



**ABLE**  
**Dayton Office**  
333 W. First Street  
Suite 500B  
Dayton, Ohio 45402

(937) 228-8104  
1-866-837-8832  
Fax: (937) 449-8131

**New Applicants**  
1-888-534-1432

[www.ablelaw.org](http://www.ablelaw.org)

9  
RECEIVED-DOCKETING DIV

January 7, 2009

2009 JAN -8 AM 9:35

**PUCO**

PUCO  
Docketing Division  
180 E. Broad Street, 13<sup>th</sup> Floor  
Columbus, OH 43215

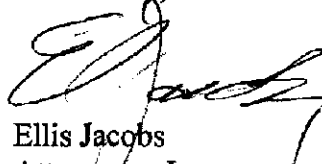
Re: No. 08-1094-EL-SSO

Dear Sir/Madam:

Enclosed is the original and 23 copies of the Motion to Intervene and Memorandum in Support of the Edgemont Neighborhood Coalition in the above-captioned matter. This motion was fax filed with the Commission on today's date.

Please returned the extra time-stamped copies in the enclosed envelope.

Yours truly,



Ellis Jacobs  
Attorney at Law

Enclosures

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
Technician SM Date Processed JAN 08 2009

FILE

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

RECEIVED-DOCKETING DIV  
2009 JAN -8 AM 9: 35

PUCO

In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan.	:	Case No. 08-1094-EL-SSO
	:	
In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs.	:	Case No. 08-1095-EL-ATA
	:	
In the Matter of the Applications of The Dayton Power and Light Company for Approval of Certain Accounting Authority Pursuant to Ohio Rev. Code § 4905.13.	:	Case No. 08-1096-EL-AAM
	:	
In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Amended Corporate Separation Plan.	:	Case No. 08-1097-EL-UNC
	:	

---

MOTION TO INTERVENE  
AND  
REQUEST FOR LEAVE TO FILE MOTION TO INTERVENE OUT OF TIME  
OF  
THE EDGEMONT NEIGHBORHOOD COALITION


---

In these applications, The Dayton Power and Light Company seeks approval of an electric security plan pursuant to Amended Substitute Senate Bill No. 221 ("SB 221"). As discussed in the accompanying memorandum, The Edgemont Neighborhood Coalition ("Edgemont") 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, Edgemont'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. Accordingly, Edgemont hereby moves to intervene in this proceeding pursuant to Section 4903.221, Revised Code, and Rule 4901-

1-11, Ohio Administrative Code.

Edgemont recognizes that the procedural entry issued in this proceeding on November 26, 2008 established December 10, 2008 as the due date for motions to intervene. Edgemont has not intervened in any of the other SB 221 SSO cases now pending before the Commission and undersigned counsel was unaware of the November 26, 2008 entry in these dockets. Therefore, Edgemont respectfully requests that the Commission entertain its motion to intervene, notwithstanding that it is filed after the specified due date. Granting Edgemont leave to file its motion to intervene out of time would be consistent with the Commission's policy of encouraging the broadest possible participation in its proceedings (see, e.g., Cleveland Elec. Illum. Co., Case No. 85-675-EL-AIR, Entry dated January 14, 1986, at 2), and would be consistent with the disposition of similar requests to file motions to intervene out of time in other SSO proceedings [see Duke Energy Ohio, Case No. 08-920-EL-SSO (Entry dated September 17, 2008), at 4]. Further, in view of the procedural posture of the case, no party will be prejudiced by granting Edgemont's request. If its motion to intervene is granted, Edgemont will, of course, accept the record as it finds it. THEREFORE, Edgemont respectfully requests that the Commission grant its intervention.

Respectfully submitted,



Ellis Jacobs  
Advocates for Basic Legal Equality, Inc.  
333 W. First Street, Suite 500B  
Dayton, OH 45402  
PH: (937) 228-8088  
FX: (937) 449-8131  
ejacobs@ablelaw.org

COUNSEL FOR THE EDMONT  
NEIGHBORHOOD COALITION

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan.	:	Case No. 08-1094-EL-SSO
	:	
In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs.	:	Case No. 08-1095-EL-ATA
	:	
In the Matter of the Applications of The Dayton Power and Light Company for Approval of Certain Accounting Authority Pursuant to Ohio Rev. Code § 4905.13.	:	Case No. 08-1096-EL-AAM
	:	
	:	
In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Amended Corporate Separation Plan.	:	Case No. 08-1097-EL-UNC
	:	

---

MEMORANDUM IN SUPPORT  
OF  
MOTION TO INTERVENE  
OF  
THE EDGEMONT NEIGHBORHOOD COALITION

---

Section 4903.221, Revised Code, provides that any "person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding." The Edgemont Neighborhood Coalition ("Edgemont") is a non-profit, charitable organization with an office in the Edgemont neighborhood of Dayton. The Coalition provides a variety of services to neighborhood residents. These services include counseling and referral for utility payment problems and for home weatherization needs. The neighborhood is a primarily African American inner city neighborhood.

