

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Procurement of	:	
Standard Generation for Customers of	:	Case No. 17-957-EL-UNC
The Dayton Power and Light Company	:	

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**MEMORANDUM IN OPPOSITION TO APPLICATION FOR REHEARING**

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The Commission should deny the October 21, 2022 Application for Rehearing by The Office of the Ohio Consumers' Counsel regarding the September 21, 2022 Finding and Order in this proceeding.

On August 12, 2022, The Dayton Power and Light Company d/b/a AES Ohio filed an application to modify its competitive bid process for procuring Standard Service Offer supply. Specifically, AES Ohio requested authority to hold auctions in November 2022 and March 2023 to procure SSO supply for the 2023/2024 delivery year, and to procure a 12-month supply of 35 tranches at the November auction and both a 12-month supply of 25 tranches and a 24-month supply of 40 tranches at the March auction. This laddering and staggering will enable AES Ohio to offer a blended Standard Offer Rate that will provide customers with greater protection against market volatility and more stable generation prices over time. The Commission approved those modifications in its Finding and Order.

In its Application for Rehearing, OCC does not address AES Ohio's proposal. Instead, OCC argues that the Commission acted unlawfully "by authorizing [AES Ohio] to charge at-risk [Percentage of Income Payment Plan] consumers electricity prices higher than those its standard service offer consumers pay." But, in its Finding and Order in this case, the Commission did not authorize any PIPP rates. Indeed, the Commission previously found in separate proceedings that (1) AES Ohio's procurement of PIPP load for the June 2022 / May 2023 delivery year complied

with the competitive process established under R.C. 4928.54, *et seq.*, in the March 2, 2016 Finding and Order in Case No. 16-0247-EL-UNC (*Implementation Case*), and (2) AES Ohio's PIPP rates reflect its auction results. May 18, 2022 Finding and Order, Case No. 17-1163-EL-UNC (approving AES Ohio's PIPP auction results); May 18, 2022 Finding and Order, Case No. 22-373-EL-RDR (approving AES Ohio's PIPP rates). OCC did not object to those findings or file applications for rehearing in those dockets, and its complaint about AES Ohio's PIPP rates here are an improper collateral attack on those orders.

Although not identified as a specific ground on which OCC considered the Finding and Order to be unreasonable or unlawful pursuant to R.C. 4903.10(B) or Ohio Adm.Code 4901-1-35(A), the Commission did reject OCC's proposal in this proceeding to combine AES Ohio's future SSO and PIPP auctions. While AES Ohio shares OCC's concerns about the impact of recent PIPP auctions on all customers, OCC has not addressed the impact of including PIPP load on the SSO price, or the implications of the requirement of R.C. 4928.54 that only competitive retail electric service providers may participate in the PIPP procurement process. OCC also does not address the *Implementation Case* or how the results of a combined SSO/PIPP auction would, in fact, "[r]educe the cost of the percentage of income payment plan program relative to the otherwise applicable standard service offer," as required by R.C. 4928.542(B). Moreover, the Commission recently affirmed that under R.C. 4928.54, PIPP load shall be aggregated separately from SSO load. Case No. 22-556-EL-USF, Opinion and Order (Oct. 5, 2022), ¶ 45 ("It is clear from the plain language of the statute that the General Assembly intended that PIPP program loads be aggregated and procured from a competitive bidding process separate from the SSO customers."). Thus, to the extent that the Commission considers this issue properly raised by OCC on rehearing, it should be denied.

As the Company stated in its Reply Comments, AES Ohio is open to discussing alternative PIPP procurement processes that would protect customers under the current statutory framework. *Accord*: July 15, 2022 Joint Reply Comments of The Dayton Power and Light Company, Ohio Power Company, and Duke Energy Ohio, Inc., p. 4, Case No. 22-0556-EL-USF; Sept. 12, 2022 Initial Post-Hearing Brief of AES Ohio, p. 9, Case No. 22-0556-EL-USF. However, given the myriad of complex legal and policy questions involved, any PIPP reform should be addressed in an open process with all interested stakeholders, like the *Implementation Case*.

Respectfully submitted,

/s/ Christopher C. Hollon  
Christopher C. Hollon (0086480)  
AES OHIO  
1065 Woodman Drive  
Dayton, Ohio 45432  
Phone: (937) 259-7358  
Email: christopher.hollon@aes.com

*Counsel for AES Ohio*

(willing to accept service by e-mail)

## CERTIFICATE OF SERVICE

Pursuant to Ohio Adm.Code 4901-1-05, I certify that a copy of the foregoing was e-filed with the Public Utilities Commission of Ohio on October 31, 2022. The PUCO's e-filing system will electronically service notice of the filing of this document on the following parties:

*Staff of the Commission*

Thomas Lindgren [thomas.lindgren@OhioAGO.gov](mailto:thomas.lindgren@OhioAGO.gov)

*Direct Energy Business, LLC, Direct Energy Services, LLC, and Retail Energy Supply Association*

Mark A. Whitt [whitt@whitt-sturtevant.com](mailto:whitt@whitt-sturtevant.com)

*Duke Energy Ohio, Inc.*

Rocco O. D'Ascenzo [Rocco.DAscenzo@duke-energy.com](mailto:Rocco.DAscenzo@duke-energy.com)

Jeanne W. Kingery [Jeanne.Kingery@duke-energy.com](mailto:Jeanne.Kingery@duke-energy.com)

Larisa Vaysman [Larisa.Vaysman@duke-energy.com](mailto:Larisa.Vaysman@duke-energy.com)

*Energy Harbor LLC*

N. Trevor Alexander [talexander@beneschlaw.com](mailto:talexander@beneschlaw.com)

Mark T. Keaney [mkeaney@beneschlaw.com](mailto:mkeaney@beneschlaw.com)

Kari D. Hehmeyer [khehmeyer@beneschlaw.com](mailto:khehmeyer@beneschlaw.com)

*Exelon Generation Company*

Gretchen L. Petrucci [glpetrucci@vorys.com](mailto:glpetrucci@vorys.com)

*FirstEnergy Service Company*

Robert M. Endris [rendris@firstenergycorp.com](mailto:rendris@firstenergycorp.com)

*Ohio Energy Group*

Michael L. Kurtz [mkurtz@BKLawfirm.com](mailto:mkurtz@BKLawfirm.com)

Kurt J. Boehm [kboehm@BKLawfirm.com](mailto:kboehm@BKLawfirm.com)

Jody Kyler Cohn [jkylercohn@BKLawfirm.com](mailto:jkylercohn@BKLawfirm.com)

*IGS Energy*

Joseph Olikier [joe.oliker@igs.com](mailto:joe.oliker@igs.com)

Michael Nugent [michael.nugent@igs.com](mailto:michael.nugent@igs.com)

*Industrial Energy Users-Ohio*

Matthew R. Pritchard [mpritchard@mcneeslaw.com](mailto:mpritchard@mcneeslaw.com)

*Office of the Ohio Consumers' Counsel*

William Michael [william.michael@occ.ohio.gov](mailto:william.michael@occ.ohio.gov)

*Ohio Power Company*

Steven T. Nourse [stnourse@aep.com](mailto:stnourse@aep.com)

/s/ Christopher C. Hollon

Christopher C. Hollon

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Summary: Memorandum Memorandum in Opposition to Application for Rehearing  
electronically filed by Mr. Christopher C. Hollon on behalf of The Dayton Power and  
Light Company d/b/a AES Ohio