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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 Approval of its Proposed Economic ) Case No. 07-1079-EL-ATA  
Development Rider. )

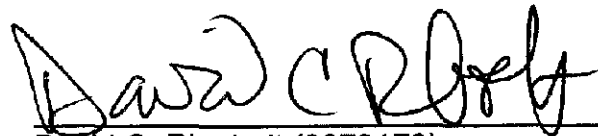
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MOTION TO INTERVENE

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Ohio Partners for Affordable Energy ("OPAE") hereby respectfully moves the Public Utilities Commission of Ohio ("Commission") for leave to intervene in the above-captioned matter pursuant to R.C. §4903.221 and Section 4901-1-1-11 of the Commission's Code of Rules and Regulations, with full powers and rights granted by the Commission specifically, by statute or by the provisions of the Commission's Code of Rules and Regulations to intervening parties. The reasons for granting this motion are contained in the memorandum attached hereto and incorporated herein.

Respectfully submitted,



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Colleen L. Mooney (0015668)  
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**MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE**

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Ohio Partners for Affordable Energy ("OPAE") should be permitted to intervene in this matter pursuant to Section 4903.22.1, Revised Code, and the Commission's Rules and Regulation contained in Rule 4901-01-11 of the Ohio Administrative Code. The above-referenced application made by The Dayton Power and Light Company ("DP&L") requests approval of a proposed economic development rider, which will provide for an incentive payment to eligible customers in the amount of 50% of distribution demand charges paid by the customer over a twelve-month period. DP&L proposes to defer incentives paid and to recover deferred amounts through future distribution rate proceedings. Application at Exhibit C-1.

In determining whether to permit intervention, the following criteria are to be considered: the nature of the person's interest; the extent to which that interest is represented by existing parties; the person's potential contribution to just and expeditious resolution of the proceeding; and, whether granting the intervention will unduly delay or unjustly prejudice any existing party. OPAE meets all four criteria for intervention in this proceeding.

OPAE is an Ohio corporation with a stated purpose of advocating for affordable energy policies for low and moderate income Ohioans; as such, OPAE has a real and substantial interest in this proceeding. Additionally, OPAE

includes as members non-profit organizations located in DP&L's service territory. These members are SOURCES Community Network Services; Clinton County Community Action Program; Tri-County Community Action Commission of Champaign-Logan-Shelby Counties; Community Action Partnership of the Greater Dayton Area; Community Action Organization of Delaware/Madison/Union Counties, Inc.; and Community Action Commission of Fayette County.

OPAE members advocate on behalf of DP&L's low- and moderate-income customers. OPAE members also manage bill payment assistance programs to ensure access to essential utility services and provide weatherization and energy efficiency services to low income customers of DP&L. OPAE members are also ratepayers of DP&L. Moreover, many of OPAE's members are community action agencies. Under the federal legislation authorizing the creation and funding of these agencies, originally known as the Economic Opportunity Act of 1964, community action is charged with advocating for low-income residents of their communities.<sup>1</sup>

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<sup>1</sup> See 42 U.S.C. 672:

The purposes of this subtitle are--

(1) to provide assistance to States and local communities, working through a network of community action agencies and other neighborhood-based organizations, for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become fully self-sufficient (particularly families who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and

(2) to accomplish the goals described in paragraph (1) through--

(A) the strengthening of community capabilities for planning and coordinating the use of a broad range of Federal, State, local, and other assistance (including private resources) related to the elimination of poverty, so that this assistance can be used in a manner responsive to local needs and conditions;

(B) the organization of a range of services related to the needs of low-income families and individuals, so that these services may have a measurable and potentially major impact on the causes of poverty in the community and may help the families and individuals to achieve self-sufficiency;

(C) the greater use of innovative and effective community-based approaches to attacking the causes and effects of poverty and of community breakdown;

