

**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

**MOTION TO INTERVENE OF CITIZENS TO PROTECT DP&L JOBS, RICK
ADAMSON, DON BOWLES, STEVE CACARO, JOHN CONDON, ALAN FOSTER,
RICHARD FOSTER, KENT GULLEY, MARTY HUNTLEY, JOHN LAWLER, BRAD
McFARLAND, DAVID McFARLAND, MIKE PELL, KIM ROGERS, TONY STAGGS
AND LIZ LAFFERTY, AND MEMORANDUM IN SUPPORT**

Pursuant to R.C. 4903.221 and Ohio Adm.Code §4901-1-11, Citizens to Protect DP&L Jobs, and Rick Adamson, Don Bowles, Steve Cacaro, John Condon, Alan Foster, Richard Foster, Kent Gulley, Marty Huntley, John Lawler, Brad McFarland, David McFarland, Mike Pell, Kim Rogers, Tony Staggs and Liz Lafferty, all of whom are residents and/or business owners in Adams County, Ohio and members of Citizens to Protect (collectively, “Intervenors”) hereby move the Public Utilities Commission of Ohio (“Commission”) for an order granting their intervention as parties in these proceedings.

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

Respectfully submitted,

/s/ John F. Stock
John F. Stock (0004921)
Orla E. Collier (0014317)
BENESCH, FRIEDLANDER,
COPLAN & ARONOFF LLP

41 S. High St., 26th Floor
Columbus, Ohio 43215
(614) 223-9300
FAX: (614) 223-9330

*Attorneys for Citizens to Protect DP&L
Jobs, Rick Adamson, Don Bowles, Steve
Cacaro, John Condon, Alan Foster, Richard
Foster, Kent Gulley, Marty Huntley, John
Lawler, Brad McFarland, David
McFarland, Mike Pell, Kim Rogers, Tony
Staggs and Liz Lafferty*

MEMORANDUM IN SUPPORT OF
MOTION TO INTERVENE

A. 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

¹R.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).

²Filed 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.

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, 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, DP&L’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.** Original 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 (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

³Ohio 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.”

⁴On 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

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 communities, residents, and businesses of Adams County sought to intervene to challenge the Original Application.** The coal-fired electric generating facilities located in Adams County have provided hundreds of jobs to the residents of Adams and surrounding counties for at least thirty years. Together, the two facilities located in Adams County—the Killen and Stuart plants—constitute the county’s largest employer. The jobs that these facilities directly provide, as well as the “secondary” jobs that the plants’ operation provide in the area, are a vital cog in the Adams County economy, which, as a small, rural county, struggles to provide close-to-home employment opportunities for its residents.

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 parties⁵ filed the proposed Stipulation and Recommendation with the Commission. Incredibly,

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].” Also, on February 13, 2017 Murray Energy Corporation, a supplier of coal to the Killen and Stuart plants, moved to intervene. DP&L has not yet responded to those motions, and they remain pending.

⁵Along 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,

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 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

The Stipulation and Recommendation 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—and particularly the residents of Adams County—by the shuttering of Coal Generation Plants. These admitted Adverse 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.

The Stipulation and Recommendation completely fails to address the staggering Adverse Closure Effects that it unloads upon the citizens of Adams County. Rather, it focuses primarily on serving the private self-interests of the parties to the agreement, many of which appear to

but signatures for these entities do not appear on the Stipulation and Recommendation filed with the Commission.

⁶Curiously, 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.

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 who are dependent on reliable and affordable electricity. For these reasons, and as set forth below, Intervenors should be permitted to intervene as a party to these DP&L cases and be heard regarding the proposed Stipulation and Recommendation.

