

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**THE ENERGY FREEDOM COALITION OF AMERICA
MOTION TO INTERVENE AND MEMORANDUM IN SUPPORT**

Pursuant to Ohio Revised Code § 4903.221 and Ohio Admin. Code § 4901-1-11, by and through its undersigned counsel, the Energy Freedom Coalition of America, LLC (“EFCA”) respectfully submits to the Public Utilities Commission of Ohio (“Commission”) this motion to intervene in the above captioned proceedings. EFCA has real and substantial business interests in these proceedings, these interests may be adversely affected by the disposition of these proceedings, and no other parties adequately represent EFCA’s interests. For the reasons stated more fully in the attached memorandum in support, EFCA respectfully requests the Commission grant this timely request to intervene.

Dated: February 26, 2016

Respectfully submitted,

/s/ Jacob J. Schlesinger

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**THE ENERGY FREEDOM COALITION OF AMERICA
MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE**

I. Introduction

By and through its undersigned counsel, the Energy Freedom Coalition of America (“EFCA”) respectfully submits to the Ohio Public Utilities Commission (“Commission”) this memorandum in support of its motion to intervene in the above captioned proceedings.

EFCA members provide distributed energy resource (“DER”) products and services to residential, commercial, industrial, and government customers that help these customers manage energy consumption and costs, reduce environmental impacts of energy generation, and promote consumer choice. EFCA members’ DER products and services include backup battery storage, demand management, solar electric and thermal generation, and solar lighting systems. EFCA members include: SolarCity Corporation, NRG, Silevo Solar, and Zep Solar.

Through these proceedings, Dayton Power & Light (“Dayton” or “Company”) seeks approval to amend and increase its electric distribution rates through changes to its tariffs. The proposed tariff schedules reflect the Company’s proposed rates and language changes as well as certain proposals to restructure rate schedules, adopt new riders, and gain approval of accounting authority.¹ The Commission’s determination of Dayton’s proposals could adversely affect EFCA members and their customers. Therefore, EFCA has a real and substantial business interest to protect in this proceeding and respectfully requests the Commission grant its motion to intervene.

II. Legal Standard

Ohio Rev. Code § 4903.221 provides that “any person who may be adversely affected by a public utilities commission proceeding may intervene” in the proceeding. The Commission’s regulations as set forth in Ohio Admin. Code § 4901-1-11 provide that upon timely motion, any person shall be permitted to intervene upon a showing that the person has a real and substantial interest in the proceeding and the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest. In ruling upon applications for intervention the Commission shall 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;
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

Ohio R.C. § 4903.221; Ohio Admin. Code § 4901-1-11(B).

¹ Dayton Power & Light Co., 2015 Distribution Base Rate Case Application, Before the Public Utils. Comm’n of Ohio, Case Nos. 15-1830-EL-AIR; 15-1831-EL-AAM; and 15-1832-EL-ATA (Nov. 30, 2015) (hereinafter “Dayton Application”) Book I – Application and Supplemental Volume 1 of 14 at p. 3.

Ohio courts construe intervention standards liberally in favor of intervention. *See e.g., Ohio Consumers' Counsel v. PUC*, 111 Ohio St. 3d 384 (Ohio 2006) “. . . intervention 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 PUCO.” As described below, EFCA’s motion satisfies each of the elements for intervention.

III. Argument

A. The Nature and Extent of EFCA’s Business Interest in this Proceeding is Grounds for Intervention.

EFCA members have installed over 10 megawatts (“MW”) of distributed solar in Ohio and have approximately 25 employees located in the state that support the deployment of DERs.² Nearly 1 MW of the EFCA members’ installed generation total in Ohio is located in the Dayton service territory. Because EFCA members provide DER products and services in Dayton’s service territory, its ability to effectively compete and do business in the territory will be directly affected by the Commission’s decisions on the Company’s Application. Furthermore, EFCA’s members’ existing investments could be impacted if Dayton power is allowed to significantly increase fixed costs to customers who have already installed technology to reduce energy consumption, such as distributed solar.

Dayton’s proposed rate increase, tariff schedule and rate structure revisions, and other changes contained in its Application would result in increased fixed charges, higher demand charges, reduced energy charges and other changes for Dayton’s customers. These changes could remove incentives for consumers to pursue energy efficiency, self-

² EFCA member companies’ employees in Ohio perform job functions other than sales that support the deployment of DERs for EFCA member companies.

generation, or other cost saving measures through DER products and services. Similarly, such rate changes could affect the existing investments that EFCA members and their customers have already made in DER products and services. EFCA, therefore, has real and substantial business interests in ensuring that the outcome of this proceeding results in fair, transparent, and just and reasonable rates that incorporates cost of service and public policy considerations, promotes fair competition for behind the meter DERs, and does not unfairly result in the devaluation of DER investments.

B. EFCA's Legal Position is Germaine to this Proceeding.

EFCA's position is that Dayton's rates must be just and reasonable, comply with other applicable legal requirements and incorporate cost of service and public policy considerations so as not to discriminate against any particular class of customers or favor the utility to the exclusion of competitive industry. The Commission will have to determine the just and appropriate rates and rate designs for Dayton's customers in this case. Thus EFCA's legal position should be considered, as it is directly applicable to the relevant issues.

C. EFCA's Intervention Will not Unduly Prolong or Delay the Proceeding.

No intervention deadline has been established and therefore EFCA's intervention will not prejudice any existing party. Further, EFCA's participation will not unduly prolong or delay the proceeding. EFCA is committed to working within any schedule that is imposed by this Commission to achieve an efficient and orderly disposition of the issues.

D. EFCA will contribute to the full development of this case

As a national DER advocacy group, EFCA has extensive expertise through its work on similar issues in rate proceedings across the country. EFCA will meaningfully contribute to the record by providing expert testimony and by introducing other relevant evidence. Therefore, EFCA's participation will benefit the overall proceeding and contribute to the development of a robust record upon which the Commission may rely in order to equitably resolve of the important legal and policy issues presented in this case.

E. EFCA's Interests are Not Already Represented by Existing Parties.

No other parties represent EFCA's interests or those of other private competitive DER providers. As a group of DER providers whose business depends upon open and transparent grid operations and modernization processes, fair rate designs, and forward looking rate policies, EFCA has interests that differ from, and are not adequately represented by other parties that seek to intervene in this proceeding. For example, while some environmental and clean energy organizations that seek to intervene may have some overlapping goals with EFCA, their interests as non-profit environmental and clean energy advocates is clearly distinct from EFCA's interest as an association of businesses whose products regularly compete with those of the Company.

IV. Conclusion

Wherefore, EFCA respectfully requests that the Commission grant this Motion to Intervene and allow EFCA to be made a full party of record to this proceeding.

Dated: February 26, 2016

Respectfully submitted,

/s/ Jacob J. Schlesinger

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CERTIFICATE OF SERVICE

I certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 26th day of February, 2016. The Commission's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

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Summary: Motion Motion to Intervene and Memorandum in Support on behalf of The Energy Freedom Coalition of America, LLC. electronically filed by Mr. Blake Elder on behalf of Energy Freedom Coalition of America, LLC.