

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Applications of)	
The Dayton Power and Light Company)	Case No. 11-2598-EL-RDR
to Update its Energy Efficiency Rider)	

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

The Ohio Environmental Council (“OEC”) hereby moves to intervene in this case in which the Dayton Power and Light Company (“DP&L”) seeks approval from the Public Utilities Commission of Ohio (“PUCO” or “Commission”) of its application to update its Energy Efficiency Rider (“EER”) pursuant to the Stipulation and Recommendation approved without modification by order of the PUCO dated June 24, 2009, in Case Nos. 08-1094-EL-SSO, *et al.* As more fully discussed in the accompanying memorandum, the Ohio Environmental Council (“OEC”) has a real and substantial interest in this proceeding, and the disposition of this case may impede its ability to protect that interest. DP&L’s EER must ensure that the company will advance the policies of the state of Ohio, and the achievement of the energy efficiency provisions of S.B. 221. The interests of the OEC, Ohio’s leading environmental advocacy organization, are not currently represented by any existing party, and its participation in this proceeding will contribute to a just and expeditious resolution of the issues involved. The OEC’s participation will not unduly delay the proceeding or unjustly prejudice any existing party. Accordingly, the OEC hereby moves to intervene in this proceeding pursuant to R.C. 4903.221 and O.A.C. 4901-1-11.

WHEREFORE, the OEC respectfully requests that the Commission grant its motion to intervene.

Respectfully Submitted,

/s/ E. Camille Yancey
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MEMORANDUM IN SUPPORT

INTRODUCTION

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, the OEC has been a leading advocate for fresh air, clean water, and sustainable land and energy use. The 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. The OEC has a real and substantial interest in DP&L’s Application. DP&L’s energy efficiency and peak demand reduction programs will impact the amount of energy efficiency implemented by DP&L, which will directly affect Ohio’s air quality and environment. Therefore, the OEC has a substantial interest in assuring an effective assessment of DP&L’s Application.

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.” The OEC has several distinct interests in the disposition of this case. The OEC is interested in the achievement of maximum cost-effective energy efficiency implementation. The

disposition of this case will influence how DP&L pursues energy efficiency. Additionally, the OEC has an interest in the companies' cost-recovery that DP&L is seeking to collect for any energy efficiency measures. The OEC, as an environmental advocacy organization, has a special interest in the outcome of this case because of the direct impact this case 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 the OEC does not outline detailed legal arguments in this section, the OEC maintains that DP&L's Application should be properly scrutinized by interested parties to ensure that it includes accurate assessments of DP&L's energy efficiency programs and calculations that comply with S.B. 221.

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." The OEC has significant experience dealing with electric utilities questions before the Commission and will not seek to unduly delay the proceeding. The 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. The OEC's intervention will not unduly prolong or delay these proceedings; to the contrary, the 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." The 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, the OEC will be able to assure that the environmental impacts of resource planning are fully developed.

The 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." The OEC's interest is not fully represented by the existing parties. The 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.

The 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 leave to intervene in this proceeding.

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

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

Respectfully Submitted,

/s/ E. Camille Yancey

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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 17th day of May, 2011.

/s/ E. Camille Yancey

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Summary: Motion Motion to Intervene electronically filed by Ms. Elizabeth Camille Yancey on behalf of Ohio Environmental Council