

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of )	
The Dayton Power and Light Company for )	Case No. 12-426-EL-SSO
Approval of Its Market Rate Offer )	

In the matter of the Application of )	
The Dayton Power and Light Company for )	Case No. 12-427-EL-ATA
Approval of Revised Tariffs )	

In the Matter of the Application of )	
The Dayton Power and Light Company to )	Case No. 12-672-EL-RDR
Establish Tariff Riders )	

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**MOTION TO INTERVENE AND MEMORANDUM IN SUPPORT  
BY  
THE COUNCIL OF SMALLER ENTERPRISES (COSE)**

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By the application filed herein on March 30, 2012, The Dayton Power and Light Company (“DP&L”) seeks approval of a Standard Service Offer (“SSO”) pursuant to Ohio Rev. Code Section 4928.142. Pursuant to Section 4903.221 of the Ohio Revised Code (R.C.) and Rule 4901-1-11 of the Ohio Administrative Code (O.A.C.), the Council of Smaller Enterprises (“COSE”) hereby moves to intervene in the above captioned proceeding. COSE has a real and substantial interest in this 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. Further, COSE's interest in this proceeding is not represented by any existing party, and its participation in this proceeding will contribute to a just and expeditious resolution of the issues involved without unduly delaying the proceeding or unjustly prejudicing any existing party. For the reasons more

fully explained in the attached memorandum, COSE respectfully requests that the Commission grant this request to intervene.

Respectfully submitted,



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Matthew R. Cox (0072097)  
Matthew Cox Law, Ltd.  
4145 St. Theresa Blvd.  
Avon, OH 44011  
Telephone: (614) 607-4606  
Email: matt@matthewcoxlaw.com

**Legal Counsel for the Council of Smaller  
Enterprises**

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**MEMORANDUM IN SUPPORT  
OF THE  
COUNCIL OF SMALLER ENTERPRISES**

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**I. Background**

The Council of Smaller Enterprises ("COSE"), one of Ohio's largest small business support organizations, strives to help small businesses grow and maintain their independence. Comprised of more than 14,000 member companies, COSE has a long history of fighting for the rights of all small business owners, whether it's through group purchasing programs in healthcare, workers' compensation, electricity, payroll services, shipping, or advocating for

specific changes in legislation or regulation. COSE also produces more than 120 networking and business education events each year - all focused on connecting our members to each other to increase their ability to succeed. In addition, we provide a variety of informational and educational resources to help small businesses better understand today's energy market to all of our 14,000 members.

COSE, a certified Competitive Retail Electric Service Provider, started a group electric aggregation program for our members in 1999. Since that time, we have enrolled more than 5,500 electric accounts, which provide annual electricity cost savings to participating COSE members and their employees. During the term of DP&L's proposed SSO, COSE will launch the COSE Energy Choice Program, which will offer small business owners a choice of electric utility providers on a statewide basis.

Since the enactment of Senate Bill 221, COSE recognized the need for small businesses to engage in energy efficiency and alternative energy technologies. COSE has developed products and programs to educate small business owners on the use and advantages of energy efficiency and alternative energy technologies within their work places and understand first hand the difficulty small commercial customers have in implementing energy efficiency and demand reduction programs within their businesses.

COSE's interests in expanding its electric aggregation, COSE Energy Choice and energy efficiency programs are wholly reliant on COSE's participation in this proceeding and its outcome. Further, not only does COSE satisfy the underlying statutory test for intervention in Commission proceedings, it also satisfies the standards governing intervention set forth in the Commission's rules.

## **II. Legal Authority**

For purposes of considering a request for leave to intervene in a Commission proceeding, Rule 4901-1-11(A), OAC, provides, in pertinent part, as follows:

Upon timely motion, any person shall be permitted to intervene in a proceeding 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 ability to protect that interest, unless the person's interest is adequately represented by existing parties.

Further, Section 4903.221(B), Revised Code and OAC Rule 4901-1-11(B), provide that the Commission, in ruling upon applications to intervene in its proceedings, shall consider the following criteria:

- (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 proceedings.
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.
- (5) The extent to which the person's interest is represented by existing parties.

