

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Market Rate Offer.	) ) )	Case No. 12-426-EL-SSO
In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs.	) ) )	Case No. 12-427-EL-ATA
In the Matter of the Application of The Dayton Power and Light Company for Approval of Certain Accounting Authority.	) ) )	Case No. 12-428-EL-AAM
In the Matter of the Application of The Dayton Power and Light Company For the Waiver of Certain Commission Rules.	) ) )	Case No. 12-429-EL-WVR
In the Matter of the Application of The Dayton Power and Light Company to Establish Tariff Riders	) ) )	Case No. 12-430-EL-RDR

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MOTION TO INTERVENE

BY

DUKE ENERGY OHIO, INC.

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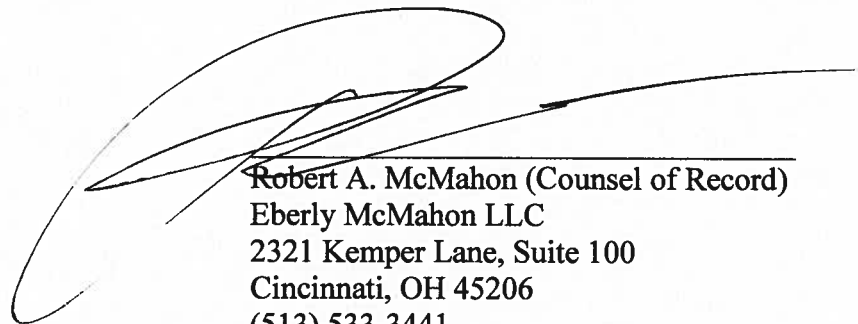
Now comes Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) and moves to intervene, as a full party of record, in the above-captioned proceedings, pursuant to R.C. 4903.221 and O.A.C. 4901-1-11. The issues in this proceeding relate to the Commission's review of a proposed Market Rate Offer (MRO) by The Dayton Power and Light Company (DP&L). Duke Energy Ohio has real and substantial interest in the outcome of this MRO

proceeding, and therefore seeks intervention in accordance with R.C. 4903.221 and O.A.C. 4901-1-11.

Wherefore, for the reasons more fully set forth in the attached memorandum in support, Duke Energy Ohio respectfully requests that the Commission grant this motion to intervene.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

A large, stylized handwritten signature in black ink, appearing to read 'Robert A. McMahon', is written over a horizontal line.

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### Memorandum in Support

R.C. 4928.141 authorizes DP&L to file either a Market Rate Offer (MRO) pursuant to R.C. 4928.142 or an Electric Security Plan (ESP) pursuant to R.C. 4928.143. On March 30, 2012 DP&L filed its application for a MRO to become effective on January 1, 2013 (Application).

R.C. 4903.221(B) sets forth several criteria that the Commission is required to consider in ruling on applications to intervene. Those criteria are listed as follows:

- (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 full development and equitable resolution of the factual issues.

The Commission has, itself, added additional detail to the intervention requirements through the promulgation of O.A.C. 4901-1-11. That rule, in section (A), requires that the Commission allow intervention by a person who has a "real and substantial interest in the proceeding" and who "is so situated that the disposition of the proceeding may . . . impair or impede [its] ability to protect that interest, unless the person's interest is adequately represented by existing parties." The rule goes on to list several factors that the Commission is required to consider in determining whether a potential intervenor meets that standard:

- (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 full development and equitable resolution of the factual issues.

- (5) The extent to which the person's interest is represented by existing parties.

Regarding the criteria for intervention, Duke Energy Ohio's interest is unique as compared to other intervenors and parties to this proceeding. As part of its Application in these proceedings, DP&L is proposing to use its existing generating assets as resources to bid into its proposed competitive bidding process and to satisfy its own portion of load during the proposed five year blending period. Duke Energy Ohio jointly owns generation facilities with DP&L at the Killen Station<sup>1</sup>, William H. Zimmer Generating Station Unit 1<sup>2</sup>, Conesville Station Unit 4<sup>3</sup>, Walter C. Beckjord Station Unit 6<sup>4</sup>, the J.P. Stuart Plant<sup>5</sup> and Miami Fort Station Units 7 and 8<sup>6</sup>.

