BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of the Dayton Power and Light Company for Approval of its Electric Security Plan	))))	Case No. 16-0395-EL-SSO
In the Matter of the Application of the Dayton Power and Light Company for Approval of Revised Tariffs	)))	Case No. 16-0396-EL-ATA
In the Matter of the Application of the Dayton Power and Light Company for Approval of Certain Accounting Authority Pursuant to R.C. 4905.13	))))	Case No. 16-0397-EL-AAM

MURRAY ENERGY CORPORATION'S
MOTION TO INTERVENE AND MEMORANDUM IN SUPPORT

Pursuant to R.C. 4903.221 and Ohio Adm.Code §4901-1-11, Murray Energy Corporation ("Murray Energy" or "Intervenor") hereby moves the Public Utilities Commission of Ohio ("Commission") for an order granting its intervention as a party in these proceedings.

This Motion to Intervene is supported by the Memorandum In Support set forth below.

Respectfully submitted,

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MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE

A. Introduction and Procedural Background

On February 22, 2016, pursuant to R.C. 4928.141 and 4928.143, [1] the Dayton Power and Light Company ("DP&L") filed an Application for Approval of Its Electric Security Plan (the "Original Application") with the Public Utilities Commission of Ohio "PUCO" or "Commission"), case no. 16-0395-EL-SSO. [2] In its Original Application, DP&L indicated that it owned significant electric generating assets which were, "[d]ue to adverse conditions in the energy and capacity markets, and a series of new and upcoming environmental regulations, . . . at a risk of closure." Original Application at ¶4. DP&L cogently, and honestly, explained why the "premature" retirement of the five listed coal-fired generating plants (the "Coal Generation Plants") in which it holds an interest would be disastrous for the citizens of Ohio (the "Adverse Closure Effects"):

- "*This Application is designed to promote economic growth and stability in Ohio by allowing at-risk generation plants to remain operational.* ***If these plants were to close, then the adverse effects would include $26.5 billion in economic losses, the loss of almost 19,000 jobs, and a significant increase in reliability risks.***" Original Application, p. 1 (emphasis added).

- "***Baseload generation plants are critical to Ohio's economic stability because they are necessary to ensure the reliability of the economic grid,***

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[1] R.C. 4928.143 provides, in pertinent part:

> ***The burden of proof in the proceeding shall be on the electric distribution utility.*** * * * [T]he commission by order shall approve or modify and approve an application filed under division (A) of this ***section if it finds that the electric security plan so approved, including its pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under section 4928.142 of the Revised Code.*** * * *

R.C. 4928.143(C)(1) (emphasis added).

[2] Filed simultaneously with the DPL's Application for Approval of Its Electric Security Plan were DPL's Applications for Tariff Approval and to Change Accounting Methods, which were assigned case numbers 16-0396-EL-ATA and 16-0397-EL-AAM, respectively.

ensure fuel diversity of Ohio generation plants, keep prices low and produce millions of dollars of benefits in the state and in the local communities." Original Application, p. 1 (emphasis added).

- "***The closure of the plants in Ohio would significantly decrease supply, and cause a corresponding increase in market prices.***" Original Application, p. 2 (emphasis added).

Because of these acknowledged Adverse Closure Effects, DPL's Original Application sought the Commission's approval of a ten-year Reliable Electric Rider **to ensure that these critical Coal Generation Plants would continue operating through December 31, 2026**. Application at ¶¶6, 9.

Following the filing of the Original Application, the Commission's Attorney Examiner entered an order providing, in part, that "[p]ursuant to Ohio Adm.Code 4901:1-35-06(B), motions to intervene in this proceeding should be filed by June 30, 2016." *In the Matter of the Application of The Dayton Power and Light Company for Approval of its Electric Security Plan*, Nos., 16-395-EL-SSO, 16-396-EL-ATA, & 16-397-EL-AAM, Entry at ¶3(b) (PUCO April 11, 2016). (the "DPL Cases"). [3] A number of entities sought to intervene at that time, and on August 16, the Commission's Attorney Examiner entered an order granting the unopposed motions to intervene of "the Environmental Law and Policy Center (ELPC), the Independent Market Monitor for PJM (Market Monitor), the Ohio Energy Group (OEG), Energy Professionals of Ohio, Industrial Energy Users Ohio (IEUOhio), Dynegy, Inc. (Dynegy), the Kroger Company (Kroger), Ohio Manufacturers' Association Energy Group (OMAEG), the Ohio Consumers' Counsel (OCC), IGS Energy (IGS), Noble Americas Energy Solutions, LLC

