

**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 Its Market Rate Offer. |) | Case No. 12-426-EL-SSO |
| |) | |
| |) | |
| In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs |) | Case No. 12-427-EL-ATA |
| |) | |
| |) | |
| In the Matter of the Application of The Dayton Power and Light Company for Approval of Certain Accounting Authority |) | Case No. 12-428-EL-AAM |
| |) | |
| |) | |
| In the Matter of the Application of The Dayton Power and Light Company for the Waiver of Certain Commission Rules |) | Case No. 12-429-EL-WVR |
| |) | |
| |) | |
| In the Matter of the Application of The Dayton Power and Light Company to Establish Rider Tariffs |) | Case No. 12-672-EL-RDR |
| |) | |
| |) | |

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

The Ohio Environmental Council (“OEC”) moves to intervene in the above captioned case, in which The Dayton Power and Light Company (“DP&L”) submits its Application for Approval of its Market Rate Offer (“Application”). As more fully discussed in the accompanying memorandum, the OEC has a real and substantial interest in this proceeding to ensure that energy efficiency resource, renewable and advanced energy resource, peak demand reduction projects and associated recovery riders are deployed in this state according to the clear requirements and timetables provided by Senate Bill 221 (“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

the OEC, Ohio's largest non-profit environmental advocacy organization, are not represented by any existing party. The 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, 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 Public Utilities Commission of Ohio grants the OEC's motion to intervene for these reasons and those set forth in the attached Memorandum in Support.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT OF
MOTION TO INTERVENE
BY THE
OHIO ENVIRONMENTAL COUNCIL**

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, renewable energy and peak demand reduction programs will impact the amount of energy efficiency and renewable energy 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 interest in the disposition of this case. Having been intricately involved in the passage of SB 221, the OEC is particularly interested in the achievement of maximum cost-effective energy efficiency and renewable energy implementation. The disposition of this case will influence how DP&L pursues energy efficiency and renewable energy resources. Additionally, the OEC has an interest in the company's operation of its legacy generating assets and any cost-recovery they may be seeking. The OEC, as an environmental advocacy organization, has a special interest in the outcome of this case because of the direct impact on the longevity of DP&L's coal fleet, and thus, the impact 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 and renewable energy 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.

DATE: April 18, 2012

/s/ Cathryn N. Loucas
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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 18th day of April, 2012.

/s/ Cathryn N. Loucas
Counsel for Ohio Environmental Council

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Summary: Motion to Intervene and Memorandum in Support electronically filed by Ms. Cathryn N. Loucas on behalf of The Ohio Environmental Council