

IN THE SUPREME COURT OF OHIO
On Appeal From the Public Utilities Commission of Ohio

The Office of the Ohio Consumers' Counsel,)	Case No. 06-0788
)	
Appellant,)	
)	Appeal from the Public
v.)	Utilities Commission of Ohio
)	Case No. 05-276-EL-AIR
The Public Utilities Commission)	
of Ohio,)	
)	
Appellee.)	

FILED
DEC 26 2006
MARCIA J. MENGEL, CLERK
SUPREME COURT OF OHIO

LIST OF ADDITIONAL AUTHORITIES
BY
APPELLANT, THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

Janine L. Migden-Ostrander
(Reg. No. 0002310)
Consumers' Counsel

James Petro
(Reg. No. 0022096)
Attorney General of Ohio

Jeffrey L. Small, Counsel of Record
(Reg. No. 0061488)
Ann M. Hotz
(Reg. No. 0053070)
Assistant Consumers' Counsel

Duane W. Luckey, Counsel of Record
(Reg. No. 0023557)
Senior Deputy Attorney General
Werner Margard, III
(Reg. No. 0024858)
Assistant Attorney General
Public Utilities Section

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-8574 (Telephone)
(614) 466-9475 (Facsimile)

Public Utilities Commission of Ohio
180 East Broad Street, 9th Floor
Columbus, Ohio 43215-3793
(614) 644-8698 (Telephone)
(614) 752-8351 (Facsimile)

small@occ.state.oh.us
hotz@occ.state.oh.us

Duane.Luckey@puc.state.oh.us
Werner.Margard@puc.state.oh.us

Attorneys for Appellant
Office of the Ohio Consumers' Counsel

Attorneys for Appellee
Public Utilities Commission of Ohio

Charles Faruki, Counsel of Record
(Reg. No. 0010417)
Gerald Sharkey
(Reg. No. 0067892)
Faruki, Ireland & Cox PLL
500 Courthouse Plaza, S.W.
10 North Ludlow Street
Dayton, Ohio 45402
(937) 227-3705 (Telephone)
(937) 227-3717 (Facsimile)

Attorneys for Intervening Appellee,
Dayton, Power and Light Company

Samuel C. Randazzo, Counsel of Record
(Reg. No. 0016386)
Lisa McAlister
(Reg. No. 0075043)
Daniel Neilsen
(Reg. No. 0076377)
McNees, Wallace & Nurick
Fifth Third Building
21 East State Street, 17th Floor
Columbus, Ohio 43215-4213
(614) 469-8000 (Telephone)
(614) 469-4653 (Facsimile)

Attorneys for Intervening Appellee,
Industrial Energy Users - Ohio

IN THE SUPREME COURT OF OHIO
On Appeal From the Public Utilities Commission of Ohio

The Office of the Ohio Consumers' Counsel,)	Case No. 06-0788
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Appellant,)	
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The Public Utilities Commission)	
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BY
APPELLANT, THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

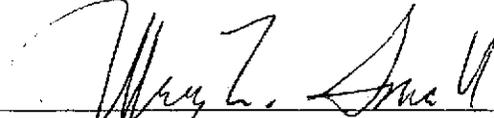
Pursuant to S. Ct. Prac. R. IX, Section 8, Appellant, the Office of the Ohio Consumers' Counsel ("OCC"), hereby files the following list of additional authorities that may be relied upon during oral argument:

In the Matter of the Application of The Dayton Power and Light Company for Approval of Tariff Changes Associated with Implementation of an Environmental Investment Rider, PUCO Case No. 06-1093-EL-ATA, Finding and Order (November 1, 2006), 2006 Ohio PUC LEXIS 651.

The oral argument in this matter has not yet been scheduled by this Court. The additional authority cited above is attached.

Respectfully submitted,

Janine L. Migden-Ostrander
(Reg. No. 0002310)
Consumers' Counsel



Jeffrey L. Small, Trial Attorney
(Reg. No. 0061488)

Ann M. Hotz
(Reg. No. 0053070)
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485

Telephone: 614-466-8574

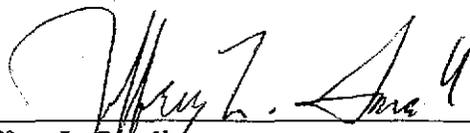
Fax: 614-466-9475

E-mail small@occ.state.oh.us

hotz@occ.state.oh.us

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing List of Additional Authorities by Appellant, The Office of the Ohio Consumers' Counsel was served upon the below-listed counsel by hand-delivery or first class U.S. Mail, postage prepaid, this 26th day of December 2006.



Jeffrey L. Small
Counsel of Record for Appellant,
Office of the Ohio Consumers' Counsel

SERVICE LIST

Charles Faruki, Esq.
Faruki, Ireland & Cox PLLC
500 Courthouse Plaza, S.W.
10 North Ludlow Street
Dayton, Ohio 45402

Dayton Power and Light Company

Samuel C. Randazzo, Esq.
McNees, Wallace & Nurick, LLC
21 East State Street, 17th Floor
Columbus, Ohio 43215

Industrial Energy Users – Ohio

Duane W. Luckey, Esq.
Senior Deputy Attorney General
Public Utilities Section
Public Utilities Commission of Ohio
180 East Broad Street, 9th Floor
Columbus, Ohio 43215

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The)
Dayton Power and Light Company for)
Approval of Tariff Changes Associated) Case No. 06-1093-EL-ATA
with Implementation of an)
Environmental Investment Rider.)

