

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The Dayton)	
Power and Light Company for Approval of a)	Case No. 13-1631-EL-UNC
Revised Bill Format for Electric Service.)	

**COMMENTS BY CONSTELLATION NEWENERGY, INC.
AND
MOTION TO INTERVENE**

Now comes Constellation NewEnergy, Inc. (“Constellation”), a certificated competitive retail electric service (“CRES”) provider in Ohio who provides CRES in the Dayton Power and Light Company (“DP&L”) service area. Constellation was an active participant in *In Re: The Dayton Power and Light Company for Approval of its Electric Security Plan, etc.*, Case Nos. 12-426-EL-SSO et al. (“DP&L ESP II”). One of the major rulings made in the September 4, 2013 Opinion and Order in that case was the direct billing by DP&L to retail customers for the Network Integrated Transmission System (“NITS”) charges and certain other Regional Transmission Organization (“RTO”) fees, which from the retail customer’s prospective are uniform. Under the preceding ESP, the NITS and associated uniform transmission fees were billed to the CRES providers and then in turn billed the retail customers. The direct billing of NITS by DP&L adds to the cost transparency of transmission fees for the customer, and implements the same NITS collection methodology as used by its territorial service neighbor Duke Energy Ohio Inc. and the three FirstEnergy utilities.

Since DP&L will be collecting for NITS charges for the first time under the consolidated bills and will be bifurcating the transmission costs to the standard service customers, changes are needed to the current billing format. The Public Utilities Commission of Ohio’s (“Commission”) September 4, 2013 Opinion and Order is clear that the direct transmission billing arrangement is

to start with the January 2014 billing cycle. From Constellation's perspective, the new bill invoice definitions proposed by DP&L are accurate and use of the old billing format could cause confusion. Accordingly, DP&L should use the new format starting next month.

Rules 4901:12-10-22(C) and 4901:1-10-33(F), Ohio Administrative Code, provide that electric distribution utility-proposed bill formats are subject to a 45-day automatic approval process and, absent Commission action, are deemed approved on the forty-sixth day. DP&L filed its proposed bill format change on November 1, 2013, so on December 16th the requested billing format changes will be deemed approved and can be implemented for the January billing cycle absent the Commission issuing a stay. A stay of the new billing format could cause concern and confusion as to whether the new transmission rates were being implemented. Thus, the Commission should allow the billing format changes to go into effect as per the rule.

Billing format is an active subject in the Commission's investigation of the retail electric service markets, Case No. 12-3151-EL-COI. Constellation agrees with the observations of Direct Energy filed in this docket that uniformity among the utilities, clarity as to what the price-to-compare covers, and improved messaging are issues for DP&L as well as for the other jurisdictional electric utilities. In that regard, Constellation believes that compliance with the transmission billing changes ordered in the DP&L ESP II case should not be a reason for delay or an exemption for DP&L to implementing the improvements to billing formats that arise out of the Commission's Retail Electric Market Investigation.

Should the Commission elect to either prohibit the proposed billing format changes to take place or permit the format changes to go forward in January but continue the DP&L billing format review within this docket, Constellation seeks intervention. A memorandum in support of the intervention is attached.

Respectfully Submitted,



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**MEMORANDUM IN SUPPORT OF THE COMMENTS AND MOTION TO
INTERVENE BY CONSTELLATION NEWENERGY, INC.**

Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code, establish the standard for intervention in the above-styled proceeding as a full party of record.

Rule 4901-1-11, Ohio Administrative Code, states in part:

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 or her ability to protect that interest, unless the person's interest is adequately represented by existing parties.

In addition to establishment of a direct interest, the factors that the Public Utilities Commission of Ohio ("Commission") considers in implementing the above rule are the nature of the intervenor's interest, the extent that interest is represented by existing parties, the intervenor's potential contribution to a just and expeditious resolution of the issues involved, and whether intervention would result in an undue delay of the proceeding. (See also, R.C. 4903.221(B) upon which the above rule is authorized.) A review of these factors in light of following facts supports granting the intervention request of Constellation NewEnergy, Inc. ("Constellation").

Constellation provides electricity and energy-related services to retail customers in Ohio, as well as in 15 other states, the District of Columbia and two Canadian provinces and serves more than 15,000 megawatts of load and more than 10,000 customers. Constellation holds a certificate as a competitive retail electric service ("CRES") provider from the Commission to engage in the competitive sale of electric service to retail customers in Ohio. Constellation

currently provides service to retail electric customers in the Dayton Power and Light Company (“DP&L”) service territory.

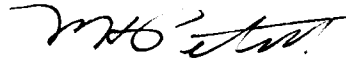
In the Commission’s Opinion and Order in Case Nos. 12-426-EL-ESP et al. (“DP&L ESP II”), extensive changes were ordered as to how the standard service offer is made and how transmission expenses from the Regional Transmission Organization are billed to retail customers. In the matter at bar, DP&L is proposing to amend its bill format to reflect the changes ordered by the Commission in the DP&L ESP II proceeding. Since Constellation has active customers now and may have additional customers in the future, it is directly affected by the information on the utility bill. Further, for ongoing marketing activities, the billing format used for standard service customers affects Constellation’s business interests. Thus, Constellation is directly affected by the filing in the matter at bar. This motion for intervention precedes any intervention deadline and thus will not unduly delay the instant proceeding.

WHEREFORE, Constellation NewEnergy, Inc. respectfully requests that the Commission grant this motion for leave to intervene and be made a full party of record. For purposes of receiving service in the proceeding, in addition to the undersigned, Constellation requests that the following persons be placed on the official service list:

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CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was served by electronic mail this 6th day of December 2013 upon the persons listed below.



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Summary: Comments and Motion to Intervene electronically filed by Mrs. Gretchen L. Petrucci on behalf of Constellation New Energy Inc.