

**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 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

---

**JOINT MOTION TO INTERVENE  
BY THE  
OHIO ENVIRONMENTAL COUNCIL and ENVIRONMENTAL DEFENSE FUND**

---

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.

WHEREFORE, EDF and OEC respectfully request that the Public Utilities Commission of Ohio grant EDF and OEC’s motion to intervene for these reasons and those set forth in the attached Memorandum in Support.

Respectfully Submitted,

**/s/ Trent Dougherty**

---

Trent Dougherty, **Counsel of Record**  
(0079817)  
1145 Chesapeake Avenue, Suite I  
Columbus, Ohio 43212  
(614) 487-7506 - Telephone  
(614) 487-7510 - Fax  
[tdougherty@theOEC.org](mailto:tdougherty@theOEC.org)

**/s/ John Finnigan**

---

John Finnigan (0018689)  
Senior Regulatory Attorney  
Environmental Defense Fund  
128 Winding Brook Lane  
Terrace Park, Ohio 45174  
(513) 226-9558  
[jfinnigan@edf.org](mailto:jfinnigan@edf.org)

**Counsel for the Ohio Environmental  
Council and Environmental Defense  
Fund**

**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 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

---

**MEMORANDUM IN SUPPORT**

---

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.

---

<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,

**/s/ Trent Dougherty**

Trent Dougherty, Counsel of Record  
(0079817)  
1145 Chesapeake Avenue, Suite I  
Columbus, Ohio 43212  
(614) 487-7506 - Telephone  
(614) 487-7510 - Fax  
[tdougherty@theOEC.org](mailto:tdougherty@theOEC.org)

**/s/ John Finnigan**

John Finnigan (0018689)  
Senior Regulatory Attorney  
Environmental Defense Fund  
128 Winding Brook Lane  
Terrace Park, Ohio 45174  
(513) 226-9558  
[jfinnigan@edf.org](mailto:jfinnigan@edf.org)

**Counsel for the Ohio Environmental  
Council and Environmental Defense  
Fund**

## 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.

/s/ Trent Dougherty  
Trent Dougherty

Charles J. Faruki  
D. Jeffery Ireland  
Jeffrey S. Sharkey  
Faruki Ireland & Cox P.L.L.  
500 Courthouse Plaza, S.W.  
10 N Ludlow Street  
Dayton, OH 43402  
[cfaruki@ficlaw.com](mailto:cfaruki@ficlaw.com)  
[djireland@ficlaw.com](mailto:djireland@ficlaw.com)  
[jsharkey@ficlaw.com](mailto:jsharkey@ficlaw.com)

Michael J. Shuler  
The Dayton Power & Light Company  
1065 Woodman Drive  
Dayton, OH 45432  
[Michael.shuler@aes.com](mailto:Michael.shuler@aes.com)

Thomas McNamee  
Natalia Messenger  
Attorney General's Office  
Public Utilities Commission of Ohio  
180 E. Broad St., 6th Fl.  
Columbus, OH 43215  
[thomas.mcnamee@puc.state.oh.us](mailto:thomas.mcnamee@puc.state.oh.us)  
[natalia.messenger@puc.state.oh.us](mailto:natalia.messenger@puc.state.oh.us)

David F. Boehm  
Michael L. Kurtz  
Kurt J. Boehm  
Jody Kyler Cohn  
Boehm, Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, OH 45202  
[Dboehm@BKLawfirm.com](mailto:Dboehm@BKLawfirm.com)  
[mkurtz@BKLawfirm.com](mailto:mkurtz@BKLawfirm.com)  
[kboehm@BKLawfirm.com](mailto:kboehm@BKLawfirm.com)  
[jkylercohn@BKLawfirm.com](mailto:jkylercohn@BKLawfirm.com)

Frank P. Darr  
Matthew R. Pritchard  
McNees Wallace & Nurick LLC  
21 East State Street, 17th Fl.  
Columbus, OH 43215  
[fdarr@mwncmh.com](mailto:fdarr@mwncmh.com)  
[mpritchard@mwncmh.com](mailto:mpritchard@mwncmh.com)

Jodi Bair  
Ajay Kumar  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215  
[Jodi.Bair@occ.ohio.gov](mailto:Jodi.Bair@occ.ohio.gov)  
[Ajay.Kumar@occ.ohio.gov](mailto:Ajay.Kumar@occ.ohio.gov)

Madeline Fleisher  
Staff Attorney  
Environmental Law & Policy Center  
21 W. Broad St., Suite 500  
Columbus, OH 43215  
[mfleisher@elpc.org](mailto:mfleisher@elpc.org)

Robert Dove  
The Law Office of Robert Dove  
PO BOX 13442  
Columbus, OH 43213  
[rdove@attorneydove.com](mailto:rdove@attorneydove.com)

Samantha Williams  
Staff Attorney  
Natural Resources Defense Council  
20 N Wacker Drive, Suite 1600  
Chicago, IL 60606  
(312) 651.7930  
[swilliams@nrdc.org](mailto:swilliams@nrdc.org)

Kurt P. Helfrich  
Stephanie M. Chmiel  
Michael D. Austin  
Thompson Hine LLP  
41 South High Street, Suite 1700  
Columbus, Ohio 43215-6101  
[Kurt.Helfrich@ThompsonHine.com](mailto:Kurt.Helfrich@ThompsonHine.com)  
[Stephanie.Chmiel@ThompsonHine.com](mailto:Stephanie.Chmiel@ThompsonHine.com)  
[Michael.Austin@ThompsonHine.com](mailto:Michael.Austin@ThompsonHine.com)

Steven D. Lesser  
James F. Lang  
N. Trevor Alexander  
CALFEE, HALTER & GRISWOLD LLP  
41 S. High St.,  
1200 Huntington Center  
slesser@calfee.com  
jlang@calfee.com  
talexander@calfee.com

Devin D. Parram  
Taft Stettinius & Hollister  
65 East State Street  
Suite 1000  
Columbus, Ohio 43215  
Phone: 614.334.6117  
[dparram@taftlaw.com](mailto:dparram@taftlaw.com)

Kimberly Bojko  
Ryan P. O'Rourke  
Carpenter Lipps & Leland  
280 N. High Street  
Suite 1300  
Columbus, Ohio 43081  
Phone: 614.365.4100  
[kbojko@carpenterlipps.com](mailto:kbojko@carpenterlipps.com)  
[rorourke@carpenterlipps.com](mailto:rorourke@carpenterlipps.com)

Lisa M. Hawrot  
Spilman Thomas & Battle, PLLC  
Century Centre Building  
1233 Main Street, Suite 4000  
Wheeling, WV 26003  
[lhawrot@spilmanlaw.com](mailto:lhawrot@spilmanlaw.com)

Derrick Price Williamson  
Spilman Thomas & Battle, PLLC  
1100 Bent Creek Blvd., Suite 101  
Mechanicsburg, PA 17050  
[dwilliamson@spilmanlaw.com](mailto:dwilliamson@spilmanlaw.com)

Carrie M. Harris  
Spilman Thomas & Battle, PLLC  
310 First Street, Suite 1100  
P.O. Box 90  
Roanoke, VA 24002-0090  
[charris@spilmanlaw.com](mailto:charris@spilmanlaw.com)



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

**Commission of Ohio Docketing Information System on**

**1/26/2016 10:00:00 AM**

**in**

**Case No(s). 15-1830-EL-AIR, 15-1831-EL-AAM, 15-1832-EL-ATA**

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