[3] Ohio Adm.Code 4901:1-35-06(B) provides that "[i]nterested persons wishing to participate in the hearing shall file a motion to intervene no later than forty-five days after the issuance of the entry scheduling the hearing, unless ordered otherwise by the commission, legal director, deputy legal director, or attorney examiner. This rule does not prohibit the filing of a motion to intervene and conducting discovery prior to the issuance of an entry scheduling a hearing."

(Noble), Ohio Partners for Affordable Energy (OPAE), the Ohio Environmental Council and Environmental Defense Fund (Environmental Groups), EnerNOC, Inc. (EnerNOC), Sierra Club, the Ohio Hospital Association (OHA), City of Dayton, Duke Energy Ohio, Inc. (Duke), PJM Power Providers Group and Electric Power Supply Association (EPSA), Honda of America Manufacturing, Inc. (Honda), Wal-Mart Stores East, LP and Sam's East, Inc. (Wal-Mart), Edgemont Neighborhood Coalition (Edgemont), Mid-Atlantic Renewable Energy Coalition, Utility Workers Union of America Local 175, the Retail Energy Supply Association (RESA), People Working Cooperatively, and PJM Interconnection (PJM)." *DPL Cases*, Entry at ¶5 (PUCO Aug. 16, 2016). [4]

Because the Original Application, as expected, proposed the continued operation of the critical Coal Generation Plants – plants that have been critical to Ohio's base load electricity production for well over 30 years – **no entities representing the interests of Ohio's important coal industry sought to intervene to challenge the Original Application.** As the Commission is fully aware, coal-fired, base load electric generation has been a cornerstone of the state of Ohio's ability to supply safe, reliable, and affordable electricity to its citizens **for generations**. The proposed Stipulation and Recommendation directly subverts this critical, reliable cornerstone of Ohio's sound energy policy, undermining the public interest. In turn, Murray Energy, a coal supplier to the Killen and Stuart plants, is directly and adversely affected by the now-proposed shuttering of those coal-fired, base load plants.

[4] On October 19, 2016, Classic Connectors, Inc. also moved to intervene in these cases. DP&L has opposed the motion, which has yet to be ruled upon. And because the proposed Stipulation and Recommendation directly contradicts the Original Application's representation that the Coal Generation Plants would be preserved and continue to operate, on January 20 and 26, 2017, additional motions to intervene were filed by Adams County, Monroe and Sprigg Townships, and Manchester Local and Adams County Ohio Valley School Districts. As grounds for these motions, the intervenors each asserted that DP&L "recently announced that it intends to close the facility located in the [political subdivision] which will have a detrimental economic impact upon the [political subdivision]." DP&L has not yet responded to those motions, and they remain pending.

During 2016, the parties to these *DPL Cases* proceeded with discovery and engaged in negotiations "with the participation of the Commission's Staff, which negotiations were undertaken by the signatory Parties to Settle this proceeding." Stipulation and Recommendation at 1. The negotiations did indeed result in a proposed settlement, and on January 30, 2017, the parties [5] filed the proposed Stipulation and Recommendation with the Commission. Incredibly, the proposed Stipulation and Recommendation **completely repudiates** what DP&L represented to the Commission and to the public in its Original Application. Instead of continuing the uninterrupted, more than 30-year operation of the critical Coal Generation Plants to provide crucial base-load electric generation for the citizens of Ohio – as DP&L represented would happen under its Original Application – these cases have now been turned upside down by DP&L's proposed Stipulation and Recommendation with the Sierra Club and other self-interested parties **to provide for the sale of the Coal Generation Plants and (apparently) the shuttering of the Killen and Stuart generation plants**. [6]

