Before

**The Public Utilities Commission of Ohio**

In the Matter of the Application of The Dayton )

Power and Light Company for a Finding that )

Energy Efficiency Benchmark has been met ) Case No. 09-1988-EL-EEC

or in the Alternative, Application to Amend )

Energy Efficiency Benchmark. )

# MOTION TO INTERVENE AND MEMORANDUM IN SUPPORT

# OF INDUSTRIAL ENERGY USERS-OHIO

 Samuel C. Randazzo (Counsel of Record)

Lisa G. McAlister

 Joseph M. Clark

 McNees Wallace & Nurick LLC

 21 East State Street, 17TH Floor

 Columbus, OH 43215

 Telephone: (614) 469-8000

 Telecopier: (614) 469-4653

 sam@mwncmh.com

 lmcalister@mwncmh.com

 jclark@mwncmh.com

January 5, 2010 Attorneys for Industrial Energy Users-Ohio

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# MOTION TO INTERVENE OF INDUSTRIAL ENERGY USERS-OHIO

Industrial Energy Users-Ohio (“IEU-Ohio”) hereby respectfully moves the Public Utilities Commission of Ohio (“Commission”), pursuant to Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code, for leave to intervene in the above-captioned matters with the full powers and rights granted by the Commission, specifically by statute or by the provisions of the Ohio Administrative Code, to intervening parties.

On December 23, 2009, the Dayton Power and Light Company (“DP&L”) filed an Application for a finding that it met its 2009 yearly energy efficiency benchmark mandated by Section 4928.66, Revised Code. In the alternative, DP&L asks for an amendment to its 2009 energy efficiency benchmark to due to regulatory reasons beyond its reasonable control.

As demonstrated further in the Memorandum in Support attached hereto and incorporated herein, IEU-Ohio has a direct, real, and substantial interest in the issues and matters involved in the above-captioned proceedings, and is so situated that the disposition of these proceedings may, as a practical matter, impair or impede its ability to protect that interest. IEU-Ohio believes that its participation will not unduly prolong or delay these proceedings and that it will significantly contribute to the full development and equitable resolution of the factual and other issues in these proceedings. The interests of IEU-Ohio will not be adequately represented by other parties to the proceedings and, as such, IEU-Ohio is entitled to intervene with the full powers and rights granted by the Commission, specifically by statute and by the provisions of the Ohio Administrative Code, to intervening parties.

 Respectfully submitted,

 /s/ Joseph M. Clark

 Samuel C. Randazzo (Counsel of Record)

Lisa G. McAlister

 Joseph M. Clark

 McNees Wallace & Nurick LLC

 21 East State Street, 17TH Floor

 Columbus, OH 43215

 Telephone: (614) 469-8000

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# MEMORANDUM IN SUPPORT

In support of this Motion to Intervene, IEU-Ohio states that it is an association of ultimate customers. A current listing of IEU-Ohio member companies is available on IEU-Ohio's website at http://www.ieu-ohio.org/member\_list.aspx. IEU-Ohio’s members purchase substantial amounts of electric and related services from DP&L, which is a public utility subject to the jurisdiction of the Commission.

IEU-Ohio’s members work together to address matters that affect the availability and price of utility services. Additionally, IEU-Ohio seeks to promote customer-driven policies that will assure an adequate, reliable, and efficient supply of energy for all consumers at competitive prices. To this end, IEU-Ohio has worked, including actively participating in the legislative process related to SB 221, and will continue to work to produce legislative, regulatory, and market outcomes that are consistent with the state policy contained in Section 4928.02, Revised Code.

Many of IEU-Ohio’s member companies are served by DP&L and may be affected by a determination that DP&L met its 2009 energy efficiency requirements under Section 4928.66, Revised Code, or that DP&L’s energy efficiency benchmark should be amended to zero. IEU-Ohio has a real and substantial interest inasmuch as these proceedings may directly or indirectly impact the provision of electric service to IEU-Ohio members’ manufacturing facilities. Specifically, IEU-Ohio’s direct interest in these proceedings is the result of the effect that these proceedings shall have upon the price, adequacy, and reliability of the electric supply and related services within Ohio, including the areas presently served by DP&L.

 Respectfully submitted,

 /s/ Joseph M. Clark

 Samuel C. Randazzo (Counsel of Record)

 Lisa G. McAlister

 Joseph M. Clark

 McNees Wallace & Nurick LLC

 Fifth Third Center

 21 East State Street, 17th Floor

 Columbus, OH 43215-4228

 Telephone: (614) 469-8000

 Telecopier: (614) 469-4653

 sam@mwncmh.com

 lmcalister@mwncmh.com

 jclark@mwncmh.com

 **Attorneys for** **Industrial Energy Users-Ohio**

#### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion to Intervene and Memorandum in Support of Industrial Energy Users-Ohio* was served upon the following parties of record this 5th day of January 2010, via first class mail, postage prepaid.

/s/ Joseph M. Clark

Joseph M. Clark

Randall V. Griffin

Judi L. Sobecki

The Dayton Power and Light Company

1065 Woodman Drive

Dayton, OH 45432

Randall.Griffin@DPLINC.com

Judi.Sobecki@DPLINC.com

**On Behalf of The Dayton Power and Light Company**