

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

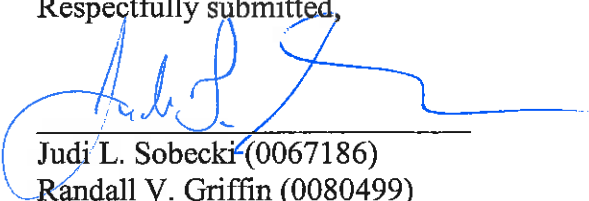
In the Matter of the Application Duke Energy Ohio, Inc. for the Establishment of a Charge Pursuant to Revised code Section 4909.18.)	
)	Case No. 12-2400-EL-UNC
)	
)	
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Change Accounting Methods.)	Case No. 12-2401-AAM
)	
)	
In the Matter of the Application of Duke Energy Ohio, Inc. for the Approval of a Tariff for a New Service.)	Case No. 12-2402-EL-ATA
)	

**THE DAYTON POWER AND LIGHT COMPANY'S
MOTION TO INTERVENE AND
MEMORANDUM IN SUPPORT**

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 Dayton Power and Light Company (DP&L) hereby moves to intervene in this proceeding. The issues in this proceeding involve Duke Energy Ohio, Inc.'s (Duke Energy Ohio) application to establish the amount of a cost-based charge, pursuant to Ohio's newly adopted state compensation mechanism, for the provision by Duke Energy Ohio of capacity services throughout Duke Energy Ohio's service territory.¹ The resolution of the issues in the proceeding will have a direct impact on the strength and viability of the competitive retail and wholesale energy markets in Ohio. As a wholesale energy market participant, DP&L has a real and substantial interest in this proceeding and its interests are not adequately represented by existing parties. For the reasons more fully explained in the attached memorandum, DP&L respectfully requests that the Commission grant this request to intervene.

¹ Application of Duke Energy Ohio, Inc. , PUCO Case No. 12-2400-EL-UNC, at ¶2.

Respectfully submitted,



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MEMORANDUM IN SUPPORT

This proceeding involves the application of Duke Energy Ohio to establish the level of a cost-based charge, which Duke Energy Ohio may charge for capacity services throughout its service territory. The resolution of the issues in the proceeding will have a direct impact on wholesale energy suppliers' participation in the auction process.

Pursuant to R.C. §4903.221, any party who may be adversely affected by a public utilities commission proceeding may intervene provided that the motion to intervene is filed no later than a deadline set for intervention, or if none is set, five days prior to the scheduled date of a hearing. The intervention deadline set in this proceeding is October 15, 2012, and therefore this motion is timely.

In ruling upon applications to intervene in its proceedings, the Commission is directed to consider the following factors:

- (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 full development and equitable resolution of the factual issues.²

The Commission added an additional criterion to the requirement for intervention in proceedings before it. O.A.C. §4901-1-11(B), mirrors the statutory provisions found in 4903.221, and includes the additional criterion that the Commission consider the extent to which the movant's interest is represented by existing parties.

In satisfaction of the requirements set forth in RC §4903.221 and O.A.C Rule 4901-1-11(B), DP&L has a real and substantial interest in this present proceeding. DP&L's unique interest is not presently represented in this proceeding. DP&L can positively contribute to the proceeding and will not unduly delay the proceeding or prejudice any existing party. DP&L provides wholesale power to wholesale customers, and is active in PJM Interconnection, L.L.C, and is active in wholesale energy supply auctions. As an active participant in wholesale energy supply auctions, DP&L has a real and substantial legal and business interest in the outcome of this proceeding, in which the charges for capacity services within Duke Energy Ohio's services are at issue. In fact, as a winning bidder in Duke's SSO auction, DP&L is currently providing full service requirements for a portion of Duke Energy Ohio's Standard Service Offer load. Duke's proposal here could result in a change in going-forward capacity rates within Duke's service territory. DP&L could be harmed by the change in capacity pricing sought by Duke Energy Ohio in its application, as the proposal may have a negative impact on the viability and health of the competitive markets both within Duke Energy Ohio's territory and throughout the state. Accordingly, DP&L has a direct, real, and substantial interest in the issues and matters involved in the instant proceeding and should be granted intervention.

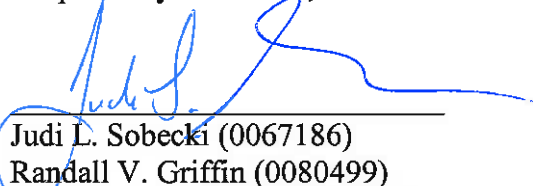
² R.C. §4903.221

All of DP&L's specific interests are not represented by existing parties to this proceeding. As an experienced party in participating in many proceedings before the Commission, DP&L will contribute to the just and expeditious resolution of the issues being considered in this case. Furthermore, DP&L's participation in this proceeding will not cause undue delay nor will it unjustly prejudice any party. Finally, because of DP&L's unique expertise as a participant in Ohio wholesale energy markets, permitting DP&L to intervene will assist the Commission in achieving a better outcome to this proceeding.

CONCLUSION

Based on the above, DP&L has a direct, real, and substantial interest in the issues and matters involved in this proceeding. DP&L interests can only be protected by its participation in this proceeding. Accordingly, DP&L respectfully requests that the Commission grant DP&L's Motion to Intervene in this matter.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served via electronic mail this 15th day of October, 2012 upon the following:

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Summary: Motion to Intervene and Memorandum in Support electronically filed by Mrs. Angela N. Hogan on behalf of The Dayton Power and Light Company