B. Intervenors' Interests

Citizens to Protect DP&L Jobs is an unincorporated association whose members include business persons, property owners, taxpayers, and residents in and around Adams County, Ohio, in which both the Stuart and Killen electric generating facilities are situated. The primary mission of the group is to protect and preserve local jobs that are directly and indirectly impacted by the Dayton Power & Light Company's proposed closing of the Stuart and Killen generating stations. Additionally, the group will seek to protect and promote the existing local tax base, school districts, local infrastructure and the local economy from the adverse consequences of the proposed closing of these generating plants. The individual Intervenors include:

- **Rick Adamson**, who is a taxpayer, resident of Adams County, grandparent of school-aged children in Adams County, and the General Manager of the Adams County Regional Water District;
- **Don Bowles**, who is a business owner, taxpayer, and resident of Adams County;
- **Steve Cacaro**, who is a business owner, taxpayer, grandparent of school-aged children, and resident of Adams County;
- **John Condon**, who is who is a business owner, taxpayer, grandparent of school-aged children, and resident of Adams County;
- **Alan Foster**, who is an attorney, business owner, taxpayer, and resident of Adams County;

- **Richard Foster**, who is taxpayer, resident of Adams County, and President of the Manchester Local School District Board of Education;
- **Kent Gulley**, who is a business owner, taxpayer, owner of property in Adams County, and a retired DP&L employee;
- **Marty Huntley**, who is a business owner, taxpayer, grandparent of school-aged children, and resident of Adams County;
- **John Lawler**, who is an attorney, business owner, taxpayer, and resident of Adams County;
- **Brad McFarland**, who is a business owner, taxpayer, and resident of Adams County, Ohio;
- **David McFarland**, who is business owner, taxpayer, resident of Adams County, and a Member of the Manchester Local School District Board of Education;
- **Mike Pell**, who is taxpayer, a resident of Adams County, a parent of children enrolled in public schools in Adams County, and the president of a local bank in Adams County;
- **Kim Rogers**, who is a taxpayer, resident of Adams County, and grandparent of school-aged children in Adams County; and
- **Tony Staggs**, who is taxpayer, resident of Adams County, grand-parent of school-aged children in Adams County, and the President of the Adams County Regional Water District;
- **Liz Lafferty** is a taxpayer and business owner and resident in Adams County and is the Superintendent of the Adams County Board of Development Disabilities, Chairman of the Adams County Agricultural Society and parent of an Adams County student.

DP&L directly or indirectly employs nearly 700 persons at the Killen and Stuart plants, including 490 DP&L employees and 200 employees of contractors retained by DP&L to provide services at the plants. The two facilities generate approximately \$9,000,000 in annual property tax for the county and other political subdivisions, accounting for over 25% of those subdivisions' annual revenue. The Manchester Local School District alone receives \$5,600,000 of that tax revenue. Adams County received over \$750,000 in tax revenue from the facilities,

accounting for 32% of the County’s general fund. The closing of these facilities would also result in the loss of local sales tax revenue. The loss of services these tax revenues provide would cause substantial harm to Citizens to Protect DP&L Jobs, its members—including the individual Intervenors herein—and all the residents of Adams County and the surrounding area.

In addition to the Adverse Closure Effects that DP&L readily acknowledged in its Original Application, the Intervenors—and all residents of the area—have significant interests in ensuring that the closed facilities do not become “zombie plants,” *i.e.*, shuttered and decaying facilities that become a lasting blight on the local community. Such “zombie plants” are often associated with significant environmental problems such as the contamination of soil and drinking water. Moreover, such blighted facilities usually constitute a drag on future economic development and deepen the loss of tax revenues. Intervenors also seek participation in these proceedings to prevent or ameliorate such problems.

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).⁷

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. 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.”)

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

D. Intervenors Are Entitled To Intervene

1. Intervenors Have Real And Substantial Interests In This Matter

⁷“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.

