

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**INITIAL COMMENTS OF DIRECT ENERGY SERVICES, LLC  
AND DIRECT ENERGY BUSINESS, LLC (“DIRECT ENERGY”)**

On December 30, 2013, The Dayton Power and Light Company (“DP&L”) filed an Application for authority to transfer or sell its generation assets. On January 3, 2014 the Attorney Examiner set the procedural schedule in this matter with initial comments due on February 4, 2014. Direct Energy Services, LLC and Direct Energy Business, LLC (“Direct Energy”) respectfully submits its Initial Comments in this proceeding.

**I. The Commission Should Treat DP&L’s Joint Interest in the Ohio Valley Electric Corporation Similarly as it did with AEP- Ohio.**

DP&L owns 4.9% of Ohio Valley Electric Corporation (“OVEC”).<sup>1</sup> The current application states that there are complex issues surrounding its ownership of OVEC that DP&L will need to resolve prior to separation of generation assets.<sup>2</sup> Specifically, DP&L cites the lengthy and complex contractual provisions associated with OVEC that will require additional analysis and development.<sup>3</sup> Similarly in its most recent Separation Plan, the Ohio Power Company (“AEP-Ohio”) had requested to retain its partial ownership of OVEC, claiming it could not obtain approval from the other joint owners of OVEC to permit transfer of its ownership portion to AEP Generation Resources, Inc. (“GenCo”).<sup>4</sup>

---

<sup>1</sup> Application at 5.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *In the Matter of the Application of Ohio Power Company for Approval of an Amendment to Its Corporate Separation Plan*, Case No. 12-1126-EL-UNC, Application at 2-5 (October 4, 2013).

While Direct Energy understands the complex issues at stake, Direct Energy urges the Public Utilities Commission of Ohio (“Commission”) to require DP&L follow the precedent set in AEP-Ohio and ensure that the power (capacity, energy, and ancillary service components) from the OVEC assets are sold into the PJM Interconnection, LLC (“PJM”) market by directing DP&L in this case to sell the power from OVEC into the PJM market going forward. Additionally, the Commission should make it clear that DP&L may not deviate from selling the OVEC power into PJM without explicit Commission approval. Additionally, the Commission should make it clear that all costs or benefits, regardless of outcome, from OVEC sales be the responsibility of DP&L shareholders and not customers of DP&L or competitive retail electric supply (“CRES”) providers.

These reasonable conditions on approval of the Application would provide assurances the OVEC power will be sold at a market price and that, while a full divestiture did not occur, the essential elements of a full divestiture would still be achieved. Additionally, such a decision would send an important market signal to CRES providers and the market generally of the Commission’s intent to continue its good work towards default prices being set through competitive market mechanisms.

## **II. The Commission Should Require DP&L to Divest its Interest in the Becjkord Generation Station.**

Duke Energy Ohio, Inc. (“Duke”) jointly owns Beckjord Generation Station (“Beckjord”) with DP&L. Although required to divest this asset, DP&L is still evaluating whether this asset should stay with DP&L or be transferred away from the utility. Direct Energy recommends the Commission enforce its order for DP&L to “file a generation divestment plan that divests *all* of

its generation assets”<sup>5</sup> (emphasis added) and not allow DP&L to single out Beckjord. DP&L provides no reasonable rationale that would prevent DP&L from carrying out the Commissions orders, including a divestiture of Beckjord.

Duke, like DP&L, is a public utility as defined in Section 4905.02, Revised Code, and as such, is also subject to the jurisdiction of the Commission. Therefore, DP&L should face no regulatory issues in transferring the Beckjord assets. Furthermore, Duke in its most recent electric security plan (“ESP”) agreed by stipulation to “transfer title, at net book value, to all its generation assets out of Duke.”<sup>6</sup> As such, the divestiture of the Beckjord assets should be straightforward as both owners have the same requirement to divest the asset and are both under the Commission’s regulatory purview. Permitting DP&L to keep its Beckjord assets would possibly set undesirable precedent that would potentially allow Duke to also claim it too should be permitted to maintain interests in Beckjord. The Commission should not allow DP&L to receive the benefits of the ESP only to later bypass the ESP requirements by picking and choosing which assets it divests. The benefits of the ESP, including the non-bypassable \$330 million service stability rider (“SSR”), were taken as a whole in the Commission’s analysis and not based on DP&L only divesting a portion of its assets.

---

<sup>5</sup> *In the Matter of the Dayton Power and Light Company for Approval of its Electric Security Plan*, Case Nos. 12-426-EL-SSO, *et al.*, Finding and Order at 16 (September 4, 2013).