As recent experience in both Duke Energy Ohio's MRO and Electric Security Plan (ESP) and American Electric Power ESP proceedings show, the issue of continued ownership of generating assets by Ohio's utilities is a significant matter.<sup>7</sup> While Duke Energy Ohio has recently committed to transfer its ownership of generating assets to an affiliate, at present it still retains ownership of such facilities and will for some time until the asset transfer is completed. Because of this co-ownership issue, any decision made by DP&L regarding its operation of co-owned stations and the associated costs will directly impact Duke Energy Ohio, at least until such time as the Company can complete its asset transfer. As such, Duke Energy Ohio should

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<sup>1</sup> Killen Station is a 600 MW facility operated by DP&L, jointly owned by Duke Energy Ohio, Columbus Southern Power (CSP) and DP&L

<sup>2</sup> Zimmer Unit 1 is a 1300 MW generating unit in Moscow, Ohio, operated by Duke Energy Ohio, and co-owned by Duke Energy Ohio, DP&L and CSP.

<sup>3</sup> Conesville Unit 4 is a 780 MW generating unit located in Conesville, Ohio, jointly owned by CSP, Duke, and DP&L.

<sup>4</sup> Beckjord Unit 6 is a 434 MW generating unit located at the Walter C. Beckjord Station near New Richmond, Ohio, operated by Duke Energy Ohio and co-owned by Duke Energy Ohio, DP&L and CSP.

<sup>5</sup> J.P. Stuart Plant is a 2,400 MW coal-fired plant located in Aberdeen, Ohio, operated by DP&L, and co-owned by DP&L, Duke Energy Ohio and CSP.

<sup>6</sup> Miami Fort Station Units 7 and 8 are each 326MW generating units located in North Bend, Ohio, and jointly owned by Duke Energy Ohio and DP&L.

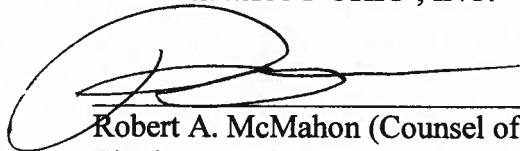
<sup>7</sup> *In the Matter of the Application of Duke Energy Ohio for an Electric Security Plan*, Case No. 11-3549-EL-SSO, et al., and *In the Matter of the Application of Application of the Southern Ohio Power Company and the Ohio Power Company for Authority to Establish a Standard Service Offer*, Case No. 11-346-EL-SSO, et al..

be permitted to intervene in order to protect its considerable investment in these plants, its own decisions regarding the continued ownership and operation of such assets, as well as, the partnership regarding the co-ownership going forward.

Intervention by Duke Energy Ohio will not unduly prolong or delay this proceeding as Motions to Intervene are due to be filed in this case by April 20, 2012. Duke Energy Ohio would also respectfully suggest that its intervention will significantly contribute to the full development and equitable resolution of the factual issues, based on its experience in the marketplace, its own experience in attempting to establish a MRO option, its successful implementation of an ESP with a competitive bidding process, and understanding of competitive needs in general. Duke Energy Ohio's interests are not represented by existing parties. Duke Energy Ohio therefore respectfully requests that the Commission grant its motion to intervene and that it be made a full party of record.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served this 10<sup>th</sup> day of April, 2012, by U.S. mail, postage prepaid, or electronic mail upon the persons listed below.



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Summary: Motion to Intervene by Duke Energy Ohio, Inc. electronically filed by Dianne Kuhnell on behalf of Rocco D'Ascenzo and McMahon, Robert and Duke Energy Ohio, Inc.