

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the)
Dayton Power and Light Company to) Case No. 20-1651-EL-AIR
Increase its Rates for Electric Distribution.)

In the Matter of the Application of the)
Dayton Power and Light Company for) Case No. 20-1652-EL-AAM
Accounting Authority.)

In the Matter of the Application of Dayton)
Power and Light Company for Approval) Case No. 20-1653-EL-ATA
of Revised Tariffs.)

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

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case where the Dayton Power and Light Company ("DP&L" or the "Utility") seeks to increase the rates that its customers pay for electric distribution service.¹ If DP&L's application is approved, customers would pay an additional \$121 million per year for distribution service.² DP&L's 465,000 residential customers would be hit hard by this requested rate increase. A typical customer using 1,000 kWh per month would pay an additional \$161 per year.³ And low-usage customers could face an increase of up to 70% for their base distribution rates.⁴

¹ See R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

² Application at 2 (Nov. 30, 2020) ("DP&L requests to increase its revenue requirement by \$120.8 million.").

³ Application, Schedule E-5 (\$13.42 increase per month at 1,000 kWh).

⁴ Application, Schedule E-5 (for customer using 50 kWh, an \$8.90 increase on a current bill of \$12.84, a 69.3% increase).

This would be on top of the \$30 million increase that was approved just two years in DP&L's last rate case.⁵

OCC is filing on behalf of the 465,000 residential utility customers of DP&L. The reasons the Public Utilities Commission of Ohio ("PUCO") should grant OCC's motion are further set forth in the attached memorandum in support.

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ Christopher Healey
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⁵ Case No. 15-1830-EL-AIR, Opinion & Order ¶ 61 (Sept. 26, 2018).

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MEMORANDUM IN SUPPORT

DP&L wants to charge customers an additional \$121 million per year for base distribution service.⁶ Residential customers' bills would increase substantially. According to DP&L's filing, residential customers' base distribution charges would increase by at least \$8.90 per month (\$107 per year for customers using 50 kWh per month), with high-use customers using 7,500 kWh per month paying an additional \$44.35 per month (\$532 per year).⁷ OCC has authority under law to represent the interests of all 465,000 residential utility customers of DP&L under R.C. Chapter 4911.

R.C. 4903.221 provides, in part, that any person "who may be adversely affected" by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio's residential customers may be "adversely affected" by this case, especially if the customers were unrepresented in a proceeding where DP&L is seeking to substantially

⁶ Application at 2.

⁷ Application, Schedule E-5 at 1.

increase base distribution rates for residential customers. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the PUCO to consider the following criteria in ruling on motions to intervene:

- (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.

First, the nature and extent of OCC's interest is representing the residential customers of DP&L in this case involving a request to increase base distribution rates. This interest is different than that of any other party and especially different than that of the utility whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential customers will include, among other things, advancing the position that customers' base distribution rates must be just and reasonable, and any rate increase must be consistent with all applicable laws and regulations. OCC's position is therefore directly related to the merits of this case, which is pending before the PUCO, the authority with regulatory control of public utilities' rates and service quality in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceedings. OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). To intervene, a party should have a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2). As the advocate for residential utility customers, OCC has a very real and substantial interest in this case where the residential customers it represents could be required to pay much higher base distribution rates.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B), which OCC already has addressed, and which OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the PUCO shall consider "The extent to which the person's interest is represented by existing parties." While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion in that it uniquely has been designated as the state representative of the interests of Ohio's residential utility customers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio ("Court") confirmed OCC's right to intervene in PUCO proceedings, in deciding two appeals in which OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its

discretion in denying OCC's interventions and that OCC should have been granted intervention in both proceedings.⁸

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio residential customers, the PUCO should grant OCC's Motion to Intervene.

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ Christopher Healey
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⁸ See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Motion to Intervene* was served on the persons stated below *via* electronic transmission, this 7th day of December 2020.

/s/ Christopher Healey
Christopher Healey
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Summary: Motion Motion to Intervene by The Office of The Ohio Consumers' Counsel
electronically filed by Mrs. Tracy J Greene on behalf of Healey, Christopher