

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of the	:	Case No. 21-0588-EL-UNC
Significantly Excessive Earnings Test under		
R.C. 4928.143(F) and Ohio Adm.Code	:	
4901:1-35-10 for The Dayton Power and		
Light Company d/b/a AES Ohio	:	

In the Matter of the Application of the	:	Case No. 22-0514-EL-UNC
Significantly Excessive Earnings Test under		
R.C. 4928.143(F) and Ohio Adm.Code	:	
4901:1-35-10 for The Dayton Power and		
Light Company d/b/a AES Ohio	:	

In the Matter of the Application of the	:	Case No. 23-0543-EL-UNC
Significantly Excessive Earnings Test under		
R.C. 4928.143(F) and Ohio Adm.Code	:	
4901:1-35-10 for The Dayton Power and		
Light Company d/b/a AES Ohio	:	

STIPULATION AND RECOMMENDATION

Pursuant to Ohio Adm.Code 4901-1-30, any two or more parties may enter into a written stipulation concerning a proposed resolution of some or all of the issues in a proceeding of the Public Utilities Commission of Ohio ("Commission"). This Stipulation and Recommendation ("Stipulation") sets forth the understanding and agreement of the parties that have signed below ("Signatory Parties"), who recommend that the Commission approve and adopt this Stipulation without modification to resolve all issues in the above-captioned proceeding.

This Stipulation reflects a just and reasonable resolution of the issues in this proceeding. It is the product of serious, arms-length bargaining among the Signatory Parties. All parties were invited to discuss and negotiate this Stipulation, and it was openly negotiated among those parties that chose to participate; no party was excluded from these negotiations.

This Stipulation is supported by adequate data and information, and as a package, benefits customers and the public interest. This Stipulation violates no regulatory principle or practice; indeed, it complies with and promotes the policies and requirements of Title 49 of the Ohio Revised Code. This Stipulation accommodates the diverse interests represented by the Signatory Parties and is entitled to careful consideration by the Commission.

WHEREAS, The Dayton Power and Light Company d/b/a AES Ohio ("AES Ohio" or the "Company") is a public utility engaged in the business of supplying electric distribution service to more than 500,000 customers in West Central Ohio;

WHEREAS, in order to comply with R.C. 4928.143(F) and Ohio Adm.Code 4901:1-35-10, AES Ohio filed applications and supporting testimony and schedules in these proceedings in which it sought administration of the significantly excessive earnings test for 2020, 2021, and 2022.

NOW, THEREFORE, in order to resolve all of the issues raised in these proceedings, the Signatory Parties stipulate, agree, and recommend that the Commission issue an Opinion and Order in these proceedings accepting and adopting this Stipulation, as set forth below, without material modification.

1. Significantly Excessive Earnings Test

- a. AES Ohio had per-books returns on equity of 8.9% in 2020, 7.1% in 2021, and 2.6% in 2022.
- b. The Signatory Parties have conducted their own review or analyses of AES Ohio's earnings. While the Signatory Parties do not necessarily endorse the

other Signatory Parties' respective review or analyses and will not be bound in future proceedings by the analyses or methodologies employed by any other Signatory Party,¹ they agree that AES Ohio did not have significantly excessive earnings under R.C. 4928.143(F) in 2020, 2021, or 2022.

2. Procedural Matters

- a. The Stipulation addresses a variety of complex issues that, absent this agreement, would have been resolved through several complex, protracted, and litigated proceedings. The Stipulation contains the entire agreement among the Signatory Parties and reflects a complete settlement of all proposals, issues, comments, and objections in these proceedings. The Signatory Parties will support this Stipulation, if it is contested, and no Signatory Party shall oppose an application for rehearing designed to defend the terms of the original unmodified Stipulation. The Signatory Parties agree that this Stipulation advances the public interest and urge the Commission to adopt it.
- b. Except for purposes of enforcing the Stipulation or establishing that its terms and conditions are lawful, neither the Stipulation nor the information and data contained therein or attached hereto shall be cited as precedent in any proceeding for or against a Signatory Party, if the Commission approves this

¹ For the avoidance of doubt, by signing this Stipulation, Signatory Parties are not agreeing to any analysis or methodologies employed by AES Ohio in its applications or testimony, and any admission of AES Ohio's applications or testimony into the record in these proceedings shall not be considered Signatory Party's agreement to the analyses and methodologies employed therein.

