

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Establishing the Nonbypassable :  
Recovery Mechanism For Net Legacy : Case No. 19-1808-EL-UNC  
Generation Resource Costs Pursuant to R.C. :  
4928.148

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**MOTION TO INTERVENE  
BY THE DAYTON POWER AND LIGHT COMPANY**

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The Dayton Power and Light Company (“DP&L” or “the Company”) moves to intervene as a party of record in the above-captioned proceedings pursuant to R.C. 4903.221 and O.A.C. 4901-1-11. The basis for DP&L’s Motion is set forth in the attached memorandum in support, which is incorporated herein by reference.

Respectfully submitted,

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## **MEMORANDUM IN SUPPORT**

### **I. Introduction**

On July 23, 2019, Amended Sub House Bill 6 was signed into law requiring the Public Utilities Commission of Ohio (“PUCO” or “the Commission”) to establish a non-bypassable rate mechanism for the retail recovery of prudently incurred costs related to legacy generation resources. In response, the PUCO opened this docket and to investigate the proper rate design for the aforementioned non-bypassable mechanism and Staff filed Comments on September 25, 2019. By an Entry dated September 26, 2019, the Commission requested to receive comments from interested parties regarding Staff’s proposal. DP&L and its customers will be directly affected by the Commission’s resolution of the issues addressed in this docket. The issues raised in the Commission investigation, including but not limited to: (1) a proposed rate design for recovery costs related to legacy generation resources, and (2) the manner in which charges collected by the electric distribution utilities (“EDUs”) without legacy generation resources are remitted to those EDUs with legacy generation resources.

### **II. Legal Standard**

R.C. 4903.221(B) sets forth the criteria that the Public Utilities Commission of Ohio (Commission) is required to consider in ruling on applications to intervene. These criteria include:

- (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.



The Commission has provided additional detail on the intervention requirements through the promulgation of O.A.C. 4901-1-11. Specifically, that rule requires that the Commission allow intervention by a person who has a “real and substantial interest in the proceeding” and who “is so situated that the disposition of the proceeding may . . . impair or impede [the person’s] ability to protect that interest, unless the person’s interest is adequately represented by existing parties.”<sup>1</sup> Consistent with the statutory provisions, the rule also lists several factors for the Commission to consider in determining whether a potential intervenor meets that standard:

- (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.<sup>2</sup>

As discussed below, DP&L satisfies these criteria and its intervention in this proceeding is therefore warranted.

### **III. DP&L Should be Granted Intervention in This Proceeding.**

On September 25, 2019, the PUCO Staff issued Comments describing recommendations for the establishment of a nonbypassable rate mechanism to recovery prudently incurred costs related to legacy generation resources. Specifically, Staff proposed a Legacy Generation Resource Rider (“LGR Rider”) with two rate provisions that include a statewide rate and a specific EDU true-up rate. (Comments of the Staff of the Public Utilities Commission of Ohio at (Sept. 25,

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<sup>1</sup> O.A.C. 4901-1-11(A).

<sup>2</sup> O.A.C. 4901-1-11(B).



2019)). On October 17, 2019, DP&L jointly filed Comments concerning the design of the LGR Rider.<sup>3</sup> The Company will be impacted by the Commission's consideration of revenue requirements.

DP&L has a real and substantial interest in this proceeding that will result in certain charges, allocations, and rate designs that will impact the Company and its customers. No existing party represents DP&L's interests, which will be uniquely impacted by the resolution of both the statewide rate design and the EDU-specific rate design. Further, DP&L's participation will contribute to the development of the issues and an equitable resolution. DP&L's intervention will not unduly prolong or delay as this Motion is being filed contemporaneously with the Joint Comments in accordance with the scheduling Entry issued by the Commission.

DP&L respectfully requests that the Commission grant its Motion to Intervene and that it be a party of record.

Respectfully submitted,

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<sup>3</sup> Joint Comments of Ohio Power Company, Duke Energy Ohio, Inc., and The Dayton Power and Light Company (October 17, 2019)



**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing Motion to Intervene by The Dayton Power and Light Company has been served via electronic mail upon the following counsel of record, this 17<sup>th</sup> day of October, 2019:

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Summary: Motion to Intervene and Memorandum in Support electronically filed by Mrs. Jessica E Kellie on behalf of The Dayton Power and Light Company