

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
The Dayton Power and Light Company	)	Case No. 13-2420-EL-UNC
for Authority to Transfer or Sell Its	)	
Generation Assets.	)	

**INTERSTATE GAS SUPPLY, INC.'S MOTION TO INTERVENE**

In accordance with R.C. 4903.221 and Ohio Adm. Code 4901-1-11, Interstate Gas Supply, Inc. (IGS) respectfully requests that the Commission issue an entry granting its request to intervene in this proceeding. As set forth in the accompanying Memorandum in Support, IGS has a real and substantial interest in this proceeding that is not adequately represented by the existing parties. Consequently, intervention should be granted.

Dated: January 13, 2014

Respectfully submitted,

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## **MEMORANDUM IN SUPPORT**

### **I. INTRODUCTION**

On December 30, 2013, The Dayton Power and Light Company (DP&L) filed its application in this proceeding requesting authority to transfer or sell its generation assets in accordance with R.C. 4928.17. If approved, DP&L's application will impact the retail electric market in its service territory and thus IGS's existing and potential business. Consequently, IGS should be permitted to intervene in this proceeding.

### **II. ARGUMENT**

R.C. 4903.221 provides that any person "who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding, provided" that the person satisfies certain criteria for intervention. According to Ohio Adm. Code 4901-1-11(A)(2), "[u]pon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that . . . [t]he 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 deciding whether to grant intervention, the Commission also considers (1) the nature of the intervenor's interest; (2) the legal position advanced by the intervenor as it relates to the merits of the case; (3) whether intervention would unduly prolong or delay the proceeding; (4) the intervenor's potential contribution to a just and expeditious resolution of the issues involved; and (5) the extent that the intervenor's interest is represented by existing parties. Ohio Adm. Code 4901-1-11(B); *see also* R.C. 4903.221(B).

The Ohio Supreme Court has held that statutes and rules governing intervention in Commission proceedings should be “liberally construed in favor of intervention.” *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶ 16. Additionally, the Commission’s policy has been “to encourage the broadest possible participation in its proceedings.” *In re the Application of Cleveland Electric Illuminating Company*, Case No. 85-675-EL-AIR, Entry at 2 (Jan. 14, 1986).

If DP&L’s application is approved, it will affect the competitive retail electric market in the DP&L service territory. DP&L’s application contemplates selling or transferring its generation assets to an affiliated generation company. (Application at 2.) DP&L, however, identifies neither the current market value of the assets nor their expected value at the time of transfer. Indeed, “DP&L seeks a waiver of the requirement . . . that it state in this Application the fair market value of the generation assets to be transferred.” (Application at 8.)

IGS holds Certificate No. 11-403E(2), which authorizes IGS to engage in the competitive sale of retail electric service in Ohio, including to customers in DP&L’s service territory.<sup>1</sup> IGS’s interests include ensuring that the transfer of these generation assets does not create any anticompetitive subsidy to an affiliated generation company. These real and substantial interests may be directly impeded or impaired by the disposition of this proceeding, may adversely affect IGS’s existing and potential business, and cannot be represented by existing parties.

IGS’s participation will not unduly prolong or delay these proceedings. Indeed, based on its years of experience and expertise as a CRES provider, IGS will significantly contribute to the full development of factual issues. IGS will advocate that the disposition of DP&L’s application complies with Ohio law and that it be fair, reasonable, non-discriminatory, and designed to

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<sup>1</sup> See *In re the Application of Interstate Gas Supply, Inc.*, Case No. 11-5326-EL-CRS for a copy of IGS’s certificate.

promote retail electric competition in accordance with state policy, particularly as applied to CRES providers and their customers. Moreover, IGS's experience and direct interest will contribute to a just and equitable resolution of those issues. Finally, the Commission has granted IGS intervention in numerous proceedings involving the review of issues affecting Ohio's electric markets, including proceedings regarding DP&L's recent electric security plan. *See, e.g., In re the Application of The Dayton Power and Light Company*, Case No. 12-426-EL-SSO, Finding and Order at 5 (Sept. 4, 2013).

### **III. CONCLUSION**

IGS has a real and substantial interest in this proceeding that is not adequately represented by the existing parties and has otherwise demonstrated that it satisfies the criteria to intervene in these proceedings. Indeed, if the Commission were to deny IGS's request, such action would be inconsistent with Court precedent and Commission policy. Therefore, IGS respectfully requests that the Commission grant this motion.

Dated: January 13, 2014

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of IGS's Motion to Intervene was served by electronic mail

this 13th day of January, 2014 to the following:

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Summary: Motion to Intervene and Memorandum in Support electronically filed by Mr. Gregory L. Williams on behalf of Interstate Gas Supply, Inc.