

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The)		
Dayton Power and Light Company for)	Case No.	13-833-EL-POR
Approval of its Energy Efficiency and)	Case No.	13-837-EL-WVR
Peak Demand Reduction Program)		
Portfolio Plan for 2013 through 2015.)		

**MOTION TO INTERVENE
BY THE
OHIO ADVANCED ENERGY ECONOMY**

For the reasons set forth in the accompanying Memorandum in Support, Ohio Advanced Energy Economy moves the Public Utilities Commission of Ohio for leave to intervene in the above-captioned case pursuant to Ohio Revised Code 4903.221 and Ohio Administrative Code 4901-1-11, and to grant to the Ohio Advanced Energy Economy the full powers and rights specifically authorized by statute or by the provisions of the Ohio Administrative Code.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE OF THE
OHIO ADVANCED ENERGY ECONOMY**

I. Introduction

Ohio Advanced Energy Economy (Ohio AEE) seeks intervention in this proceeding where the Dayton Power and Light Company (DP&L) has submitted energy efficiency program plans for implementation over the 2013-2015 period. Ohio AEE seeks to participate in this proceeding because Ohio AEE and its members may be adversely affected by the Public Utilities Commission of Ohio (“PUCO” or “Commission”) rulings in these matters. The portfolio plan and subsequent proceedings will present several issues regarding DP&L’s interaction with customers and the provision to customers of energy efficiency services. These and other issues, which are a part of this proceeding, may directly impact the Ohio AEE’s interests in positioning Ohio as a world-leader in the development and manufacturing of clean energy and associated technologies, and the interests of Ohio AEE’s members engaged in these industries. As such, Ohio AEE is entitled to intervene in this proceeding.

II. Legal Standard

Ohio law states that a party may intervene in a Commission proceeding if that party “may be adversely affected by a public utilities commission proceeding.”¹ In the determination of whether a party may be adversely affected for purposes of intervention, the Commission is required to evaluate:

- (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.²

The Commission’s rules similarly provide that any person may intervene where “[t]he person has a real and substantial interest in the proceeding.”³ The PUCO regulations set forth the same four standards that are established in Ohio Revised Code 4903.221(B) for determining whether a party may be “adversely affected,” and also purport to add a fifth factor regarding “the extent to which the person’s interest is represented by existing parties.”⁴

As the Ohio Supreme Court has held, intervention in Commission proceedings “ought to be liberally allowed so that the positions of all persons with a real and substantial interest in the proceedings can be considered by the [Commission].”⁵ The Commission has consistently maintained a policy to “encourage the broadest possible participation” in its proceedings, even

¹ R.C. 4903.221.

² R.C. 4903.221(B).

³ Ohio Adm. Code 4901-1-11(A)(2).

⁴ Ohio Adm. Code 4901-1-11(B).

⁵ *Ohio Consumers’ Counsel v. Pub. Util Comm’n of Ohio* (2006), 111 Ohio St. 3d 384, 388, 2006 Ohio 5853, 856 N.E.2d 940.

under extenuating circumstances.⁶ Ohio AEE satisfies these liberal intervention standards and respectfully requests that its intervention be granted in these cases.

III. Ohio AEE is entitled to intervene under §4903.221 because the organization and its members “may be adversely affected” by the outcome of this proceeding.

Ohio AEE is entitled to intervene in this proceeding because Ohio AEE satisfies each of the four statutory factors demonstrating that the organization and its members “may be adversely affected” by the outcome. First, the nature and extent of Ohio AEE’s interests in the proceeding is real and substantial,⁷ as the issues involved herein are directly related to Ohio AEE’s interests in promoting energy efficiency and will have direct economic impact on Ohio AEE’s members and mission in Ohio.

Ohio AEE is an Ohio-based organization representing a wide range of advanced energy businesses, with some members involved directly in renewable energy and related industries. Ohio AEE is the premier network of businesses and business leaders advancing renewable energy, energy efficiency and clean energy technology through effective communications, broad advocacy and business development.⁸ Ohio AEE’s members have a financial interest in the development and expansion of the technology and equipment employed in distributed generation.

This proceeding presents issues that are directly relevant to the interests of Ohio AEE and its members. For example, DP&L will be proposing a host of energy efficiency programs to be implemented over the next 3 years. Ensuring that DP&L programs are soundly constructed and developed will have a direct impact on the amount and effectiveness of energy efficiency

⁶ See e.g. *In the Matter of the Application of The Dayton Power and Light Company*, 2009 WL 322883 at 1, Ohio PUC February 5, 2009 (Commission granted motion to intervene in light of policy to encourage participation, despite party’s failure to file within the deadline).

⁷ R.C. 4903.221(B)(1).

⁸ For more information, please see the OBCCE website at: <http://ohiobusinesscouncil.com/>.

measures in DP&L's service territory. As such, the interests of Ohio AEE in this proceeding stem from the direct and indirect impacts specific issue outcomes will have on the energy capacity of the State of Ohio and surrounding areas.

Second, the desire of Ohio AEE to promote energy efficiency in Ohio is directly related to the issues of this case. Specifically, this case directly involves energy efficiency program development over a period of three years. Such programming will impact Ohio AEE's members.

Third, Ohio AEE's intervention will not unduly prolong or delay the proceeding⁹ as this motion is being filed by the deadline set for intervention¹⁰ and Ohio AEE is able to comply with all case management deadlines established by the Commission and/or agreed to by the parties.

Fourth, intervention by Ohio AEE will significantly contribute to the full development of the record in this proceeding.¹¹ Ohio AEE will bring significant expertise to bear in this proceeding. Ohio AEE's members have extensive experience in all aspects of clean energy and renewable policy, energy efficiency, equipment and deployment. As such, Ohio AEE should be permitted to intervene pursuant to Ohio Revised Code §4903.221.

IV. Ohio AEE may intervene because Ohio AEE and its members have a “real and substantial interest” in the proceeding as presented in Ohio Administrative Code 4901-1-11(B).

Ohio AEE may also intervene in this proceeding because they satisfy each of the five factors listed in the PUCO rules demonstrating that they have a “real and substantial interest” in the proceeding.¹² The first four factors are identical to those set forth under §4903.221(B) and,

⁹ R.C. 4903.221(B)(3).

¹⁰ Ohio Adm. Code 4901-1-11(E).

¹¹ R.C. 4903.221(B)(4).

¹² Ohio Adm.Code 4901-1-11(B).

therefore, Ohio AEE should be permitted to intervene for the same reasons as set forth in Section III above.

As for the fifth factor, Ohio AEE's interests in this proceeding will not be fully represented by other parties¹³ because none of the other parties can adequately represent Ohio AEE's interests as an Ohio organization representing businesses involved in every aspect of the renewable and advanced energy industry. Therefore, Ohio AEE respectfully requests that its intervention and participation be granted in this case.

V. Conclusion

For the foregoing reasons, the Advanced Energy Economy Ohio respectfully request that their Motion to Intervene be granted, and Ohio AEE be authorized to participate as full parties to this proceeding.

Respectfully submitted,

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¹³ Ohio Adm. Code 4901-1-11(B)(5).

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing *Motion to Intervene and Memorandum in Support* has been filed with the Public Utilities Commission of Ohio and has been served upon the following parties via electronic mail on May 20, 2013.

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Summary: Motion Ohio AEE Motion to Intervene electronically filed by Mr. Todd M Williams on behalf of Ohio Advanced Energy Economy