

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The Dayton ) Power and Light Company for Approval of ) The Market Rate Offer. )	Case No. 12-426-EL-SSO
In the Matter of the Application of The Dayton ) Power and Light Company for Approval of ) Revised Tariffs. )	Case No. 12-427-EL-ATA
In the Matter of the Application of The Dayton ) Power and Light Company for Approval of ) Certain Accounting Authority. )	Case No. 12-428-EL-AAM
In the Matter of the Application of The Dayton ) Power and Light Company for Waiver of ) Certain Commission Rules. )	Case No. 12-429-EL-WVR
In the Matter of the Application of The Dayton ) Power and Light Company to Establish Tariff ) Riders. )	Case No. 12-672-EL-RDR

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**MOTION TO INTERVENE OF THE CITY OF DAYTON, OHIO**

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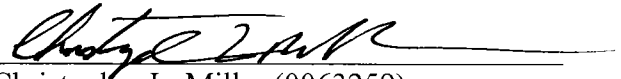
The City of Dayton, Ohio ("Dayton") on behalf of itself and its residential and commercial citizens hereby moves the Public Utility Commission of Ohio ("Commission") to intervene as a full party of record in the above captioned proceedings pursuant to Ohio Revised Code ("R.C.") Section 4903.221 and Ohio Administrative Code ("O.A.C") Rule 4901-1-11.

As set forth in the attached Memorandum in Support, Dayton submits that it has a real and substantial interest in these proceedings, that its interests cannot be adequately represented by any other party, and that the Commission's disposition of the proceedings will impair or impede its ability to protect those interests. Dayton further submits that the legal positions and issues that it will advance are relevant to the merits of the proceedings and that it intends to

contribute in a unique manner to the full development and equitable resolution of the proceedings. Finally, Dayton submits that granting this Motion will not unduly delay the proceedings or unjustly prejudice any existing party.

For these reasons, as explained more fully herein, Dayton respectfully requests that the Commission grant its motion to intervene in the above captioned proceedings.

Respectfully Submitted,



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**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE OF THE CITY OF  
DAYTON, OHIO**

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**I. PROCEDURAL BACKGROUND**

The above captioned proceedings were initiated by Dayton Power & Light Company (“Company”). The Company initiated these proceedings in order to obtain Commission review and approval of its Standard Service Offer (“SSO”) to be completed via the Market Rate Offer (“MRO”). Further the Company has asked the Commission for authority to revise tariffs, exercise certain accounting authority, waive Commission rules and to establish tariff riders.

By Entry dated April 2, 2012, the Commission established a procedural schedule for its consideration of the SSO requiring that adversely impacted parties file motions to intervene by April 20, 2012. Thus, Dayton’s submission of this Motion is timely.

**II. BASIS FOR INTERVENTION**

**a. Standard of Review**

R.C. section 4903.221 and OAC Rule 4901-1-11 set forth the standards pursuant to which Dayton may intervene in the above-captioned Commission proceedings. R.C. section 4903.221 confers the statutory right to intervene in a Commission proceeding to any party “who may be adversely affected by a proceeding.” Additionally, OAC Rule 4901-1-11 provides that:

Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that: . . . [t]he person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person’s interest is adequately represented by existing parties.

Upon filing a timely motion demonstrating a real and substantial interest and upon demonstrating that the proceeding will impair or impede the ability to protect the interest, a party is entitled to an Order granting its intervention request. In determining whether a party is entitled to intervene, the Commission shall consider:

- (1) the nature and extent of the prospective intervenor's interest;
- (2) the legal position advanced by the prospective intervenor and its probable relation to the merits of the case; (3) whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding; (4) whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues; and (5) the extent to which the person's interest is represented by existing parties.

*(See R.C. 4903.221(B) and OAC 4901-1-11(B)).*

**b. Dayton Has A Real And Substantial Interest In This Proceeding That Cannot Be Represented By Any Other Party, And The Disposition Of These Proceedings Will Impair Those Interests.**

Currently, Dayton utilizes electric service from the Company to illuminate municipal traffic signals, a number of proprietary street lights, as well as to power municipal buildings and facilities including its water and sewer facilities. On an annual basis, Dayton expends a materially significant amount with the Company on just the first two aforementioned electric uses. Upon information and belief, Dayton is the second largest single consumer of electric service in the Company's service territory. Thus, Dayton is an extremely large user of the Company's services and this proceeding and the results thereof will have a significant impact on the cost and manner in which Dayton continues to obtain and pay for its electric service.

The above captioned proceedings will also have a real, substantial, and adverse impact on Dayton residential customers. The entirety of Dayton's residential customers rely upon the Company for electric service. Similar to residents in many Ohio cities and metropolitan areas,

Dayton residential customers are currently dealing with high unemployment rates and low wages. Dayton has a special interest, if not a duty, to ensure that the electricity requirements of its residents are continually served by readily available dependable electric service which is attainable at reasonable prices which are affordable to its economically challenged population.

In addition to the impact on Dayton and on residential customers, the proceedings will also have a real, substantial, and adverse impact on Dayton's commercial citizens using the Company's electric service. Any proposed cost increases and service modifications will have an economic development and job retention impact on a local economy that cannot afford to lose current jobs or opportunities for future growth.

Electricity price and service modifications caused by the proposed SSO will impact Dayton's budget and citizens, both residential and commercial. Additionally, as initially proposed, these cases may materially modify the terms and conditions under which Dayton and its residents obtain electric service in a manner favoring the interests of the Company and to the detriment of the Dayton and its residents.

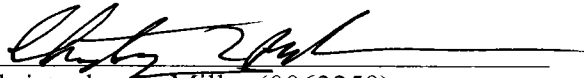
Accordingly, Dayton will focus its participation in the proceedings on matters specifically impacting the Dayton and its economically challenged residential citizens as well as commercial citizens. Specifically, these matters may include, among other things, the SSO's impact on pricing, deferrals, surcharges, tariffs for economic development, special and unique rider applications, energy efficiency issues, capacity, and renewable and/or alternative energy issues that particularly impact Dayton and its citizens.

### **III. CONCLUSION**

For the reasons set forth above, Dayton respectfully requests that the Commission grant its request to intervene in the above-captioned proceedings. Dayton's intervention will not

unduly prolong or delay the proceedings. In contrast, Dayton's intervention will contribute to the full development the factual issues to be resolved in the proceedings. Finally, no other party to the proceedings is capable of representing the interests of Dayton as well as its residential and commercial citizens.

Respectfully Submitted,



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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion to Intervene and Memorandum in Support was served upon the parties of record listed below this 17th day of April, 2012 first class mail and via electronic mail.

  
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**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**4/17/2012 4:58:27 PM**

**in**

**Case No(s). 12-0426-EL-SSO**

Summary: Motion Motion to Intervene of the City of Dayton, Ohio electronically filed by Mr. Christopher L. Miller on behalf of City of Dayton