<sup>6</sup> *In the Matter of the Application of Duke Energy Ohio for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service*, Case Nos. 11-3549-EL-SSO, *et al.*, Finding and Order at 16 (November 22, 2011).

Respectfully Submitted,

/s/ Joseph M. Clark

Joseph M. Clark (Counsel of Record)

21 East State Street, 19<sup>th</sup> Floor

Columbus, Ohio 43215

Tel. (614) 220-4369 Ext 232

Fax (614) 220-4674

[joseph.clark@directenergy.com](mailto:joseph.clark@directenergy.com)

Attorney for Direct Energy Services, LLC and  
Direct Energy Business, LLC

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing Initial Comments of Direct Energy Services, LLC and Direct Energy Business, LLC was served this 4<sup>th</sup> day of February, 2014 by electronic mail delivery upon the persons listed below.

/s/ Joseph M. Clark

Joseph M. Clark

Charles J. Faruki  
Jeffrey S. Sharkey  
Faruki Ireland & Cox P.L.L  
500 Courthouse Plaza, S.W.  
10 North Ludlow Street  
Dayton, OH 45402  
[cfaruki@ficlaw.com](mailto:cfaruki@ficlaw.com)

Judi L. Sobecki  
Dayton Power & Light Company  
1065 Woodman Drive  
Dayton, Ohio 45432  
[judi.sobecki@dplinc.com](mailto:judi.sobecki@dplinc.com)

Rocco D'Ascenzo  
Assistant General Counsel  
Duke Energy Ohio  
139 East Fourth Street, 1303-Main  
Cincinnati, OH 45202  
[Rocco.D'Ascenzo@duke-energy.com](mailto:Rocco.D'Ascenzo@duke-energy.com)

David F. Boehm  
Michael J. Kurtz  
Jody Kyler Cohn  
Boehm, Kurtz & Lowry  
36 East Seventh street, Suite 1510  
Cincinnati, OH 45202  
[dboehm@BKLawfirm.com](mailto:dboehm@BKLawfirm.com)  
[mkurtz@BKLawfirm.com](mailto:mkurtz@BKLawfirm.com)  
[jkylercohn@BKLawfirm.com](mailto:jkylercohn@BKLawfirm.com)

Mark A. Hayden  
Firstenergy Service Company  
76 South Main Street  
Akron, OH 44308  
[haydenm@firstenergycorp.colm](mailto:haydenm@firstenergycorp.colm)

James F. Lang  
N. Trevor Alexander  
Calfee, Halter and Griswold, LLP  
The Calfee Building  
1405 East Sixth Street  
Cleveland, OH 44114  
[jlang@calfee.com](mailto:jlang@calfee.com)  
[talexander@calfee.com](mailto:talexander@calfee.com)

Kimberly W. Bojko  
Mallory M. Mohler  
Carpenter, Lipps and Leland, LLP  
280 North High Street, Suite 1300  
Columbus OH, 43215  
[Bojko@carpenterlipps.com](mailto:Bojko@carpenterlipps.com)  
[Mohler@carpenterlipps.com](mailto:Mohler@carpenterlipps.com)

Office of the Ohio Consumers' Counsel  
Edmund "Tad" Berger  
Maureen Grady  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
[Edmund.berger@occ.ohio.org](mailto:Edmund.berger@occ.ohio.org)  
[grady@occ.ohio.org](mailto:grady@occ.ohio.org)

Mark A Whitt  
Andrew J. Campbell  
Gregory L. Williams  
Whitt Sturtevant LLP  
88 East Broad Street, Suite 1590  
Columbus, OH 42315  
[whitt@whitt-sturtevant.com](mailto:whitt@whitt-sturtevant.com)  
[Campbell@whitt-sturtevant.com](mailto:Campbell@whitt-sturtevant.com)  
[Williams@whitt-sturtevant.com](mailto:Williams@whitt-sturtevant.com)

Vincent Parisi  
Lawrence Friedman  
Matthew White  
Interstate Gas Supply, Inc.  
6100 Emerald Parkway  
Dublin, OH 43016  
[vparisi@igsenergy.com](mailto:vparisi@igsenergy.com)  
[lfriedman@igsenergy.com](mailto:lfriedman@igsenergy.com)  
[mswhite@igsenergy.com](mailto:mswhite@igsenergy.com)

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**2/4/2014 2:29:56 PM**

**in**

**Case No(s). 13-2420-EL-UNC**

Summary: Comments (Initial Comments) electronically filed by JOSEPH CLARK on behalf of Direct Energy Services, LLC and Direct Energy Business, LLC