As noted above, the persons most affected by the adverse economic impact of the closure of the Killen and Stuart plants are the residents and/or business owners in Adams County, *i.e.*, the members of Citizens to Protect DP&L Jobs. DP&L directly or indirectly employs nearly 700 persons at those plants, including 490 employees of the power plants themselves and 200 employees of contractors at the plants. The two facilities generate approximately \$9,000,000 in annual property tax for the county and other political subdivisions, accounting for over 25% of those subdivisions' annual revenue. The Manchester Local School District alone receives \$5,600,000 of that tax revenue. Adams County received over \$750,000 in tax revenue from the facilities, accounting for 32% of the County's general fund. The closing of these facilities would also result in the loss of local sales tax revenue. The loss of services that these tax revenues provide would cause substantial harm to Citizens to Protect DP&L Jobs, all of its members—including the individual Intervenors herein—and all residents of Adams County and the surrounding area. As DP&L has acknowledged, the effect on the area economy would be devastating. See Application at ¶1 (“If those plants were to close, then the adverse effects would include \$26.5 billion in economic losses in Ohio, the loss of almost 19,000 jobs, and a significant increase in reliability risks.”).

2. *Intervenors' Interests Are Not Already Adequately Represented*

Intervenors' interests are not adequately represented by the existing parties in this case. None of the other parties that have intervened in this action are residents of Adams County who will be severely and negatively impacted by the closure of two large generating plants located within their county. These plants together are the largest employer in the County, and the loss of tax revenue and the negative impact on the County's economy will be devastating. No existing

party to this action has a direct interest in comprehensively addressing the detrimental effects to the local economy and the public fiscs that the closure of these plants will occasion.

No existing party to these actions has a direct interest in comprehensively addressing the substantial Adverse Closure Effects that the shuttering of the Killen and Stuart plants will have on the Adams County economy or the County's businesses, taxpayers, residents, and communities. Intervenors have vital interests in this proceeding that are simply not now represented, and absent intervention, Intervenors will have no effective means to protect their interests with respect to these proceedings.

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

Intervenors will contribute to a just and expeditious resolution of the issues in these proceedings. They intend to engage experts and offer expert evidence in these proceedings that will address the Adverse Closure Effects implicated by the proposed closure of the Stuart and Killen facilities—issues that are central to the Commission's review and assessment of the Stipulation and Recommendation.

Intervenors have a unique and independent perspective on the implicated energy issues to offer the Commission as taxpayers, business owners, and residents of Adams County. Their participation is crucial to an informed, balanced, and fair disposition of the interests of all parties who will be affected by the Commission's disposition of these proceedings.

4. *Intervenors' Intervention Will Neither Delay These Proceedings Nor Prejudice Parties*

Intervenors' 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 their information in a clear and succinct manner. To Intervenors' knowledge, the hearing in this matter, which had been scheduled for February 1, 2017, did not go forward

and has not yet been rescheduled. Intervenors commit to present its testimony and evidence in a timely matter so as to not delay these any longer than necessary to provide the Commission with testimony and evidence relevant to the issues now before the Commission, especially the Adverse Closure Effects that will be borne primarily by the citizens and residents of Adams County--issues that were interjected late into these proceedings with the filing of the Stipulation and Recommendation and the announced plant closings on January 30, 2017.

Although this Motion was not filed within the Commission's June 30, 2016 deadline for seeking intervention, the Commission must take into account the complete and fundamental change these proceedings have undergone as a result of the filing of the Stipulation and Recommendation by the Signatory Parties on January 30, 2017 and DP&L's public disclosure—for the first time—that it intends to close the Killen and Stuart facilities. Prior to that date, DP&L represented to the Public in its Original Application that it intended to keep those plants open through at least December 31, 2026, and sought this Commission's approval to do so. Indeed, in its February 22, 2016 Application, DP&L firmly indicated that it intended to keep the plants operational to avoid 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 those plants were to close, then the adverse effects would include \$26.5 billion in economic losses in Ohio, the loss of almost 19,000 jobs, and a significant increase in reliability risks.

Application at ¶1. In its Original Application, DP&L eloquently explained to the Commission precisely why the Commission should not allow the Coal Generation Plants to be shuttered. The reality of these Adverse Closure Effects identified by DP&L is as true today as when DP&L proclaimed them in its Original Application.

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, Intervenors’ interests in protecting the jobs provided by the Killen and Stuart plants and preventing the Adverse Closure Effects as they related to the local economy and communities were not threatened 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 Intervenors definitively learned that their interests were indeed facing an imminent threat in the form of 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 Intervenors to intervene in these proceedings at this time.

