

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the 2010 Long-Term Forecast) Case No. 10-505-EL-FOR
Report of Dayton Power and Light Company)
and Related Matters.)

**MOTION TO INTERVENE
BY THE
OHIO ENVIRONMENTAL COUNCIL**

The Ohio Environmental Council (“OEC”) moves to intervene in this case, in which the Dayton Power and Light Company (“DP&L” or the “Company”) submits its Long-Term Forecast Report and Resource Plan (“Report” or “Resource Plan”). The Report is comprised of DP&L’s Electric Distribution Forecast, which provides the expected loads for DP&L over the next 10 years, and DP&L’s 2010 Resource Plan, which explains how DP&L will meet its customers’ forecasted electric energy service needs. Among other things, the Report contains DP&L’s strategy for meeting the energy efficiency and Alternative Energy Resources (AER) requirements of Senate Bill 221 (“S.B. 221”). As more fully discussed in the accompanying memorandum, the OEC has a real and substantial interest in this proceeding to ensure that energy efficiency resources, renewable energy resources, and Peak Demand Reduction (PDR) projects are deployed in this state according to the clear requirements and timetables provided by S.B. 221 and to ensure that this Application is properly scrutinized in light of the letter and intent of S.B. 221. The interests of OEC, Ohio’s largest non-profit environmental advocacy organization, are not represented by any existing party. OEC’s participation in this proceeding will contribute to a just and expeditious resolution of the issues involved without unduly delaying the proceeding or unjustly prejudicing any existing party.

Accordingly, OEC hereby moves to intervene in this proceeding pursuant to R.C. 4903.221 and O.A.C. 4901-1-11.

WHEREFORE, OEC respectfully requests that the Commission grant its motion to intervene in the above captioned matter.

Respectfully Submitted,

/s/ Will Reisinger
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MEMORANDUM IN SUPPORT

R.C. Section 4903.221 provides that any “person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding.” The OEC is a non-profit, charitable organization comprised of a network of over 100 affiliated member groups whose mission is to secure a healthier environment for all Ohioans. Throughout its 40-year history, OEC has been a leading advocate for fresh air, clean water, and sustainable land and energy use. OEC was an active participant in the effort that led to the passage of S.B. 221, including the inclusion of energy efficiency and AER benchmarks. OEC has a real and substantial interest in DP&L’s Resource Plan decisions. DP&L’s resource planning may impact the amount of energy efficiency and renewable energy implemented by DP&L, which will directly affect Ohio’s air quality and environment. There can be no question that OEC has an interest in and may be adversely affected by the disposition of this case.

Specifically, DP&L’s 2010 Resource Plan outlines DP&L’s strategy for complying with S.B. 221, including the amount of resources DP&L will expend on energy efficiency programs, DP&L’s strategy for meeting the terms of the renewable energy resource requirements, and DP&L’s plans to provide for capacity and generation needs. The amount of resources DP&L plans to expend on energy efficiency, renewable energy, and low-carbon generation resources

will directly impact Ohio's air quality. Therefore, OEC has a substantial interest in the assessment of DP&L's Report.

R.C. 4903.221(B) outlines four factors that the Commission shall consider when ruling on a motion to intervene in a proceeding. First, pursuant to R.C. 4903.221(B)(1), the Commission shall consider "the nature and extent of the prospective intervenor's interest." OEC has several distinct interests in the disposition of this case. First, OEC is interested in the achievement of maximum cost-effective energy efficiency and renewable energy implementation. This Report represents the first time since the Ohio's electric restructuring that DP&L has filed a Resource Plan under Ohio Adm. Code 49015-5-06. Consequently, the disposition of this case will influence how future Resource Plans are considered by the Commission, and could impact DP&L's decision to build additional generation resources in the future. OEC, as an environmental advocacy organization, has a special interest in the outcome of this case because of the direct impact DP&L's resource planning could have on the emissions profile of DP&L.

Second, pursuant to R.C. 4903.221(B)(2), the Commission shall consider "the legal position advanced by the prospective intervenor and its probable relation to the merits of the case." Although OEC does not outline detailed legal arguments in this section, OEC maintains that DP&L's Report should be properly scrutinized by interested parties to ensure that it includes accurate assessments of energy efficiency and clean energy resource potentials.

Third, pursuant to R.C. 4903.221(B)(3), the Commission shall consider "whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings." OEC has significant experience dealing with electric utilities questions before the Commission and will not seek to unduly delay the proceeding. OEC has been consistently involved in the

development and enactment of S.B. 221 and the associated rules, including as a party in numerous cases before the Commission. OEC's intervention will not unduly prolong or delay these proceedings; to the contrary, OEC's expertise and unique interest will add value to the development of this case.

Fourth, pursuant to R.C. 4903.221(B)(4), the Commission shall consider "whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues." OEC has actively participated in the implementation of the efficiency and renewable energy benchmarks established by S.B. 221 and in numerous other matters before the Commission. As an active participant in cases before the Commission, the OEC has developed expertise that will contribute to the full development of the legal questions involved in this proceeding. Finally, as Ohio's leading environmental advocate, OEC will be able to assure that the environmental impacts of resource planning are fully developed.

OEC also satisfies the intervention requirements outlined in the Commission's rules. The criteria for intervention established by O.A.C. 4901-1-11(A) are identical to those provided by R.C. 4903.221, with the exception that the rules add a fifth factor that the Commission shall consider when ruling on a motion to intervene. Pursuant to O.A.C. 4901-1-11(A)(5), the Commission shall consider "the extent to which the [intervenor's] interest is represented by existing parties." OEC's interest is not fully represented by the existing parties. OEC is the leading advocate for Ohio's environment. No other party to this proceeding has the mission of securing healthy air for all Ohioans, and no other party has been a continuous participant in cases before the Commission for the specific purpose of furthering this mission.

Finally, we point out that it is the Commission's stated policy "to encourage the broadest possible participation in its proceedings."¹ The Commission should not apply its intervention criteria in a manner that would favor one environmental or consumer advocate to the exclusion of others.

OEC meets all the criteria established by R.C. 4903.221 and O.A.C. 4901-1-11(A)(5) and therefore should be granted intervenor status in this proceeding.

WHEREFORE, OEC respectfully requests that the Commission grant its motion to intervene in the above captioned matter.

Respectfully Submitted,

/s/ Will Reisinger

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¹ *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry dated January 14, 1986, at 2.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by first class or electronic mail this 21st day of June, 2010.

/s/ Will Reisinger

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Summary: Motion Motion to Intervene and Memorandum in Support by the OEC. electronically filed by Ms. Megan De Lisi on behalf of Ohio Environmental Council