

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of )  
The Dayton Power & Light Company ) Case No. 16-0395-EL-SSO  
for Approval of Its Electric Security )  
Plan. )

In the Matter of the Application of )  
The Dayton Power & Light Company ) Case No. 16-0396-EL-ATA  
for Approval of Revised Tariffs. )

In the Matter of the Application of )  
The Dayton Power & Light Company )  
for Approval of Certain Accounting ) Case No. 16-0397-EL-AAM  
Authority Pursuant to Ohio Rev. Code )  
§ 4905.13. )


**MOTION TO INTERVENE OF DYNEGY INC.  
AND MEMORANDUM IN SUPPORT**

Dynegy Inc. (“Dynegy”) respectfully moves the Public Utilities Commission of Ohio to grant it leave to intervene in these three cases pursuant to Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code, as a full party of record. Dynegy owns over 5,000 megawatts of net capacity in Ohio, and is a co-owner of the Stuart Station Units 1-4, Zimmer Unit 1, Miami Fort Units No. 7 and 8, Killen Unit No. 2, and Conesville Unit No. 4. The Dayton Power & Light Company (“DP&L”) seeks to include its ownership share of these plants as part of the proposed “Reliable Electricity Rider” (“RER”). Dynegy’s intervention is warranted given its status as a co-owner of the plants. In addition, intervention is warranted because Dynegy’s business interests in both the wholesale markets and retail markets will be affected by the proposed electric security plan which includes the RER. The

attached Memorandum in Support further explains why Dynegy's intervention as a full party of record is warranted.

WHEREFORE, Dynegy respectfully requests that the Commission grant this motion to intervene and that Dynegy be made a full party of record.

Respectfully submitted,



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Attorneys for Dynegy Inc.

## MEMORANDUM IN SUPPORT

Dynergy operates power generating facilities in eight states in the Midwest, the Northeast and the West Coast, including power generating facilities in Ohio. Its portfolio consists of nearly 26,000 megawatts of generating facilities that are capable of generating enough electricity to power about 21 million homes nationwide. Dynergy's Ohio assets include partial ownership of Stuart Units 1-4, Zimmer Unit 1, Conesville Unit 4, Killen and Miami Fort 7 and 8. The Dayton Power & Light Company ("DP&L") intends to include its share of these units in the proposed Reliability Electricity Rider ("RER") construct. Dynergy's co-ownership of the plants along with its business interests in Ohio present direct pecuniary interests that warrant intervention in this proceeding.

Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code, set forth the standard for intervention in a proceeding as a full party of record. Rule 4901-1-11 states in part:

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 or her ability to protect that interest, unless the person's interest is adequately represented by existing parties.

To determine a direct interest, the factors that the Commission considers in implementing the above rule are the nature of the intervenor's interest, the extent that interest is represented by existing parties, the intervenor's potential contribution to a just and expeditious resolution of the issues involved, and whether intervention would result in an

undue delay of the proceeding. (See also Section 4903.221(B), Revised Code). A review of the intervention criteria in light of the following facts supports granting Dynegey's intervention.

On February 22, 2016, DP&L filed an application for approval of its electric security plan which includes a proposal for a Reliable Electricity Rider, which would have a term of ten years. As part of that RER proposal, prior to the start of each calendar year, projections would be made of annual variances between (1) the revenue requirement for the plants, including return on and of invested capital, income taxes and fixed O&M, and (2) the revenues expected to be earned by that fleet from the sale of capacity (net of capacity penalties), energy (net of fuel, emission allowance cost, and variable operating costs), and ancillary services to PJM markets. The annual variance would be transferred between DP&L and the unregulated affiliate of DP&L and would either be a credit or a charge to customers. In other words, DP&L is seeking a subsidy for its ownership share of the plants to be included in the RER proposal.

Dynegey's business interests in Ohio as well as the wholesale markets will be directly affected if DP&L's application is granted without modification. For example, if the RER is approved, Dynegey would be competing in the wholesale markets against a subsidized co-owner with an unlimited ratepayer guarantee. Dynegey's interests in optimizing performance in the co-owned units would also be affected and it would be faced with a co-owner that has no incentive to operate the units in an economically rational basis. The nature of these interests warrants intervention.

Dynegey's intervention and participation will enhance the proceeding as Dynegey will provide the unique perspective of a co-owner of the RER plants and a merchant generator with

Ohio generation assets participating in the wholesale markets. Dynegy's unique interest in this proceeding cannot be represented by existing parties, and it has an interest which meets the criteria of Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code. As well, since no procedural schedule exists at this time, Dynegy's intervention will not delay the outcome of this proceeding.

For purposes of receiving service in the proceeding, in addition to the undersigned, Dynegy requests that the following individual be placed on the official service list:

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WHEREFORE, Dynegy respectfully request that the Commission grant this motion to intervene for Dynegy as a full party of record.

Respectfully submitted,



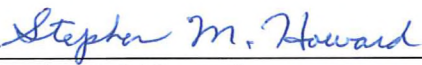
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Attorneys for Dynegy Inc.

## CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list on the Docket Card who have electronically subscribed to this case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served upon the persons below via electronic mail, this 14<sup>th</sup> day of March, 2016.



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Summary: Motion Motion to Intervene and Memorandum in Support electronically filed by Mr. Stephen M Howard on behalf of Dynegey Inc.