Stipulation. The Stipulation is submitted for the purpose of resolving only the proceedings identified herein and does not reflect the position that any individual Signatory Party may take as to any individual provision of the Stipulation, standing alone. Rather, the Stipulation reflects an overall outcome that reflects a compromise and balancing of competing interests and does not reflect the position that any one of the Signatory Parties would have taken on any individual issue. As such, acceptance of any provision within this Stipulation shall not be cited by any party or the Commission in any case to state or imply that any Signatory Party agrees with any specific provision of the settlement.

- c. This Stipulation is expressly conditioned upon its adoption by the Commission in its entirety and without material modification. Each Signatory Party has the right in its sole discretion to determine whether the Commission's approval of this settlement contains a material modification. If the Commission rejects or materially modifies all or any part of this Stipulation, any Signatory Party shall have the right, within thirty days of issuance of the Commission's Order, to file an application for rehearing. The Signatory Parties agree that they will not oppose or argue against any other Signatory Party's application for rehearing that seeks to uphold the original unmodified Stipulation. If the Commission does not adopt the Stipulation without material modification upon any rehearing ruling, then within thirty days of such Commission rehearing ruling any Signatory Party may terminate its Signatory Party status and withdraw from the Stipulation by filing a notice

with the Commission. No Signatory Party shall file a Notice of Withdrawal 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.

- d. Unless a Signatory Party exercises its right to withdraw from the Stipulation and terminate its status as a Signatory Party, each Signatory Party agrees to and will support and/or not oppose the reasonableness of the Stipulation before the Commission, and to cause its counsel to do the same, and in any appeal from the Commission's adoption or enforcement of the Stipulation in which it participates.
- e. The Signatory Parties agree that the Stipulation is a product of serious bargaining among capable, knowledgeable parties. This Stipulation is the

product of an open process in which all parties were represented by able counsel and technical experts. The Stipulation represents a comprehensive compromise of issues raised by parties with diverse interests. The Signatory Parties believe that the Stipulation that they are recommending for Commission adoption presents a fair and reasonable result.

- f. AES Ohio will file testimony in support of this Stipulation. Nothing herein prohibits any Signatory Party from filing testimony or submitting evidence in support of the Stipulation.
- g. The Signatory Parties agree that the settlement, as a package, benefits AES Ohio's customers and is in the public interest. The Signatory Parties agree that the settlement package does not violate any important regulatory principle or practice.

IN WITNESS THEREOF, the undersigned Signatory Parties agree to this Stipulation and Recommendation this 22nd day of August, 2023. The undersigned Signatory Parties request that the Commission issue an Opinion and Order approving and adopting this Stipulation.

THE DAYTON POWER AND LIGHT
COMPANY D/B/A AES OHIO

By: /s/ Christopher C. Hollon
Christopher C. Hollon

OHIO ENERGY LEADERSHIP COUNCIL

By: /s/ David F. Proaño
David F. Proaño
*per email authorization 8/22/23

STAFF OF THE PUBLIC UTILITIES
COMMISSION OF OHIO

By: /s/ Amy Botschner O'Brien
Amy Botschner O'Brien
*per email authorization 8/22/23

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Stipulation and Recommendation was e-filed with the Public Utilities Commission of Ohio on August 22, 2023. The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

Staff of the Public Utilities Commission of Ohio

Thomas Lindgren thomnas.lindgren@OhioAGO.gov
Amy Botschner O'Brien amy.botschnerobrien@ohioago.gov

Office of the Ohio Consumers' Counsel

Angela O'Brien angela.obrien@occ.ohio.gov
William Michael william.michael@occ.ohio.gov
Connor Semple connor.semple@occ.ohio.gov

Ohio Energy Leadership Council

David F. Proaño dproano@bakerlaw.com
Ali I. Haque ahaque@bakerlaw.com
Erika D. Prouty eprouthy@bakerlaw.com
Paul M. Willison pwillison@bakerlaw.com

/s/ Christopher C. Hollon
Christopher C. Hollon

**This foregoing document was electronically filed with the Public Utilities
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Case No(s). 21-0588-EL-UNC, 22-0514-EL-UNC, 23-0543-EL-UNC

Summary: Stipulation Stipulation and Recommendation electronically filed by Mr. Christopher C. Hollon on behalf of The Dayton Power and Light Company d/b/a AES Ohio.