### **III. Argument**

COSE clearly meets the requirements for intervention as outlined above. Because of its interest in providing its energy and energy efficiency and demand reduction programs to current and future members and customers in DP&L's service territory, COSE has a real and substantial interest in these proceedings. Additionally, without appropriate consideration of small commercial users, small businesses could be faced with higher energy costs and difficulty accessing energy efficiency and demand reduction programs, both of which could prove hazardous for their businesses.

As a true representative of small businesses, COSE's knowledge will assist the Commission in considering the issues in this case and, accordingly, COSE's participation will positively contribute to the full development and equitable resolution of the issues as they relate to small commercial customers. No other party participating in this case is able to adequately represent the needs of COSE as an organization, its members, customers or small commercial users as a whole. Accordingly, COSE welcomes the ability to share their program experiences and unique small business perspectives with the Commission as it works with DP&L and others to develop effective outcomes for this case.

COSE submits that no current party represents its interests, and disposition of this proceeding without COSE's participation will impair and impede its ability to advance and protect its interests as well as the interests of small commercial users in the State.

### **IV. Conclusion**

Given the diverse and unique energy needs of its current and future members and customers, and in order to protect the interests of small commercial customers in the state, COSE

states that it has a direct, real and substantial interest in the issues in this matter, which can only be protected by its participation. COSE respectfully requests that the Commission grant its motion to intervene with the full powers, rights and privileges granted by the Commission, by statute and by the provisions of the Ohio Administrative Code, to intervening parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Matt Cox", written in a cursive style.

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Matthew R. Cox (0072097)  
Matthew Cox Law, Ltd.  
4145 St. Theresa Blvd.  
Avon, OH 44011  
Telephone: (614) 607-4606  
Email: matt@matthewcoxlaw.com

**Legal Counsel for the Council of Smaller  
Enterprises (COSE)**

## CERTIFICATE OF SERVICE

I certify that a copy of the foregoing document was served this 7<sup>th</sup> day of May, 2012 via electronic mail on the following persons.



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Matthew R. Cox (0072097)  
Matthew Cox Law, Ltd.

Judi L. Sobecki  
Donna Seger-Lawson  
Irda Hoxha Hinders  
The Dayton Power and Light Company  
1065 Woodman Drive  
Dayton, OH 45432  
judi.sobecki@dplinc.com

Charles J. Faruki  
Jeffrey S. Sharkey  
Faruki Ireland & Cox P.L.L.  
500 Court House Plaza S.W.  
10 North Ludlow Street  
Dayton, OH 45402  
cfaruki@ficlaw.com

Mark S. Yurick  
Taft Stettinius & Hollister LLP  
65 East State Street, Ste. 1000  
Columbus, OH 43215  
myurick@cwslaw.com

Samuel C. Randazzo  
Frank P. Dan  
Joseph E. Olikier  
Matthew R. Pritchard  
McNees, Wallace & Nurick, LLC  
21 East State Street, 17th Fl  
Columbus, OH 43215  
sam@mwncmh.com  
fdan@mwncmh.com  
jolikey@mwncmh.com  
mpritchard@mwncmh.com

Henry W. Eckhart  
50 West Broad Street, Ste. 2117  
Columbus, OH 43215  
heuryeckhart@aol.com

Bruce J. Weston, Consumers' Counsel  
Jeff Small, Assistant Consumers' Counsel  
Office of Consumers' Counsel  
10 West Broad Street, Ste. 1800  
Columbus, Ohio 43215-3485  
small@occ.state.oh.us

Robert Ukeiley  
435 R Chestnut Street, Ste. 1 B  
erea, KY 40403  
rukei1eyigc.org

David C. Rinebolt  
Colleen L. Mooney  
Ohio Partners for Affordable Energy  
231 West Lima Street, P.O. Box 1793  
Findlay, OH 45839-1793  
drinebolt@aol.com  
cmooney2@columbus.rr.com