Equally incredible, the Stipulation and Recommendation blithely proposes this self-serving course of action without even mentioning (much less attempting to explain away) the pervasive and disastrous Adverse Closure Effects that DP&L forthrightly admitted will be visited upon the citizens of Ohio by the shuttering of Coal Generation Plants. These admitted Adverse

[5] Along with DP&L, the parties agreeing to the Stipulation and Recommendation included the City of Dayton, Interstate Gas Supply, Inc./IGS Energy, the Retail Energy Supply Association, the Edgemont Neighborhood Coalition, People Working Cooperatively, Inc., the Ohio Hospital Association, and the Mid-Atlantic Renewable Energy Coalition (collectively, "the Signatory Parties"). The Ohio Environmental Council and Honda of America, Mfg., Inc. signed the Stipulation and Recommendation as "Non-Opposing Parties." Signature lines were also included for the Sierra Club as a Signatory Party and EnerNOC, Inc. as a Non-Opposing Party, but signatures for these entities do not appear on the Stipulation and Recommendation filed with the Commission.

[6] Curiously, on its face, the Stipulation and Recommendation makes no reference to shuttering the Killen and Stuart plants. Indeed, DP&L did not expressly reveal its intent to shutter those plants in any filing it made with the Commission until it filed the testimony of its Director of Regulatory Affairs, Sharon R. Schroeder, **on February 6, 2017**. *See* Schroeder Testimony, p. 21. DP&L did issue a press release on January 30, 2017 stating its intention to shutter the Killen and Stuart plants, but that plan was not mentioned anywhere in DP&L's public filings with the Commission on that same date.

Closure Effects clearly establish that DP&L cannot meet **its** burden of proof under R.C. 4928.143 to allow the Commission to approve a proposed Stipulation and Recommendation that foists such harms on the citizens of this state.

Furthermore, Intervenor Murray Energy would be directly and substantially harmed by the irresponsible shuttering of the Killen and Stuart plants. Murray Energy, through its subsidiaries and affiliates, supplies coal to those plants. Murray Energy, the largest privately-held coal company in the United States, employs and supports over 1,300 families in Ohio. Its mines further support hundreds of ancillary businesses, with their thousands of employees – tool, equipment, transportation suppliers and the like – throughout the state of Ohio. Murray Energy's vital interests must be heard in these DP&L cases.

The Stipulation and Recommendation completely fails to address the staggering Adverse Closure Effects that it unloads upon Murray Energy and the citizens of Ohio. Rather, it focuses primarily on serving the private self-interests of the parties to the agreement, many of which, including the Sierra Club, appear to stand ready to receive substantial payments under the self-serving agreement. But the Commission cannot cater to the self-interests of the few private parties to the Stipulation and Recommendation. The Commission has a statutory duty to consider and appropriately protect the interests of the citizens of Ohio, their coal producers such as Murray Energy, and all Ohioans who are dependent on reliable and affordable electricity. For these reasons, and as set forth below, Murray Energy should be permitted to intervene as a party to these DP&L cases and be heard regarding the proposed Stipulation and Recommendation.

B. Intervenor's Interests

Murray Energy was established in 1988. It is the largest underground coal mining company in the United States. It is one of only four (4) remaining major, financially-solvent coal

companies in the United States. Moreover, Murray Eenergy is the largest employer of coal workers in the United States in the underground mining industry, with over 6,000 employees. It has over 1,300 employees throughout Ohio, supporting those employees and thousands more of their family members. Murray Energy is headquartered in St. Clairsville, Ohio, and it and its subsidiary companies currently operate thirteen active coal mines, consisting of eleven underground longwall mining systems and forty-six continuous mining units in Ohio, Illinois, Kentucky, Utah, and West Virginia. It operates the large Century Mine of American Energy Corporation in Ohio.

