

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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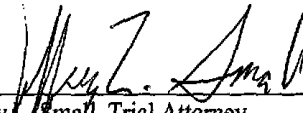
In the Matter of the Application of)
The Dayton Power and Light Company for the) Case No. 05-276-EL-AIR
Creation of a Rate Stabilization Surcharge)
Rider and Distribution Rate Increase.)

**MOTION TO INTERVENE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

Pursuant to R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11, the Office of the Ohio Consumers' Counsel ("OCC"), on behalf of the residential utility consumers, moves the Public Utilities Commission of Ohio to grant the OCC's intervention in the above-captioned proceedings. The reasons for granting the OCC's intervention are further set forth in the attached Memorandum in Support.

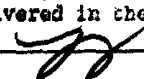
Respectfully submitted,

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(4) the person's "contribution to a just and expeditious resolution of the issues." These factors are also stated, in principal part, in the criteria set forth in R.C. 4903.221(B) for the Commission's consideration in deciding whether to grant a request for intervention:

- (1) The nature and extent of the prospective intervenor's interest;
- (2) The legal position advanced by the prospective intervenor;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

The nature and extent of the OCC's interest lies in preventing unreasonable and unjust charges for residential electric service and in the provision of services that will adequately, effectively and efficiently serve the energy needs of residential customers. The Commission's Order in DP&L's post-MDP case states that the PUCO would require "an additional two and one-half percent residential discount" in the absence of competition for residential customers at the end of the market development period ("MDP").³ No residential customers have switched generation service suppliers in areas served by DP&L.

DP&L's Application states that it "is made pursuant to the terms of the Stipulation and Recommendation filed in . . . Case Nos. 02-2779-EL-ATA, et al ('RSP Stipulation')."⁴ That RSP Stipulation -- the agreement signed by DP&L and the OCC, among others -- also contains the requirement that residential customers "receive an additional 2.5 percent reduction on the unbundled generation component."⁵ DP&L's Application does not contain such an adjustment

³ *In re DP&L Post-MDP Service Case*, Case No. 02-2779-EL-ATA, *et al.*, Opinion and Order at 28 (September 2, 2003) ("DP&L Post-MDP Case").

⁴ Application at 1-2.

⁵ DP&L Post-MDP Case, RSP Stipulation, Section IX.A. (May 28, 2003). The required tariff charges are stated in Attachment C of the RSP Stipulation.

to generation rates for residential customers. In part, the OCC's interest lies in ensuring that residential customers are granted the reduction in generation rates to which they are entitled.

The OCC's intervention will not unduly prolong or delay the proceedings, but should provide insights that will expedite the Commission's treatment of DP&L's Application. The OCC will significantly contribute to the full development and equitable resolution of the issues herein, based on its expertise in such matters. The OCC was significantly involved in both the DP&L electric transition plan ("ETP") case⁶ and the DP&L Post-MDP Case as well as related cases involving the interpretation of settlements reached in those cases.⁷

The OCC brings its statewide, consumer perspective to this case that is different than that of the Applicant or any intervenor. The OCC's interest in these cases is consistent with its statutory role as the representative of residential consumers of public utility service.

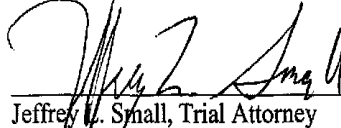
The OCC meets the criteria set forth in the Commission's rules and R.C. 4903.221. On behalf of DP&L's approximately 450,000 residential customers, the OCC respectfully requests that the Commission grant its Motion to Intervene.

⁶ *In re DP&L ETP Case*, Case No. 99-1687-EL-ETP, *et al.*, Opinion and Order (September 21, 2000).

⁷ See e.g. *In re DP&L Application for PJM Administration Fee Rider*, Case No. 04-1214-EL-ATA, OCC Motion to Dismiss (August 23, 2004), application withdrawn (September 14, 2004).

Respectfully submitted,

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Consumers' Counsel

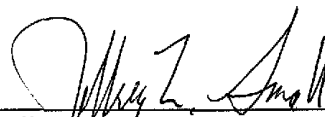


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the OCC's *Motion to Intervene* was served on the persons stated below via first class U.S. Mail, postage prepaid, this 7th day of April 2005.



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