO
CONSUMERS' COUNSEL'S MOTION FOR A PROCEDURAL SCHEDULE**

Contemporaneously with the filing of this Memorandum, The Dayton Power and Light Company d/b/a AES Ohio ("AES Ohio") has filed The Dayton Power and Light Company d/b/a/ AES Ohio's Motion to Strike the Notice of Termination and Withdrawal from the February 24, 2009 Settlement by Office of the Ohio Consumers' Counsel ("Motion to Strike"). That Motion demonstrates that OCC's Notice of Termination and Withdrawal should to stricken for the following reasons:

1. OCC's August 27, 2021 notice of appeal deprives the Commission of jurisdiction in this matter.
2. The Commission has not made a modification to the ESP I Stipulation.

3. The distribution rate freeze was terminated before the Commission's December 18, 2019 Order, so that Order did not modify the ESP I Stipulation by failing to continue the rate freeze.
4. OCC has waived any rights it may have had to terminate or withdraw from the ESP I Stipulation.
5. OCC's arguments are barred by OCC's conduct in other proceedings.
6. R.C. 4928.143(C)(2)(a) & (b) require that ESP I be in place, so the remedy that OCC seeks (that ESP I be terminated) is barred by law.

For those same reasons, the Commission should deny OCC's Motion for a procedural schedule. AES Ohio thus asks the Commission to hold OCC's Motion for a procedural schedule in abeyance until the Commission decides AES Ohio's Motion to strike.

If the Commission were to deny AES Ohio's Motion to Strike and set this matter for a hearing, then the Commission should include a date for AES Ohio to file any supplemental testimony. Further, OCC has not offered any reason supporting its request for a 7-calendar-day response to discovery requests; that request is unnecessary and unreasonable; and the standard 20-day response time should be used in this case.

Respectfully submitted,

s/ Michael J. Schuler

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing The Dayton Power and Light Company d/b/a AES Ohio's Memorandum in Opposition to Office of the Ohio Consumers' Counsel's Motion for a Procedural Schedule has been served via electronic mail upon the following counsel of record, this 30th day of September, 2021:

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Summary: Memorandum The Dayton Power and Light Company D/B/A AES Ohio's Memorandum in Opposition to Office of the Ohio Consumers' Counsel's Motion for a Procedural Schedule electronically filed by Mr. Jeffrey S. Sharkey on behalf of The Dayton Power and Light Company