

**IN THE SUPREME COURT OF OHIO**

In the Matter of the Application of :  
The Dayton Power and Light Company : Supreme Court Case No. 2014-1505  
for Approval of Its Electric Security Plan. :

In the Matter of the Application of :  
The Dayton Power and Light Company :  
for Approval of Revised Tariffs. : Appeal from the Public Utilities  
Commission of Ohio

In the Matter of the Application of :  
The Dayton Power and Light Company : Public Utilities Commission of Ohio  
for Approval of Certain Accounting : Case Nos. 12-426-EL-SSO,  
Authority. : 12-427-EL-ATA,

In the Matter of the Application of : 12-428-EL-AAM,  
The Dayton Power and Light Company : 12-429-EL-WVR, and  
for Waiver of Certain Commission Rules. : 12-672-EL-RDR

In the Matter of the Application of :  
The Dayton Power and Light Company :  
to Establish Tariff Riders. :

Industrial Energy Users-Ohio, :  
Appellant, :

v. :

Public Utilities Commission of Ohio, :  
Appellee. :

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**JOINT MOTION OF  
APPELLANTS INDUSTRIAL ENERGY USERS-OHIO AND THE OFFICE OF THE  
OHIO CONSUMERS' COUNSEL  
TO ESTABLISH ORAL ARGUMENT SCHEDULE**

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“Appellants”) move for an order expanding the time set for oral argument as provided by S.Ct.Prac.R. 17.05(B). Due to the complexity of the issues and their importance to the customers of Dayton Power and Light Company (“DP&L”), Appellants request that the total time for oral argument be one hour, that each party be afforded fifteen minutes for oral argument, and that all parties be permitted to reserve time for rebuttal. The reasons supporting this Joint Motion are set out in the accompanying Memorandum in Support.

Respectfully submitted,

*/s/ Frank P. Darr*

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## MEMORANDUM IN SUPPORT

S.Ct.Prac.R. 17.05(A) provides that “fifteen minutes shall be allotted to each side for argument on the merits.” Under S.Ct.Prac.R. 17.05(B), however, the Court "may vary the time for oral argument permitted by this rule" upon motion. By this motion, Appellants seek an order setting the case for one hour of oral argument and permitting each party fifteen minutes for oral argument. The Joint Motion also requests that all parties be permitted to reserve time for rebuttal.

In the pending case, the order of the Public Utilities Commission of Ohio (“Commission”) approved a rate plan known as an electric security plan (“ESP”) that permits DP&L to increase the amount it collects from customers through a nonbypassable “stability charge” of \$110 million annually for three years.. The authorization of the nonbypassable charge raises several issues, including the scope of the Commission’s jurisdiction to address DP&L’s compensation for wholesale generation services, the application and interpretation of several provisions of Chapter 4928 of the Revised Code, the General Assembly’s effort to limit the recovery of transition revenue or its equivalent, the Commission’s authority to cross-subsidize generation services, and the Commission’s authority to move beyond the regulatory structure contained in Title 49 of the Revised Code to direct policy outcomes when it modifies and approves an ESP. To assure adequate time to address these issues, the Joint Motion requests that the Court expand the time for oral argument.

The issues raised in these appeals, however, are not limited to the legal challenges to the stability rider. Additionally, IEU-Ohio challenges the Commission’s application of the statutory test for approval of an ESP, and OCC challenges the authority of the Commission to modify the

ESP order without following statutory procedures and DP&L's failure to properly preserve its claims of error. The complexity and importance of the other issues raised in the appeals warrants affording the parties additional time for oral argument.

The request is also based on the needs of the Court for additional time. In a recent appeal of another ESP for the Ohio Power Company, for example, the Court ordered an alternative division of time but retained a 30-minute limit on the total time for arguments. *In the Matter of the Application of Columbus Southern Power Company for Authority to Establish A Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan. In The Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of Certain Accounting Authority*, S.Ct. Case No. 2013-521, Entry (Apr. 9, 2015). Due to the complexity of the issues and the interest of the Court in probing the arguments of the parties, the oral argument extended beyond the allotted time. Because this case also presents complex issues regarding the Commission's order, recognizing the need for additional time for oral argument and providing for it on the Court's calendar would be reasonable and assist the Court in maintaining its docket.

For the reasons stated above, the Court should grant this Joint Motion.

Respectfully submitted,

*/s/ Frank P. Darr*

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Joint Motion of Appellants Industrial Energy Users-Ohio and the Office of the Ohio Consumers' Counsel* was served upon the parties of record *via* electronic transmission this 30th day of July 2015.

*/s/ Frank P. Darr*

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