Most of the residents have extremely low incomes and are particularly sensitive to changes in the cost of electric services. They also live in older homes which have specific weatherization needs.

The organization operates an office and green house and purchases electric service from DP&L. It operates on a very slim budget and, like the residents of the neighborhood which it serves, is also sensitive to changes in electric rates and is in need of appropriate energy efficiency services.

For these reasons it has a real and substantial interest in these proceedings.

Further, not only does Edgemont satisfy the underlying statutory test, but it also satisfies the standards governing intervention set forth in the Commission's rules.

Rule 4901-1-11(A), Ohio Administrative Code ("OAC"), provides, in pertinent part, as follows:

- A. 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

Edgemont plainly has a real and substantial interest in a proceeding that will impact electric rates and the availability of energy efficiency programs. None of the other pending motions to intervene in this case are from parties which adequately represent the interest of Edgemont, a community organization representing low-income rate payers in the largest urban area in the DP&L territory and a small business purchasing electric services for its own operations.

Each of the specific considerations that the Commission may, by rule, take into account in applying the Rule 4901-1- 11(A) (2), OAC, standard, also fully support granting Edgemont's motion to intervene. Rule 4901-1- 11(B), OAC, provides as follows:

In deciding whether to permit intervention under paragraph (A) (2) of this rule, the commission, the legal director, the deputy legal director, or an attorney examiner case shall consider:

- (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 fill development and equitable resolution of the factual issues.
- (5) The extent to which the person's interest is represented by existing parties;

First, as explained above, Edgemont's interest in the proposals contained in these applications relating to rates and energy efficiency mandates is direct and substantial. Second, Edgemont will advocate that the rates paid by customers be reasonable, that service be adequate and that the measures ultimately adopted be effective and consistent with the legislative intent underlying SB 221. Third, in view of the fact that the proceeding has just commenced, granting Edgemont's motion to intervene will not unduly delay or prolong the proceeding. Fourth, Edgemont will bring valuable insights that will expedite the effective treatment of these cases. Finally, not only are there no existing parties that represent Edgemont's interests, but it would be inconsistent with the Commission's stated policy "to encourage the broadest possible participation in its

proceedings" (see, e.g., Cleveland Elec. Illum. Co., Case No. 85-675-EL-AIR, Entry dated January 14, 1986, at 2) to apply the Rule 4901-1-11(B)(5) standard in a manner that would exclude Edgemont from this case. Thus, granting Edgemont intervenor status is consistent with all the considerations set out in Rule 4901-1-11(B), OAC.

WHEREFORE, Edgemont respectfully requests that the Commission grant its motion to intervene.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ellis Jacobs', is written over a horizontal line.

Ellis Jacobs  
Advocates for Basic Legal Equality, Inc.  
333 W. First Street, Suite 500B  
Dayton, OH 45402  
PH: (937) 228-8088  
FX: (937) 449-8131  
ejacobs@ablelaw.org

Attorney for  
THE EDMONT NEIGHBORHOOD  
COALITION

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing has been served upon the following parties by first class mail, postage prepaid, this 7<sup>th</sup> day of January, 2009.

  
Ellis Jacobs

Judi L. Sobecki  
The Dayton Power and Light Company  
1065 Woodman Drive  
Dayton, OH 45432

David F. Boehm  
Boehm, Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, Ohio 45202

Charles J. Faruki  
Jeffrey S. Sharkey  
Faruki Ireland & Cox P.L.L.  
500 Courthouse Plaza, SW  
10 North Ludlow Street  
Dayton, OH 45402

John W. Bentine  
Mark S. Yurick  
Matthew S. White  
Chester, Wilcox & Saxbe LLP  
65 East State Street, Suite 1000  
Columbus, Ohio 43215-4213

Samuel C. Randazzo  
Joseph M. Clark  
McNees Wallace & Nurick LLC  
21 East State Street, 17<sup>th</sup> Floor  
Columbus, OH 43215-4228

M. Howard Petricoff  
Stephen M. Howard  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay St.  
P.O. Box 1008  
Columbus, OH 43216-1008

Janine L. Migden-Ostrander  
Jacqueline L. Roberts  
Ann Hotz  
Richard Reese  
Michael E. Idzkowski  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, OH 43215-3485

Cynthia A. Fonner  
Senior Counsel  
Constellation Energy Group, Inc.  
550 W. Washington Street, Suite 300  
Chicago, IL 60661

Dave Rinebolt  
Colleen Mooney  
Ohio Partners for Affordable Energy  
231 West Lima Street, P.O. 1793  
Findlay, OH 45839-1793

Henry W. Eckhart  
50 West Broad Street, Suite 2117  
Columbus, OH 43215

Barth Royer  
Bell & Royer Co. LPA  
33 South Grant Avenue  
Columbus, Ohio 43215-3927

Richard L. Sites  
General Counsel and Senior Director of  
Health Policy  
Ohio Hospital Association  
155 East Broad Street, 15<sup>th</sup> Floor  
Columbus, OH 43215-3620