

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The    )  
Dayton Power and Light Company for    )  
Approval of its Energy Efficiency and    ) Case Nos. 13-0833-EL-POR  
Peak Demand Reduction Program        ) 13-0837-EL-WVR  
Portfolio Plan for 2013 through 2015    )

---

**MOTION TO INTERVENE BY  
THE ENVIRONMENTAL LAW & POLICY CENTER**

---

Pursuant to Ohio Revised Code (“ORC”) § 4903.221 and Ohio Administrative Code (“OAC”) 4901-1-11, the Environmental Law & Policy Center (“ELPC”) respectfully moves to intervene in the above-captioned proceedings. As explained more thoroughly in the attached Memorandum in Support, ELPC has a real and substantial interest in this proceeding. Additionally, the interests of ELPC are not adequately represented by any other party to this matter, and its participation in this proceeding will contribute to a just and expeditious resolution of the issues and questions. Further, ELPC’s participation will not unduly delay the proceedings or prejudice any other party.

ELPC respectfully requests this Commission grant its motion to intervene for these reasons and those set forth in more detail in the attached Memorandum in Support.

Respectfully submitted,

/s/ Nicholas McDaniel  
Nicholas McDaniel  
Environmental Law & Policy Center  
1207 Grandview Avenue, Suite 201  
Columbus, OH 43212  
P: 614-488-3301  
F: 614-487-7510  
NMcDaniel@elpc.org

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The )	
Dayton Power and Light Company for )	
Approval of its Energy Efficiency and )	Case No. 13-0833-EL-POR
Peak Demand Reduction Program )	13-0837-EL-WVR
Portfolio Plan for 2013 through 2015 )	

---

**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE BY  
THE ENVIRONMENTAL LAW & POLICY CENTER**

---

Ohio Revised Code (“ORC”) § 4903.221 states that “[a]ny other person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding” provided the Public Utilities Commission of Ohio (“PUCO” or “Commission”) makes certain determinations. The Environmental Law & Policy Center (“ELPC”) is a non-profit environmental advocacy organization whose mission is to improve the Midwest’s environmental quality and economic development. ELPC is an advocate for both environmental health and sustainable economic development. As a regional organization with a presence and members in Ohio, ELPC and its members may be adversely affected by the outcome of this proceeding, and its interests are not adequately represented by the other parties hereto.

ORC § 4903.221 requires the Commission to consider four factors when presented with a motion to intervene. In addition, the Commission’s procedural rules at Ohio Administrative Code (“OAC”) 4901-11-1 similarly provide that it shall consider five factors when weighing a motion to intervene. ELPC’s motion meets all of the factors required by statute and rule.

Pursuant to ORC §4903.221, the Commission must consider:

- (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; [and]
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

ORC § 4903.221(B). As to the first factor, ELPC's interest in the case is to ensure the effective and thorough implementation of Am. Sub. SB No. 221 ("SB 221"), the requirements for utilities to provide energy efficiency programs in Ohio, reflected at ORC § 4928.66. ELPC's interest in this proceeding is to ensure that utilities subject to the requirements of SB 221 are held to reasonable expectations of fulfillment. As to the second factor, ELPC maintains that the Commission should carefully consider proposed energy efficiency portfolio plans to ensure the best possible outcomes for Ohio ratepayers and the environment. As to the third factor, ELPC's inclusion will not unduly delay or prolong the proceeding. ELPC is committed to working within the schedule set by this Commission to achieve the efficient and orderly disposition of the questions presented. Finally, ELPC will significantly contribute to the full development and resolution of the proceeding by bringing its unique perspective to bear. ELPC has expertise and experience regarding energy efficiency plan and program design that will contribute to improving Dayton Power and Light's proposed plans.

Similarly, ELPC meets the requirements set forth in OAC 4901-11-1(B):

- (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; [and]
- (5) The extent to which the person's interest is represented by existing parties.

The first four factors mirror those in ORC § 4903.221, and for the same reasons as stated above, ELPC meets those factors. As to the fifth, ELPC maintains that no other party can adequately represent its interests as a regional environmental advocacy organization that also focuses on “green” economic development, including new manufacturing and job creation.

Finally, this Commission’s policy is to “encourage the broadest possible participation in its proceedings.” *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry at 2 (January 14, 1986). ELPC’s inclusion in this proceeding will contribute to this goal of broad participation in PUCO proceedings.

Because ELPC meets the criteria set forth in both ORC § 4903.221 and OAC 4901-11-1, it respectfully asks this Commission to grant its motion to intervene in the above-captioned proceedings.

Respectfully submitted,

/s/ Nicholas McDaniel  
Nicholas McDaniel  
Environmental Law & Policy Center  
1207 Grandview Avenue, Suite 201  
Columbus, OH 43212  
P: 614-488-3301  
F: 614-487-7510  
NMcdaniel@elpc.org

## CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Motion to Intervene and Memorandum in Support* submitted on behalf of the Environmental Law & Policy Center was served by electronic mail, upon the following Parties of Record, this 8<sup>th</sup> day of May, 2013.

/s/ Nicholas McDaniel

---

Nicholas McDaniel

Trent A Dougherty  
Ohio Environmental Council  
1207 Grandview Ave. Suite 201  
Columbus OH 43212  
Phone: 614-487-7506  
Fax: 614-487-7510  
trent@theoec.org

Colleen Mooney  
Ohio Partners for Affordable Energy  
231 West Lima Street  
Findlay, OH 45839-1793  
Cmooney2@columbus.rr.com

Deb J. Bingham  
Office of the Ohio Consumers' Counsel  
10 W. Broad St., 18th Fl.  
Columbus OH 43215  
Phone: 614-466-1311  
Fax: 614-466-9475  
bingham@occ.state.oh.us

Teresa Orahood  
Bricker & Eckler LLP  
100 South Third Street  
Columbus, OH 43215-4291  
torahood@bricker.com

Sandra Coffey  
Public Utilities Commission of Ohio  
180 E. Broad Street  
Columbus, OH 43215  
Sandra.Coffey@puc.state.oh.us

Michael L. Kurtz  
Boehm Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, OH 45202  
mkurtz@bkllawfirm.com

Judi L. Sobecki  
Tyler A. Teuscher  
The Dayton Power and Light Company  
1065 Woodman Dr.  
Dayton OH 45432  
Phone: 937-259-7184  
Judi.sobecki@dplinc.com

Kyle L. Kern  
Assistant Consumers' Counsel  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
Telephone: (614) 466-9585  
kern@occ.state.oh.us

William Wright  
Assistant Attorney General  
Public Utilities Commission of Ohio  
180 East Broad Street, 6th Floor  
Columbus, Ohio 43215  
william.wright@puc.state.oh.us

Thomas J. O'Brien  
BRICKER & ECKLER LLP  
100 South Third Street  
Columbus, OH 43215-4291  
Telephone: (614) 227-2335  
Facsimile: (614) 227-2390  
tobrien@bricker.com

Richard L. Sites  
General Counsel & Senior Director of Health  
Policy  
OHIO HOSPITAL ASSOCIATION  
155 East Broad Street, 15th Floor  
Columbus, OH 43215-3620  
Telephone: (614) 221-7614  
Facsimile: (614) 221-4771  
[ricks@ohanet.org](mailto:ricks@ohanet.org)

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**5/8/2013 2:32:22 PM**

**in**

**Case No(s). 13-0833-EL-POR, 13-0837-EL-WVR**

Summary: Motion to Intervene and Memorandum in Support by the Environmental Law & Policy Center electronically filed by Mr. Nicholas A. McDaniel on behalf of Environmental Law and Policy Center