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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO 2008 JAN 22 PM 5:04

In the Matter of the Application of The Dayton)
Power and Light Company for Approval of Its)
Proposed Market-Based Standby Tariff Sheet.)

Case No. 07-1302-EL-ATA **PUCO**

**MOTION TO INTERVENE OF INDUSTRIAL ENERGY USERS-OHIO
AND MEMORANDUM IN SUPPORT**

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January 22, 2008

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 matter 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 March 28, 2007, the Commission issued a Finding and Order responding to several provisions of the federal Energy Policy Act of 2005 ("EPAct 2005"). Specifically, after a series of Staff-conducted technical conferences, the Commission reviewed the recommendations made by Staff and the comments filed in response to Staff's recommendations and determined that certain Commission rules regarding net metering, advanced metering infrastructure ("AMI") and demand response, interconnection, standby rates, and an advanced energy portfolio standard needed to be revised, that electric distribution utilities ("EDUs") must file tariff revisions that conform with the revised rules, and that additional studies were necessary.¹

¹ *In the Matter of the Commission's Response to Provisions of the Federal Energy Policy Act of 2005 Regarding Net Metering, Smart Metering and Demand Response, Cogeneration and Power Production*

Among other things, the Commission ordered all Ohio EDUs to file revised standby service tariffs, specifically ordering the EDUs to offer a market-based rate for standby service in addition to the fixed standby rates currently in their tariffs.² The Commission further explained that the tariffs must spell out how the market-based rate would be calculated and any procedures regarding the market-based option must be clearly and specifically defined in the EDUs' standby tariffs.³ Dayton Power and Light Company ("DP&L") filed its revised standby tariffs in this case to comply with the Commission's Finding and Order.

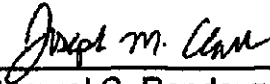
As demonstrated further in the Memorandum in Support attached hereto and incorporated herein, IEU-Ohio has a direct, real, and substantial interest in the issues and matters involved in the above-captioned proceeding, and is so situated that the disposition of this proceeding may, as a practical matter, impair or impede its ability to protect that interest. IEU-Ohio believes that its participation will not unduly prolong or delay this proceeding and that it will significantly contribute to the full development and equitable resolution of the factual and other issues in this proceeding. The interests of IEU-Ohio will not be adequately represented by other parties to the proceeding 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.

Purchase and Sale Requirements, and Interconnection, Case No. 05-1500-EL-COI, Finding and Order (March 28, 2007).

² *Id.* at 10.

³ *Id.* at 11.

Respectfully submitted,



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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/public/about_ieu-ohio/members. 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 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. IEU-Ohio members have been, and continue to be, active participants in state and federal regulatory proceedings concerning Ohio's electric utilities, including DP&L.

IEU-Ohio has a real and substantial interest inasmuch as this proceeding may directly or indirectly impact the provision of electric service to IEU-Ohio members' manufacturing facilities, especially those member facilities that are currently taking

standby service or may seek to take standby service from DP&L. Specifically, IEU-Ohio's direct interest in this proceeding is the result of the effect that the proceeding shall have upon the price, adequacy, and reliability of the electric supply and related services provided by DP&L. Many of IEU-Ohio's member companies are served by DP&L and may be affected by the Commission's actions in this proceeding.

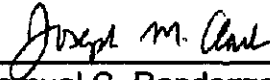
In its Finding and Order responding to EPAAct 2005, the Commission agreed with Staff's recommendation that each EDU should offer a market-based standby rate "in addition to its rates that are currently in its tariff."⁴ The Commission further stated "we agree that a market-based approach is a reasonable alternative for self-generators in addition to the current tariff."⁵ However, DP&L's compliance tariff filing replaces the fixed cost standby service option with the market-based option, proposing to only offer market-based standby service and thereby discontinue the current fixed price standby service.

For the aforementioned reasons, IEU-Ohio has a direct, real, and substantial interest in the issues and matters involved in the above-captioned proceeding that will only be protected by its participation in this proceeding. Therefore, IEU-Ohio hereby respectfully requests that the Commission grant its intervention 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.

⁴ *Id.* at 10.

⁶ *Id.*

Respectfully submitted,



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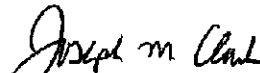
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion to Intervene of Industrial Energy Users-Ohio* and *Memorandum in Support* was served upon the following parties of record this 22nd day of January 2008, via electronic transmission, hand-delivery or first class mail, postage prepaid.



Joseph M. Clark

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The Dayton Power and Light Company
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