

**BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The Dayton Power and Light Company for Approval of its 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
	)	

**MOTION TO INTERVENE**  
**BY OHIO POWER COMPANY**

Ohio Power Company, by and through their attorneys and pursuant to Ohio Revised Code Section 4903.221 and Ohio Administrative Code Section 4901-1-11, respectfully move this Commission for leave to intervene in this proceeding. The support for this motion is in the attached memorandum in support, which is incorporated by reference herein.

Respectfully submitted,

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## **MEMORANDUM IN SUPPORT**

### **I. INTRODUCTION**

Ohio Power Company ("OPCo") is an "electric distribution utility", "electric light company", "electric supplier", and "electric utility" as those terms are defined within Ohio Revised Codes sections 4928.01(A)(6),(7),(10), and (11), respectively. OPCo is a subsidiary of American Electric Power (AEP), and is currently authorized to conduct business within, and is in good standing within, the State of Ohio. OPCo is an investor owned utility with interests in the competitive and wholesale markets. The treatment by the Public Utilities Commission of Ohio (the "Commission") of the Dayton Power and Light (DP&L) application for approval of a Market Rate Offer ("MRO") in this proceeding will directly affect OPCo as a participant in electric markets in Ohio. As summarized on the Commission's homepage: "DP&L's proposal would set generation rates from January 1, 2013 through May 31, 2018 by blending current rates with rates set in an auction where suppliers would bid for the right to supply electricity to DP&L customers."<sup>1</sup>

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<sup>1</sup> See: <http://www.puco.ohio.gov/puco/index.cfm/consumer-information/consumer-topics/dayton-power-lighte28098s-market-rate-offer-proposal/>

## **II. LAW AND ARGUMENT**

### **A. This Commission's Standard Regarding Intervention.**

Pursuant to O.A.C. Section 4901-1-11(A), upon timely motion, any person is permitted to intervene in a proceeding before this Commission upon a showing that:

(2) The 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.

Further, O.A.C. 4901-1-11(B) provides that the following factors are to be considered in evaluating requests to intervene:

- (1) The nature of the person's interest;
- (2) The extent to which the person's interest is represented by existing parties;
- (3) The person's potential contribution to a just and expeditious resolution of the issues involved in the proceeding; and
- (4) Whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice any existing party.

R.C. 4903.221.

### **B. Ohio Power Company Should Be Granted Intervention In This Proceeding.**

OPCo should be granted leave to intervene in this proceeding. OPCo is a participant and a potential participant in the wholesale MRO auctions of DP&L. Thus, OPCo has interests in the instant proceeding in which this Commission will assess the means by which the DP&L will conduct the competitive bid auctions. OPCo, therefore, possesses real and substantial interests in this proceeding that it is entitled to pursue and protect through intervention.

OPCo also owns certain generating assets with DP&L in the state that could be impacted by decisions made in this case. Specifically, the two companies own portions of Conesville Unit 4, Stuart Units 1-4, Beckjord Unit 6, and Zimmer Unit 1. OPCo's interest as co-owner of these

units is unique and highlight the real and substantial interest in the proceeding that OPCo is entitled to pursue and protect through intervention.

The other parties to this action do not adequately represent the interests of OPCo, because they are either competitors of OPCo or are consumers of electric services (or a representative thereof) rather than a supplier of electric services. As a market participant, OPCo has much to contribute to a just and expeditious resolution of the issues in this proceeding.

Finally, permitting OPCo to intervene will not, therefore, unduly delay the proceeding or unduly prejudice any existing party. Under these circumstances, OPCo should be permitted to intervene in this proceeding.

### **III. CONCLUSION**

For the foregoing reasons, Ohio Power Company respectfully asks that this Commission grant it intervention in the above listed proceeding.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I hereby certify that true and accurate copies of the foregoing were served upon the following parties to this proceeding this May 7, 2012, via electronic mail if available or by depositing the same in the United States Mail, postage prepaid, addressed as follows:

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Summary: Motion to Intervene electronically filed by Mr. Matthew J Satterwhite on behalf of Ohio Power Company