

## BEFORE

## THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of )	
The Dayton Power and Light Company )	Case No. 08-1094-EL-SSO
For Approval of its Electric Security )	
Plan. )	
In the Matter of the Application of )	
The Dayton Power and Light Company )	Case No. 08-1095-EL-ATA
For Approval of Revised Tariffs. )	
In the Matter of the Application of )	
The Dayton Power and Light Company )	
For Approval of Certain Accounting )	Case No. 08-1096-EL-AAM
Authority Pursuant to Section 4905.13, )	
Revised Code. )	
In the Matter of the Application of )	
The Dayton Power and Light Company )	Case No. 08-1097-EL-UNC
For Approval of its Amended )	
Corporate Separation Plan. )	

ENTRY

The attorney examiner finds:

- (1) Dayton Power and Light Company (DP&L) is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.
- (2) On October 10, 2008, DP&L filed an application for a standard service offer (SSO) pursuant to Section 4928.141, Revised Code. This application is for an electric security plan in accordance with Section 4928.143, Revised Code.
- (3) By entry dated November 26, 2008, the attorney examiner ordered that motions to intervene in this proceeding be filed by December 10, 2008.

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- (4) The following parties timely filed motions to intervene in this proceeding:

Industrial Energy Users-Ohio  
The Sierra Club  
Ohio Consumers' Counsel (OCC)  
Ohio Energy Group  
Ohio Partners for Affordable Energy (OPAE)  
Constellation NewEnergy, Inc. and Constellation Energy Group, Inc.  
Ohio Hospital Association  
Ohio Farm Bureau Federation  
Cargill, Inc.  
Honda of Ohio Mfg., Inc.  
Ohio Manufacturers' Association  
The City of Dayton

No party opposed these motions, and the attorney examiner finds that the motions to intervene should be granted.

- (5) On December 11, 2008, the Ohio Environmental Council and Dominion Retail, Inc. filed motions to intervene and requests for leave to file the motions out of time. No party opposed these motions, and the attorney examiner finds that the motions should be granted.
- (6) Further, on January 7, 2009, The Edgemont Neighborhood Coalition (Edgemont) filed a motion to intervene and a request for leave to file the motion out of time. On January 9, 2009, DP&L filed a memorandum contra the motion to intervene. Edgemont filed a reply to the memorandum contra on January 13, 2009.

In its motion, Edgemont states that it was unaware of the deadline for intervention in this proceeding, but Edgemont argues that granting intervention would be consistent with the Commission's policy of encouraging the broadest possible participation in Commission proceedings and with the disposition of similar requests in other SSO proceedings. In its memorandum contra, DP&L argues that Edgemont has not demonstrated "extraordinary circumstances" for late intervention as required by Rule 4901-1-11(F), Ohio Administrative Code. Further, DP&L contends that Edgemont's

interests in this proceeding are adequately represented by OCC and OP&E.

The attorney examiner notes that the Supreme Court of Ohio has held that statutes and rules governing intervention should be "generally liberally construed in favor of intervention." *Ohio Consumers' Counsel v. Pub. Util. Comm.* (2006), 111 Ohio St.3d 384 (quoting *State ex rel. Polo v. Cuyahoga Cty. Bd. Of Elections* (1995), 74 Ohio St.3d. 143, 144). Accordingly, the attorney examiner finds that Edgemont has demonstrated good cause for leave to file for intervention after the deadline established by the examiner. Moreover, no other party will be prejudiced by allowing intervention at this point because Edgemont has acknowledged that it must accept the record as it finds it. Therefore, Edgemont's motion to intervene and request for leave to file the motion out of time should be granted.

- (7) Motions for admission *pro hac vice* were filed on behalf of the following individuals:

David C. Rinebolt  
Cynthia A. Fonner  
Robert Ukeiley

The attorney examiner finds that these motions should be granted.

It is, therefore,

ORDERED, That the motions to intervene filed by various parties be granted in accordance with Finding (4). It is, further,

ORDERED, That the motions to intervene filed after the deadline for intervention be granted in accordance with Findings (5) and (6). It is, further,

ORDERED, That the motions for admission *pro hac vice* filed on behalf of various individuals be granted in accordance with Finding (7). It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



By: Gregory A. Price  
Attorney Examiner

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Entered in the Journal

FEB 05 2009



Renee J. Jenkins  
Secretary