As the largest privately-held coal company in the United States, Murray Energy produces approximately 75 million tons of bituminous coal each year. It supplies coal to many of the largest coal-burning utility companies in the United States, including DP&L, and specifically, DP&L's coal-fired Killen and Stuart electric generating plants. [7] If the Killen and Stuart plants were to close, Murray Energy's economic interests would be substantially harmed. It would lose substantial revenue, putting at risk the jobs of many Murray Energy employees in an industry that has been subjected to unrelenting attacks to its survival over the past decade. Thus, Murray Energy, other Ohio coal suppliers like Murray Energy, and their thousands of employees, would directly shoulder a significant portion of the pervasive and devastating Adverse Closure Effects that DP&L expressly acknowledged in its Original Application would be caused by the closure of its coal-fired electric generating facilities. Those lost sales would harm not only Murray Energy interests, but the interests of thousands of employees throughout the Ohio Valley region who mine, process, load, and transport coal to those facilities. It would also, therefore, harm

[7] A confidentiality provision in its agreements with DL&P prevents Murray Energy from disclosing any terms of those agreements.

those other entities that supply Murray Energy with the tools, equipment, and services that Murray Energy uses to mine and supply coal to these and other plants throughout the region.

C. Intervention Standard

"Intervention in PUCO matters is governed by R.C. 4903.221, which provides that any person 'who may be adversely affected' by a PUCO proceeding is entitled to seek intervention in that proceeding." *Ohio Consumers' Counsel v. Public Utilities Comm'n of Ohio,* 111 Ohio St.3d 384, 386-87, 2006-Ohio-5853 at ¶15. See also R.C. 4903.221(A) ("Any other person *who may be adversely affected by a public utilities commission proceeding* may intervene in such proceeding . . . .") (emphasis added); Ohio Admin. Code §4901-1-10(A)(4) (defining "parties to a commission proceeding" to include "any person granted leave to intervene . . . .").

R.C. 4903.221(B) sets forth the standard the Commission is to employ in ruling on motions to intervene:

> (B) . . . [T]he commission, in ruling upon applications to intervene in its proceedings, shall consider the following criteria:
>
> (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.

R.C. 4903.221(B). See also *Ohio Consumers' Counsel,* 111 Ohio St.3d at 387, 2006-Ohio-5853 at ¶15; *Toledo Coalition for Safe Energy v. Public Utilities Comm'n of Ohio,* 69 Ohio St.3d 559, 561 (1982) at 561; *Senior Citizens Coalition v. Public Utilities Comm'n of Ohio,* 69 Ohio St.2d 625, 627-28 (1982).

Pursuant to R.C. 4901.13, the Commission has also adopted a rule on intervention. That rule provides, in part:

> (A) ***Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that***:
>
> (1) A statute of this state or the United States confers a right to intervene.
>
> (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.***
>
> (B) In deciding whether to permit intervention under paragraph (A)(2) of this rule, the commission, the legal director, the deputy legal director, or an attorney examiner shall consider:
>
> (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.

Ohio Admin. Code §4901-1-11(A) & (B) (emphasis added). [8]

A party seeking intervention must file a motion to intervene accompanied by a memorandum in support "setting forth the person's interest in the proceeding." Ohio Admin. Code §4901-1-11(C). A motion will be considered timely if it is filed five days or more prior to the scheduled hearing or any date established by the Commission for filing such motions, R.C.

[8] "The regulation's text is very similar to Civ.R. 24—the rule governing intervention in civil cases in Ohio—which 'is generally liberally construed in favor of intervention.'" *Ohio Consumers' Counsel,* 111 Ohio St.3d at 387, 2006-Ohio-5853 at ¶16. Accordingly, "cases construing Rule 24 of both the Federal and Ohio Rules of Civil Procedure are useful, by way of analogy, in evaluating the intervention arguments advanced by the litigants" before the Commission. *Toledo Coalition for Safe Energy,* 69 Ohio St.2d at 56 n.5.

4903.221(A)(1) & (2); see also Ohio Admin. Code §4901-1-11(E), and untimely motions "will be granted only under extraordinary circumstances." Ohio Admin. Code §4901-1-11(F). *See also* R.C. 4903.221(A)(2) (Commission has discretion to grant untimely motions to intervene "for good cause shown.").

Murray Energy has real and substantial interests in these proceedings and the disposition of these proceedings may, as a practical matter, impair or impede its ability to protect those interests. It has met all requirements for intervention in these proceedings as set forth in R.C. 4903.221 and Ohio Adm.Code §4901-1-11. Murray Energy should, therefore, be permitted to intervene herein.

