

# **Bond Case Briefs**

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## **PUBLIC UTILITIES - OHIO**

### **In re Application of Dayton Power and Light Company**

**Supreme Court of Ohio - August 22, 2025 - N.E.3d - 2025 WL 2421810 - 2025-Ohio-2953**

Office of Ohio Consumer's Counsel (OCC) filed appeal from Ohio Public Utility Commission's decision in three cases finding that electric utility's electric security plan resulted in excessive earnings in two years, and that utility could offset its excessive earnings by making future capital investments.

Utility filed cross-appeal, and the cases were consolidated.

The Supreme Court held that:

- Commission's determination that utility could offset its significantly excessive earnings in two years through future committed investments was unlawful;
- Commission's finding that utility could offset its significantly excessive earnings by offsetting its future committed investments based on utility's financial condition was not reasonable or supported by evidence;
- Commission's inclusion of utility's distribution-modernization rider in calculating whether utility's electric security plan resulted in utility having significantly excessive earnings in two years was appropriate;
- Commission's exclusion of rate-stabilization charge amounts from electric utility's earnings was appropriate, in calculating whether utility's electric security plan resulted in utility having significantly excessive earnings in two years; and
- An appellee may defend a lower tribunal's decision by asserting alternative grounds for affirmance than those adopted by the tribunal, without having to file a protective cross-appeal; abrogating *In re Application of Duke Energy Ohio, Inc.*, 50 Ohio St.3d 437, 82 N.E.3d 1148.