For the foregoing reasons, Intervenors respectfully requests the Commission to grant this Motion To Intervene.

Respectfully submitted,

/s/ John F. Stock _____

John F. Stock (0004921)

Orla E. Collier (0014317)

BENESCH FRIEDLANDER COPLAN
& ARONOFF LLP

41 S. High St., 26th Floor

Columbus, Ohio 43215

(614) 223-9300

*Attorneys for Citizens to Protect DP&L
Jobs, Rick Adamson, Don Bowles, Steve
Cacaro, John Condon, Alan Foster, Richard
Foster, Kent Gulley, Marty Huntley, John
Lawler, Brad McFarland, David
McFarland, Mike Pell, Kim Rogers, Tony
Staggs and Liz Lafferty*

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 17th day of February 2017.

/s/ John F. Stock _____
John F. Stock

EXHIBIT A

cfaruki@ficlaw.com
direland@ficlaw.com
isharkey@ficlaw.com
mfleisher@elpc.org
fdarr@mwncmh.com
mpritchard@mwncmh.com
jeffrey.mayes@monitoringanalytics.com
evelyn.robinson@pjm.com
schmidt@sppgrp.com
dboehm@BKLawfirm.com
mkurtz@BKLawfirm.com
kboehm@BKLawfirm.com
kylercohn@BKLawfirm.com
william.wright@ohioattorneygeneral.gov
Michelle.d.grant@dynegy.com
rsahli@columbus.rr.com
slesser@calfee.com
ilanq@calfee.com
tallexander@calfee.com
lhawrot@spilmanlaw.com
dwilliamson@spilmanlaw.com
charris@spilmanlaw.com
gthomas@qtpowergroup.com
laurac@chappelleconsulting.net
stheodore@epsa.org
todonnell@dickinsonwright.com
rseiler@dickinsonwright.com
jeanne.kingery@duke-energy.com
kristin.henry@sierraclub.org
thomas.mcnamee@ohioattorneygeneral.gov

joliker@igsenergy.com
boiko@carpenterlipps.com
ghiloni@carpenterlipps.com
mjsettineri@vorys.com
smhoward@vorys.com
qlpetrucci@vorys.com
ibatikov@vorys.com
wasieck@vorys.com
william.michael@occ.ohio.gov
kevin.moore@occ.ohio.gov
mdortch@kravitzllc.com
tdougherty@theOEC.org
cmooney@ohiopartners.org
sechler@carpenterlipps.com
gpoulos@enernoc.com
rick.sites@ohiohospitals.org
amy.spiller@duke-energy.com
elizabeth.watts@duke-energy.com
stephen.chriss@walmart.com
greg.tillman@walmart.com
mwarnock@bricker.com
dborchers@bricker.com
ejacobs@ablelaw.org
tony.mendoza@sierraclub.org
chris@envlaw.com
jdoll@dflawfirm.com
mcrawford@dflawfirm.com
dparram@bricker.com
paul@carpenterlipps.com

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in

Case No(s). 16-0395-EL-SSO, 16-0396-EL-ATA, 16-0397-EL-AAM

Summary: Motion TO INTERVENE OF CITIZENS TO PROTECT DP&L JOBS, RICK ADAMSON, DON BOWLES, STEVE CACARO, JOHN CONDON, ALAN FOSTER, RICHARD FOSTER, KENT GULLEY, MARTY HUNTLEY, JOHN LAWLER, BRAD McFARLAND, DAVID McFARLAND, MIKE PELL, KIM ROGERS, TONY STAGGS AND LIZ LAFFERTY, AND MEMORANDUM IN SUPPORT electronically filed by John F Stock on behalf of Rick Adamson and Don Bowles and Steve Cacaro and John Condon and Alan Foster and Richard Foster and Kent Gulley and Marty Huntley and John Lawler and Brad McFarland and David McFarland and Mike Pell and Kim Rogers and Tony Staggs and Liz Lafferty and Citizens to Protect DP&L Jobs