

In the Matter of the Application of The Dayton Power and Light Company to Increase Its Rates for Electric Distribution	) ) ) ) )	Case No. 15-1830-EL-AIR
In the Matter of the Application of The Dayton Power and Light Company for Accounting Authority	) ) ) ) )	Case No. 15-1831-EL-AAM
In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs	) ) ) ) )	Case No. 15-1832-EL-ATA

Pursuant to Ohio Rev. Code § 4903.22.1 and Ohio Admin. Code § 4901-1-11, the Environmental Defense Fund (“EDF”) and the Ohio Environmental Council (“OEC”), move for leave to intervene in the above captioned case, in which Dayton Power & Light (“DP&L” or “the Company”) submit its Application for an increase in its Distribution rates and revise certain Tariffs (“Application”). As more fully discussed in the accompanying memorandum, EDF and OEC have a real and substantial interest in this proceeding. Furthermore, the interests of EDF and OEC are not represented by any existing party; 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; and thereby move to intervene in this proceeding pursuant to R.C. 4903.221 and O.A.C. 4901-1-11.

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Respectfully Submitted,

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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
The Dayton Power and Light Company	)	
to Increase Its Rates for Electric Distribution	)	Case No. 15-1830-EL-AIR
	)	
In the Matter of the Application of The	)	
Dayton Power and Light Company for	)	Case No. 15-1831-EL-AAM
Accounting Authority	)	
	)	
In the Matter of the Application of The	)	
Dayton Power and Light Company for	)	Case No. 15-1832-EL-ATA
Approval of Revised Tariffs	)	

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**MEMORANDUM IN SUPPORT**

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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.”

EDF is a national non-profit membership organization engaged in linking science, economics and law to create innovative, equitable and cost-effective solutions to society’s most urgent environmental problems. EDF has over 300,000 members nationwide and has 9,590 members in Ohio. EDF has been active in Ohio working on environmental policies including smart power, climate change, natural gas fracking and sustainable agriculture. EDF also supports state energy policies that reduce greenhouse gas emissions.

The OEC is a non-profit, charitable organization comprised of a network of over 100 affiliated member groups whose mission is to secure healthy air, land, and water for all who call Ohio home. Throughout its 47-year history, OEC has been a leading advocate for fresh air, clean water, and sustainable energy use in Ohio. OEC was an active participant in the effort that

led to the passage of S.B. 221, and has intervened in scores of cases before this Commission to secure proper implementation of Ohio's clean energy law.

As discussed below, EDF and OEC have an interest in and may be adversely affected by the disposition of this case.

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." EDF and OEC have a real and substantial interest in the stability of retail electric distribution service and competitive energy markets, and the positive effect both have on the further deployment of cost-effective clean and efficient energy in Ohio. As environmental advocacy organizations, EDF and OEC have a special interest in the outcome of this case because of the direct impact that decisions on the Application and its included tariffs and riders will have on the current and future implementation and effectiveness of energy efficiency and demand response, alternative energy resources, renewable energy generation, modernization of the electric grid. Accordingly, EDF and OEC's interest in this proceeding arise from the direct and indirect impacts that the issues presented will have on the environment of the state of Ohio and the region, and the electricity costs of their members in the DP&L service territory.

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 EDF and OEC do not outline detailed legal arguments in this section, OEC and EDF maintain that DP&L's Application should be properly scrutinized by interested parties to ensure that it complies with the letter and intent of the state's energy law and furthers the State's energy policy. What is more, increases in distribution rates and modifications to rate structures must be analyzed to guarantee no impediments to customers' right to choose and ability to see savings from energy efficiency investments.

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.” EDF and OEC have significant experience dealing with electric utilities questions before the Commission and will not seek to delay the proceeding. OEC has been consistently involved in the development and enactment of Ohio’s energy laws and the associated rules, including as a party in numerous cases before the Commission, and EDF has litigated such cases in Ohio as well as in other Public Utility Commissions around the United States. Thus, intervention will not unduly prolong or delay these proceedings, but 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.” EDF and OEC have developed expertise that will contribute to the full development of the legal questions involved in this proceeding. Further, as Ohio’s leading environmental advocates, EDF and OEC will be able to assure that the environmental impacts of the Companies’ proposal are fully developed.

EDF and OEC also satisfy 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.” EDF and OEC’s interest is not fully represented by the existing parties.

Finally, we point out that it is the Commission’s stated policy “to encourage the broadest possible participation in its proceedings.”<sup>1</sup> The Commission should not apply its intervention criteria in a manner that would favor one environmental or consumer advocate to the exclusion of others.

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<sup>1</sup> *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry dated January 14, 1986, at 2.

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 intervenor status in this proceeding.

WHEREFORE, OEC respectfully requests that the Commission grant its motion to intervene in the above captioned matter.

Respectfully Submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by electronic mail this 26th day of January, 2016.

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Summary: Motion Joint Motion to Intervene and Memorandum in Support of Ohio Environmental Council and Environmental Defense Fund electronically filed by Mr. Trent A Dougherty on behalf of Ohio Environmental Council and Environmental Defense Fund