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The Dayton Power & Light Company's Efforts to Resurrect the Service Stability Rider through Legislative Measures are Misguided

On June 20, 2016, just six days after oral argument, the Supreme Court of Ohio decisively ruled that the PUCO erred in approving The Dayton Power & Light Company's (DP&L) Service Stability Rider (SSR) and reversed the PUCO's approval.¹ The Court did not provide a detailed rationale to justify its decision, but the takeaway from the decision was clear: the General Assembly's decision to allow market forces to set the price of generation services prohibits utilities from collecting transition revenue or its equivalent from customers.² In reaching its decision, the Court simply applied its decision involving AEP Ohio from a few months earlier wherein it declared that the PUCO erred in approving a charge similar in purpose to DP&L's SSR.³ OMAEG applauds the Court's decisions as being in the best interests of Ohio's manufacturers.⁴

Ongoing efforts by DP&L to legislate around the Court's decision would be contrary to the market-based path set by the General Assembly over 16 years ago when it enacted legislation commonly referred to as S.B. 3 in 1999. Ohio's manufacturers have embraced competition and have reaped the benefits of purchasing electricity supply from competitive suppliers rather than with the incumbent utility. Through contracts with competitive suppliers, energy-intensive manufacturers have been able to stay competitive in the global economy by reducing or maintaining their electricity costs, which are a major cost component of their operations, while other costs are increasing. Interfering with this process would be damaging to the interests of manufacturers and the numerous economic development benefits they bring to Ohio.

In sum, for manufacturing to remain vibrant in Ohio, the General Assembly should foster an environment where competitive forces are allowed to flourish and deny DP&L's proposal.

¹ *In re Application of Dayton Power & Light Co.*, Slip Opinion No. 2016-Ohio-3490.

² *In re Application of Columbus S. Power*, Slip Opinion No. 2016-Ohio-1608, ¶ 15 ("Transition costs (also referred to as stranded costs) are costs incurred by the utility before retail competition began that will not be recoverable through market-based rates. * * * In general, these are generation costs that the utility incurred to serve its customers that would have been recovered through regulated rates before competition began, but that are no longer recoverable from customers who have switched to another generation provider.").

³ Id. at ¶ 25 ("we find that [AEP Ohio's] [Rate Stability Rider] in this case recovers the equivalent of transition revenue and the [PUCO] erred when it found otherwise.").

⁴ At the time of the Court's decision on DP&L's SSR, it was estimated that DP&L had collected about \$250 million through the SSR and that another \$80 million remained to be collected.