D. Murray Energy Is Entitled To Intervene

1. Murray Energy Has Real And Substantial Interests In This Matter

Again, Murray Energy, employs over 1,300 hard-working people in Ohio. Murray Energy and its subsidiary companies currently operate thirteen active coal mines, consisting of eleven underground longwall mining systems and forty-six continuous mining units throughout the Ohio Valley and in other regions of the United States, including the large Century Mine in Ohio.

Murray Energy supplies coal to many of the largest coal-burning utility companies in the United States, including DP&L, and specifically, DP&L's coal-fired Killen and Stuart electric generating plants. The Commission recognizes that coal suppliers such as Murray Energy should be permitted to intervene in proceedings before the Commission when, as here, the coal supplier's interests may be affected by the proceedings. *See In the Matter of the Two-Year Review of Centerior Energy Corp.'s Environmental Compliance Plan,* No. 94-1698-EL-ECP

(PUCO April 13, 1995) (granting the Ohio Valley Coal Company's motion to intervene where OVCC asserted its interests "due to its position as a supplier of coal to Centerior").

In these cases, if the Killen and Stuart plants were to close, Murray Energy's economic interests would be directly and substantially harmed. It will lose substantial, irreplaceable revenues. And the jobs of many Murray Energy Ohio employees will be put at risk. But the severe adverse economic consequences do not stop with Murray Energy. Murray Energy's losses cause others to lose. Those Ohio businesses, and their thousands of employees, that supply Murray Energy with the tools, equipment, and services necessary for Murray Energy to mine and supply coal to the Coal Generation Plants and other plants throughout the region also will suffer. In fact, a Pennsylvania State University study establishes that up to eleven (11) "secondary" jobs are created for each "primary" coal mining employee employed by coal suppliers such as Murray Energy. Thus, when Murray Energy loses substantial business, as it will with the closure of the Killen and Stuart plants, Murray Energy's myriad suppliers also lose business – and Ohio employees lose their jobs.

2. Murray Energy's Interests Are Not Already Adequately Represented

Murray Energy's interests are not adequately represented by the existing parties in these proceedings. To Murray Energy's knowledge, none of the other parties that have intervened in these actions supply coal to the Killen and Stuart generating plants DP&L intends to shutter. In fact, no existing party to these actions **understands**, much less has a direct interest in comprehensively addressing, the substantial Adverse Closure Effects that the shuttering of the Killen and Stuart plants will have on Murray Energy, other suppliers of coal to these facilities, and their thousands of employees throughout Ohio. Murray Energy has vital interests in these

proceedings that are not now represented by any party to the proceedings. Absent intervention, Murray Energy will have no effective means to protect its vital interests in these proceedings.

3. *Murray Energy Will Contribute To A Just And Expeditious Resolution Of Issues*

Murray Energy's intervention will contribute to a just and expeditious resolution of the issues in these proceedings. Murray Energy intends to engage experts and offer expert evidence in these proceedings to address the Adverse Closure Effects implicated by the proposed closure of the Killen and Stuart facilities – issues that are pivotal to the Commission's review and assessment of the Stipulation and Recommendation.

Murray Energy has a unique, independent perspective on the implicated energy issues to offer the Commission as both a coal supplier to the two affected plants and as an employer of thousands of Ohioans whose labor enables Ohio's critical coal-fired, base load generation facilities to provide reliable, affordable electricity to the citizens of Ohio, without fail. Murray Energy's participation in these cases is crucial to an informed, balanced, and fair disposition of the interests of all parties who will be affected by the Commission's resolution of these proceedings.

4. *Murray Energy's Intervention Will Neither Delay These Proceedings Nor Prejudice Parties*

Murray Energy's intervention will neither unduly delay these proceedings nor unjustly prejudice any existing party. The Intervenors will abide by all Commission deadlines in these cases and present its information in a clear and succinct manner. To Murray Energy's knowledge, the hearing in this matter, which had been scheduled for February 1, 2017, did not go forward and has not yet been rescheduled. Murray Energy commits to present its testimony and evidence in a timely matter so as to not delay these proceedings, and to provide the Commission

with testimony and evidence relevant to the issues now before the Commission, particularly the Adverse Closure Effects that will be borne by coal suppliers, and their business partners, as a result of the closure of the Killen and Stuart coal-fired generating plants – **issues that were not raised in these proceedings until after the proposed Stipulation and Recommendation was filed with the Commission on January 30, 2017** (by the testimony of DP&L employee Schroeder filed with the Commission **on February 6, 2017**).

