**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 Approval of a Revised Bill Format for Electric Service. | )  )  )  ) | Case No. 21-146-EL-UNC |

**MOTION TO INTERVENE**

**BY**

**OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

The Office of the Ohio Consumers’ Counsel (“OCC”) moves to intervene in this case where DP&L[[1]](#footnote-2) is proposing a new bill format that will modify what DP&L customers see on their monthly utility bills.[[2]](#footnote-3) DP&L is requesting these changes to reflect its “doing business as” name to “AES Ohio.”[[3]](#footnote-4) But DP&L’s proposed bill format is more than a mere addition of the “AES Ohio” logo and color scheme. It also proposes changes that are contrary to Ohio law and the PUCO rules related to what must be in a bill. The proposed bill format is missing crucial information such as distribution and generation rates, the correct price-to-compare language, and the disconnection notice. Moreover, it includes confusing information about late payment charges and credits from previous bills.

OCC files this motion to intervene on behalf of the 465,000 electric residential utility customers of DP&L—now AES Ohio. The PUCO should grant OCC’s motion for the reasons set forth in the attached memorandum in support.

Respectfully submitted,

Bruce Weston (0016973)

Ohio Consumers’ Counsel

*/s/ Ambrosia E. Wilson*

Ambrosia E. Wilson (0096598)

Counsel of Record

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(willing to accept service by e-mail)

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## MEMORANDUM IN SUPPORT

The monthly utility billing statement is a key communication between the utility and its customers. Under O.A.C. 4901:1-10-22(C). Because DP&L is changing its name to do business in Ohio as AES Ohio (“AES Ohio”) it is required to file any new proposed bill formats at the PUCO for approval. The PUCO should grant OCC’s Motion to Intervene in this case where AES Ohio is proposing a new bill format that does not comply with PUCO requirements and excludes other crucial information for consumer protection. As filed, the proposed bill format violates Ohio law, the PUCO rules, and is harmful to consumers.

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 AES Ohio is making changes to the monthly billing statement sent to consumers that appear to be contrary to Ohio law[[4]](#footnote-5) and PUCO rules.[[5]](#footnote-6) 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 AES Ohio in this case involving a bill format change and modifications to the content of the Utility’s billing statements to the detriment of consumers. 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 the new bill format must provide consumers with the information needed to understand their bill. And the new bill format should enable consumers to make informed decisions regarding their electric utility service (including how to save money). 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 O.A.C. 4901-1-11(A)(2). As the advocate for residential utility customers, OCC has a very real and substantial interest in this case where AES Ohio’s residential electric utility bills format is undergoing changes that will affect consumers.

In addition, OCC meets the criteria of O.A.C. 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.

O.A.C. 4901-1-11(B)(5) states that the PUCO shall consider “The extent to which the person’s interest is represented by existing parties.” OCC does not concede the lawfulness of this criterion. But 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.

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

Respectfully submitted,

Bruce Weston (0016973)

Ohio Consumers’ Counsel

*/s/ Ambrosia E. Wilson*

Ambrosia E. Wilson (0096598)

Counsel of Record

Amy Botschner O’Brien (0074423)

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(willing to accept service by e-mail)

**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 22nd day of March 2021.

*/s/ Ambrosia E. Wilson*

Ambrosia E. Wilson

Assistant Consumers’ Counsel

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

**SERVICE LIST**

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| --- | --- |
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1. The Dayton Power and Light Company, Inc. dba AES Ohio (“AES Ohio”). [↑](#footnote-ref-2)
2. *See* R.C. Chapter 4911, R.C. 4903.221 and O.A.C. 4901-1-11. [↑](#footnote-ref-3)
3. DP&L filed with the Ohio Secretary of State on February 19, 2021. As of February 24, 2021, DP&L is now doing business as “AES Ohio.” [↑](#footnote-ref-4)
4. R.C. 4928.10. [↑](#footnote-ref-5)
5. O.A.C. 4901:1-10-22 (C). [↑](#footnote-ref-6)