FINDING AND ORDER

The Commission finds:

- (1) The Applicant, The Dayton Power and Light Company (DP&L, or Applicant), is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.
- (2) On November 3, 2005, DP&L and a number of parties filed a Stipulation and Recommendation in Case No. 05-276-EL-AIR (In the Matter of the Application of The Dayton Power and Light Company for the Creation of a Rate Stabilization Surcharge Rider and Distribution Rate Increase). The Stipulation, among other things, proposed the establishment of an Environmental Investment Rider (EIR) to recover environmental plant investments and incremental operation and maintenance, depreciation, and tax costs during the rate stabilization period (RSP). The EIR was proposed to become effective January 1, 2007, and initially would be set at a rate equal to 5.4 percent of DP&L's January 1, 2004 tariffed generation rates. For each remaining year of the RSP, 2008 through 2010, the EIR would increase by an additional 5.4 percent. Under the proposal, the EIR would not be avoidable by customers who shop for generation service during 2007 and 2008 and would be partially avoidable during 2009 and 2010. Attachment C of the Stipulation sets forth the rates for shoppers and non-shoppers over the four-year period.
- (3) The Stipulation provides that the EIR shall be implemented through an ATA filing to be made by DP&L no later than three months before the EIR is scheduled to be increased each year. It further specifies that the Commission's Staff shall review DP&L's filing for the limited purpose of confirming that the filing implements the rates set forth on Attachment C.

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- (4) On December 28, 2005, the Commission issued an Opinion and Order (RSP Order) approving the Stipulation, with modifications. As it pertains to the EIR, the Commission expressed concern regarding the impact of the EIR's nonavoidability on the development of competitive markets, and required the entire EIR be avoidable to customers who shop for the duration of the RSP.
- (5) On September 1, 2006, the Applicant filed the instant application to implement the EIR provisions of the Stipulation, as modified by the Commission's Order. Specifically, the application set forth proposed tariffs containing the EIR rates and regulations for each year of the RSP. Staff has reviewed the proposed tariffs and concludes they are consistent with the Commission's RSP Order.
- (6) The Commission finds that the proposed tariffs are reasonable and are consistent with the requirements of the RSP Order. Therefore, the proposed tariffs should be approved.

It is, therefore,

ORDERED, That the application of The Dayton Power and Light Company is approved. It is, further,

ORDERED, That the Applicant is authorized to file complete copies of tariffs in final form consistent with this Entry. Applicant shall file one copy in its TRF docket (or may make such filing electronically as directed in Case No. 06-900-AU-WVR), and one copy in this case docket. It is, further

ORDERED, That the effective date of the new tariffs shall be a date not earlier than January 1, 2007 and the date upon which four complete printed copies of final tariffs are filed with the Commission. The new tariffs shall be effective for services rendered on or after such effective date. It is, further,

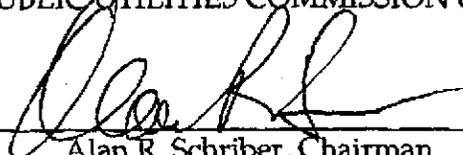
ORDERED, That the Applicant shall notify all affected customers via a bill message or via a bill insert within 30 days of the effective date of the tariffs. A copy of the customer notice shall be submitted to the Commission's Service Monitoring and Enforcement Department, Reliability and Service Analysis Division, at least 10 days prior to its distribution to customers. It is, further,

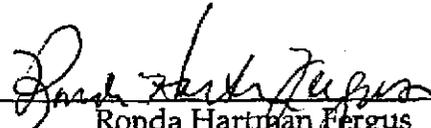
ORDERED, That nothing in this Finding and Order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule or regulation. It is, further,

ORDERED, That a copy of this Finding and Order be served upon all parties of record. It is, further,

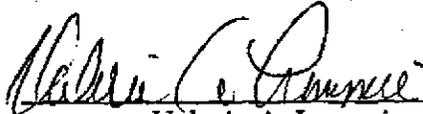
ORDERED, That this case be closed as a matter of record.

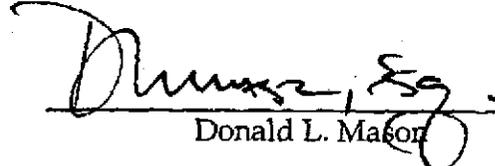
THE PUBLIC UTILITIES COMMISSION OF OHIO


Alan R. Schriber, Chairman


Ronda Hartman Fergus


Judith A. Jones

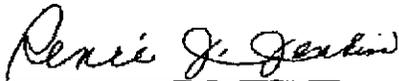

Valerie A. Lemmie


Donald L. Mason

VG:sm

Entered in the Journal

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Renee J. Jenkins
Secretary