Sandy I-ru Grace  
Assistant General Counsel  
Exelon Business Services Company  
101 Constitution Ave.,  
N. W. Washington DC 20001  
Sandy.[grace@exeloncorp.com](mailto:grace@exeloncorp.com)

Jesse A. Rodriguez  
Public Policy & Affairs Manager  
Exelon Generation Company, LLC  
300 Exelon Way  
Kennett Square, PA  
[Jesse.rodriguez@exeloncorp.com](mailto:Jesse.rodriguez@exeloncorp.com)

Anthony M. Long  
Senior Assistant Counsel  
Honda of America Mfg., Inc.  
NA-E-Legal  
24000 Honda Parkway  
Marysville, OH 43040  
[Tony\\_Longham@honda.com](mailto:Tony_Longham@honda.com)

Amy B. Spiller  
Jeanne W. Kingery  
Duke Energy  
139 E. Fourth Street  
1303-Main  
Cincinnati, OH 45202  
[Amy.spiller@duke-energy.com](mailto:Amy.spiller@duke-energy.com)  
[Jeanne.kingery@duke-energy.com](mailto:Jeanne.kingery@duke-energy.com)

Rocco D'Ascenzo  
Elizabeth Watts  
Duke Energy  
139 E. Fourth Street  
1303-Main  
Cincinnati, OH 45202  
[Elizabeth.watts@duke-energy.com](mailto:Elizabeth.watts@duke-energy.com)

David F. Boehm  
Michael L. Kurtz  
Boehm, Kurtz & Lowry  
36 E. Seventh Street, Suite 1510  
Cincinnati, OH 45202  
[dboehm@BKL1awfirm.com](mailto:dboehm@BKL1awfirm.com)  
[mkurtz@BKLlawfirm.com](mailto:mkurtz@BKLlawfirm.com)

David I. Fein  
Cynthia Brady  
550 W. Washington Blvd., Suite  
300 Chicago, IL 60661  
[david.fein@constellation.com](mailto:david.fein@constellation.com)  
[cynthia.brady@constellation.com](mailto:cynthia.brady@constellation.com)

Tasha Hamilton  
Constellation Energy Group, Inc.  
111 Market Place, Ste. 600  
Baltimore, MD 21202  
[tasha.hamilton@constellation.com](mailto:tasha.hamilton@constellation.com)

Lisa G. McAlister  
Matthew W. Warnock  
J. Thomas Siwo  
Bricker & Eckler  
100 S. Third Street  
Columbus, OH 43215-4291  
[lmcalister@bricker.com](mailto:lmcalister@bricker.com)  
[mwamock@bricker.com](mailto:mwamock@bricker.com)  
[tsiwo@bricker.com](mailto:tsiwo@bricker.com)

Mark A. Hayden  
FirstEnergy Service Company  
76 S. Main Street Akron, OH 44308  
[haydenm@firstenergycorp.com](mailto:haydenm@firstenergycorp.com)

James F. Lang  
Laura C. McBride  
N. Trevor Alexander  
Calfee, Halter & Griswold LLP  
1400 KeyBank Center  
800 Superior Avenue  
Cleveland, OH 44114  
[jlang@calfee.com](mailto:jl原因@calfee.com)  
[lmcbride@calfee.com](mailto:lmcbride@calfee.com)  
[talexander@calfee.com](mailto:talexander@calfee.com)



Rocco.d'ascenzoc@duke-energy.com

Jay E. Jadwin  
American Electric Power Service  
Corporation  
155 W. Nationwide Blvd., Suite 500  
Columbus, OH 43215  
jejadwin@aep.com

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

**Commission of Ohio Docketing Information System on**

**5/8/2012 3:48:09 PM**

**in**

**Case No(s). 12-0426-EL-SSO, 12-0427-EL-ATA, 12-0672-EL-RDR**

Summary: Motion to Intervene and Memorandum in Support electronically filed by Mr. Matthew R Cox on behalf of Council of Smaller Enterprises (COSE)