

**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.)

**MOTION REQUESTING PERMISSION FOR EDMUND J. BERGER TO
APPEAR
*PRO HAC VICE***

Pursuant to Ohio Adm. Code 4901-1-8(B), Ohio Adm. Code 4901-12, and Section 2(A) of Rule XII of the Supreme Court Rules for the Government of the Bar of Ohio, now comes Melissa R. Yost, admitted to practice of law in Ohio, and respectfully requests that the Public Utilities Commission of Ohio (“Commission”) grant Edmund J. Berger permission to appear *pro hac vice* in this proceeding on behalf of the Office of the Ohio Consumers’ Counsel (“OCC”). The reasons that the Commission should grant Edmund J. Berger permission to appear *pro hac vice* are further set forth in the attached Memorandum in Support.

Respectfully submitted,

/s/ Melissa R. Yost
Melissa R. Yost
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**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.)

MEMORANDUM IN SUPPORT

Section 2(A) of Rule XII of the Rules for the Government of the Bar of Ohio provides that “A tribunal¹ of this state may grant permission to appear pro hac vice to an out-of-state attorney who is admitted to practice in the highest court of a state *** of the United States or the District of Columbia *** and is in good standing to appear pro hac vice in a proceeding.”² The Commission’s rules provide that a “person authorized to practice law in other jurisdictions may be permitted to appear before the commission in a particular proceeding, upon motion of an attorney of this state.”³

Edmund J. Berger has been issued a certificate of *pro hac vice* registration in the state of Ohio.⁴ Additionally, the following information is provided per Section 2(A)(6) of Rule XII of the Rules for the Government of the Bar of Ohio:

- (a) Mr. Berger resides at 6035 Red Winesap Way, Dublin, OH
43016. Mr. Berger is employed by the Office of the Ohio

¹ “A tribunal is defined as a court, legislative body, administrative agency, or other body acting in an adjudicative capacity. A legislative body, administrative agency, or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party’s interests in a particular matter.” Section 1(A) of Rule XII of the Rules for the Government of the Bar of Ohio.

² “A proceeding is defined as an adjudicative matter pending before a tribunal.” Section 1(B) of Rule XII of the Rules for the Government of the Bar of Ohio.

³ Ohio Adm. Code 4901-1-8(B).

⁴ Attachment A.

Consumers' Counsel, 10 West Broad St., Suite 1800,
Columbus, Ohio, 43215.⁵

- (b) Mr. Berger is license to practice law in Pennsylvania. He was admitted to practice on November 16, 1988. *See* Pennsylvania Attorney Registration No. 53407.
- (c) Please see the attached affidavit (Attachment B) stating that Mr. Berger has never been disbarred, that he is not under suspension nor has he resigned from the practice of law with discipline pending in any jurisdiction the attorney has ever been admitted.
- (d) Mr. Berger has not been granted permission to appear *pro hac vice* in more than three proceedings before Ohio tribunals in the current calendar year pursuant to Section 2(A)(5) of Rule XII of the Rules for the Government of the Bar of Ohio.
- (e) Melissa R. Yost, Ohio Attorney Registration No. 0070914, an active Ohio attorney in good standing, has agreed to associate with Mr. Berger on this case.

The information above and Attachments A and B show that Mr. Berger meets the Supreme Court's requirements for *pro hac vice* practice in Ohio. Accordingly, the Commission should grant Edmund J. Berger permission to appear *pro hac vice* for the purposes of representing the OCC in this proceeding.

⁵ Mr. Berger's e-mail address is as follows: berger@occ.state.oh.us.

Respectfully submitted,

/s/ *Melissa R. Yost*

Melissa R. Yost
Assistant Consumers' Counsel
Office of the Ohio Consumers' Counsel
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Telephone: (614) 466-1291
yost@occ.state.oh.us

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion was served on the persons stated below via electronic service, this 6th day of November 2012.

/s/ Melissa R. Yost

Melissa R. Yost

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THE SUPREME COURT *of* OHIO
OFFICE OF ATTORNEY SERVICES

IN THE MATTER OF THE APPLICATION OF

Edmund Berger

FOR PRO HAC VICE REGISTRATION

per Gov. Bar R. XII, Section 2(A)(3)

Certificate of
PRO HAC VICE
REGISTRATION

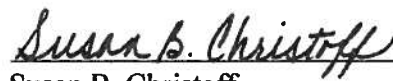
2012

Registration Number:
PHV- 3261-2012

Edmund Berger

_____, having met the requirements of, and found to be in full compliance with, Section 2(A)(3) of Rule XII of the Rules for the Government of the Bar of Ohio, is hereby issued this certificate of pro hac vice registration in the state of Ohio.

To receive permission to appear pro hac vice in an Ohio proceeding, a motion requesting such permission must be filed with the tribunal in accordance with Section 2(A)(6) of Rule XII of the Rules for the Government of the Bar of Ohio.



Susan B. Christoff
Director, Attorney Services

Expires December 31, 2012

IN THE MATTER OF THE MOTION OF

CASE NO. 12-426-EL-SSOEdmund J. Berger

FOR PERMISSION TO APPEAR PRO HAC VICE

AFFIDAVIT OF
OUT-OF-STATE ATTORNEY
Gov. Bar R. XII, Section 2(A)(6)Edmund J. Berger being first duly cautioned, swears or affirms as follows:

- a. I have never been disbarred from the practice of law.
- b. I have been admitted to the practice of law in the following jurisdictions (attach additional jurisdictions if necessary):


Pennsylvania

c. Choose one:

- ☒ I am not currently suspended from the practice of law in any jurisdiction where I have been admitted to practice.
- ☐ I am currently suspended from the practice of law in the following jurisdictions:

d. Choose one:

- ☒ I have not resigned from the practice of law with discipline pending in any jurisdiction where I have been admitted to practice.
- ☐ I have resigned from the practice of law with discipline pending in the following jurisdiction(s):


SIGNATURE OF APPLICANT
Sworn to or affirmed before me and subscribed in my presence the 29th day of Oct.,20 12, in the state of OHIO and county of FRANKLIN.

Debra Jo Bingham, Notary Public

Union County, State of Ohio

My Commission Expires June 13, 2015

*Affix stamp & seal (required in Ohio).


SIGNATURE OF NOTARY PUBLIC*

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/6/2012 11:16:28 AM

in

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

Summary: Motion Motion Requesting Permission for Edmund J. Berger to Appear Pro Hac Vice electronically filed by Ms. Deb J. Bingham on behalf of Yost, Melissa R. Ms.