OPAE's primary interest in this case is to protect DP&L's low and moderate-income customers from unlawful requests for recovery of deferred expenses through distribution rate increases that the deferrals will inevitably cause. Deferrals of expenses violate test-year requirements for expenses in rate increase applications. Moreover, utilities such as DP&L do not request deferrals of expenses except to the extent that there is practical certainty that the Commission will approve the deferrals for future recovery through increased distribution rates. Therefore, the application represents an unlawful, pre-approved distribution rate increase for customers of DP&L. In addition, in the case here where the expenses relate to incentives provided only to non-residential customers, the problem of subsidies from residential customers to other classes arises. OPAE seeks to ensure that the deferrals do not eventually shift costs to residential and small commercial customers from other customer groups. OPAE also intends to address any other issues that may arise during consideration of this matter, such as whether any generation-related charges may unlawfully be included in the deferrals for recovery through distribution rates. *Elyria Foundry Company, et al., v. Pub. Util. Comm.*, 114 Ohio St.3d 305 (2007).

For the above reasons, OPAE has a direct, real and substantial interest in this proceeding. The disposition of this proceeding may impair or impede the ability of OPAE to protect its interests. No other party to the proceeding will adequately represent the interests of OPAE. OPAE is a rare organization that

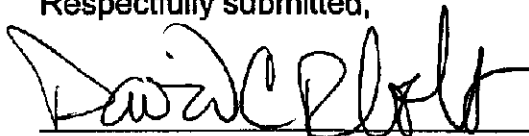
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- (D) the maximum participation of residents of the low-income communities and members of the groups served by programs assisted through the block grants made under this subtitle to empower such residents and members to respond to the unique problems and needs within their communities; and
  - (E) the broadening of the resource base of programs directed to the elimination of poverty so as to secure a more active role in the provision of services for--
    - (i) private, religious, charitable, and neighborhood-based organizations; and
    - (ii) individual citizens, and business, labor, and professional groups, who are able to influence the quantity and quality of opportunities and services for the poor.

serves as an advocate, service provider and nonprofit customer group. No other party represents this group of interests.

OPAE's participation in this proceeding will not cause undue delay, will not unjustly prejudice any existing party, and will contribute to the just and expeditious resolution of the issues and concerns raised in this proceeding.

Therefore, OPAE is entitled to intervene in this proceeding with the full powers and rights granted by statute and by the provisions of the Commission's Codes of Rules and Regulations to intervening parties.

Respectfully submitted,

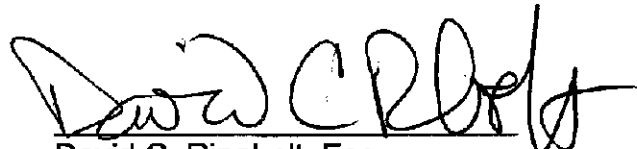


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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion to Intervene and Memorandum of Support and the attached Motion to Admit *Pro Hac Vice* was served by regular U.S. Mail upon the parties of record identified below in this case on this 3rd day of October, 2007.



David C. Rinebolt, Esq.

**Counsel for Ohio Partners for  
Affordable Energy**

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**MOTION TO ADMIT DAVID C. RINEBOLT TO PRACTICE  
PRO HAC VICE BEFORE THE COMMISSION**

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Pursuant to Rule 4901-1-08(B) of the Ohio Administrative Code, Colleen L. Mooney (0015668), an attorney licensed to practice in the State of Ohio, respectfully petitions the Public Utilities Commission of Ohio ("Commission") to permit David C. Rinebolt to practice *pro hac vice* before the Commission in the above-referenced proceeding. Mr. Rinebolt represents Ohio Partners for Affordable Energy, which is an Ohio corporation engaged in advocating for affordable energy policies.

Mr. Rinebolt graduated from the Columbus School of Law of the Catholic University of American in May 1981. As an active member of the District of Columbia Bar, Bar No. 367210, Mr. Rinebolt is licensed to practice before the federal courts of the District of Columbia. Furthermore, Mr. Rinebolt has practiced law continuously since being admitted to the District of Columbia Bar in October 1982. He is also registered with the Supreme Court of the State of Ohio in corporate status (Ohio Bar No. 0073178).

WHEREFORE, Colleen L. Mooney respectfully requests that David C. Rinebolt be permitted to practice before the Commission in the aforementioned proceedings.

Respectfully submitted,

Colleen L. Mooney *DCR*

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