Although this Motion was not filed within the Commission's June 30, 2016 deadline for seeking intervention, the Commission must acknowledge the complete and fundamental change that these proceedings have undergone as a result of the filing of the Stipulation and Recommendation with the Commission on January 30, 2017 and DP&L publicly disclosing – **for the first time** -- that it intends to close the Killen and Stuart facilities. Prior to that date, DP&L expressly represented to the public in its Original Application, and sought this Commission's approval for, **keeping the Killen and Stuart plants operating through at least December 31, 2026**. Indeed, DP&L's litany of the Adverse Closure Effects in its Original Application eloquently explained to the Commission precisely why the Commission could **not** allow the Coal Generation Plants to be shuttered. The reality of these Adverse Closure Affects identified by DP&L is as true today as it was when DP&L proclaimed them in its Original Application filed with the Commission.

DP&L's belief in the truth that the Adverse Closure Effects will result from closure of Coal Generation Plants was so strong that it did not limit itself to setting forth those effects in its Original Application. DP&L was so committed to making sure that the Commission understood and accepted that the Adverse Closure Effects would follow from Coal Generation Plant closures that it buttressed its Original Application with the written testimony of its expert energy

consultant, Carlos Grande-Moran ("Grande-Moran"), the Principal Consultant for Siemens Power Technologies International. Expert Grande-Moran stressed to the Commission the importance of keeping the Coal Generation Plants open. Grande-Moran emphasized that "conventional generating capacity . . . provides frequency support, and dynamic reactive support for local voltages . . ." and it is, "therefore, . . . important to preserve existing resources from the point of view of electric grid reliability." Grande-Moran Testimony at 11. Expert Grande-Moran further testified that "[i]f the DP&L plants were to close, then I conclude that the closures would cause various thermal and voltage violations." Grande-Moran Testimony at 2. Given DP&L's firm commitment to keep these Killen and Stuart plants operational, Murray Energy's interests in supplying coal to DP&L's coal-fired electric generating plants was not at issue in these proceedings under the Original Application.

However, on January 30, 2017, all of that changed. On that date, and for the first time, DP&L publicly indicated — without attempting to explain away any of its previous filings stressing the critical need for the Commission to keep the Killen and Stuart plants **open** — that it now intends to **close** those plants. In fact, DP&L filed **no document** with the Commission setting forth its intent to shutter the Killen and Stuart plants until it filed the written testimony of Sharon R. Schroder ("Schroder"), its Director of Regulatory Affairs, at 4:50 p.m. on February 6, 2017. On **the final page** of her testimony, Schroder stated that "DP&L has also committed to closing its other two coal-fired generation assets (1210MW total), assuming that the Stipulation is approved without material modification." Schroder Testimony at 21.

This disclosure completely altered the nature of these proceedings. It was only then that Murray Energy learned that it would lose the opportunity to supply coal to the Killen and Stuart plants, *i.e.*, that the proposed Stipulation and Recommendation would actually visit upon Murray

Energy and its thousands of employees the Adverse Closure Effects that DP&L, in its Original Application, urged the Commission to prevent from allowing to happen. This 180-degree change in the nature of these proceedings, proposing for the first time the **closure** of the very Killen and Stuart plants that DP&L previously had told the Commission it could **not** allow to be closed, necessarily constitutes "good cause" for allowing Murray Energy to intervene in these proceedings at this time.

For the foregoing reasons, Murray Energy respectfully requests the Board to grant this Motion To Intervene.

Respectfully submitted,

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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 of 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 listed in Exhibit A via electronic mail this 13th day of February 2017.

/s/ John F. Stock
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EXHIBIT A

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Summary: Motion To Intervene and Memorandum in Support electronically filed by John F Stock on behalf of Murray Energy Corporation