

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of the Dayton)	
Power and Light Company for Approval of Its)	Case No. 16-0395-EL-SSO
Electric Security Plan)	
In the Matter of the Application of the Dayton)	
Power and Light Company for Approval of)	Case No. 16-0396-EL-ATA
Revised Tariffs.)	
In the Matter of the Application of the Dayton)	
Power and Light Company for Approval of)	Case No. 16-0397-EL-AAM
Certain Accounting Authority Pursuant to)	
Ohio Rev. Code § 4905.13.)	

NOBLE AMERICAS ENERGY SOLUTIONS LLC'S MOTION TO INTERVENE

Noble Americas Energy Solutions LLC respectfully moves the Public Utilities Commission of Ohio to grant it leave to intervene in the above-styled cases pursuant to Ohio Revised Code Section 4903.221 and Ohio Administrative Code Rule 4901-1-11. The reasons supporting this Motion are set out in the attached Memorandum in Support.

Respectfully submitted,

/s/ Michael D. Dortch

Michael D. Dortch (0043897)

Richard R. Parsons (0082270)

Kravitz, Brown & Dortch, LLC

65 East State Street, Suite 200

Columbus, Ohio 43215

Tel: (614) 464-2000

Fax: (614) 464-2002

E-mail: mdortch@kravitzllc.com

Attorneys for NOBLE SOLUTIONS
ENERGY SOLUTIONS

MEMORANDUM IN SUPPORT

On February 22, 2016, The Dayton Power and Light Company (“DP&L”) filed a combined Application with the Public Utilities Commission of Ohio (“PUCO” or the “Commission”) for the approval of an Electric Security Plan (“ESP”), revised tariffs, and certain accounting authority. DP&L’s application, *inter alia*, seeks to implement a Reliable Electricity Rider (“RER”) that will permit DP&L to recover from ratepayers any losses it incurs from purchased power agreements it enters into with an unregulated affiliate (“Ohio Genco”) that will own DP&L uneconomic generation plants by January 1, 2017. RER thereby requires DP&L’s ratepayers to guarantee that Ohio Genco will turn a profit. As a certified power marketer of competitive retail electric service (“CRES”) in Ohio, the outcome of this proceeding will affect interests of Noble Americas Energy Solutions LLC (“Noble Solutions”) and its customers. Noble Solutions therefore seeks to intervene in this proceeding pursuant to Ohio Rev. Code Section 4903.221 and Ohio Admin. Code Rule 4901-1-11(F).

For purposes of considering requests for leave to intervene in a Commission proceeding, the Ohio Administrative Code provides that:

Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that: . . . (2) The person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person's interest is adequately represented by existing parties.

Ohio Admin. Code § 4901-1-11(A).

Further, Ohio Rev. Code § 4903.221(B) and Ohio Admin. Code § 4901-1-11(B) provide that the Commission, in ruling upon applications to intervene in its proceedings, shall consider the following criteria:

(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.

R.C. § 4903.221(B). Further, the Ohio Supreme Court has stated that “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.” *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 388 (2006).

First, Noble Solutions maintains a real and substantial interest in the proceeding and may experience negative economic impacts if DP&L’s application is approved. Noble Solutions currently sells CRES to mercantile customers in Ohio. As a CRES provider, Noble Solutions is committed to participating in and promoting competitive energy markets. DP&L’s proposed ESP would greatly hinder the Ohio CRES market by providing DP&L’s affiliate, Ohio Genco, an unfair advantage in the competitive wholesale electric service market. This unfair advantage derives from ratepayers subsidizing the affiliated Ohio Genco’s operations in the competitive wholesale market. This unfair advantage in the wholesale market could also negatively impact the competitive retail market in which Noble Solutions conducts its business. The disposition of this proceeding could therefore impair Noble Solutions’ ability to protect its interest in maintaining and growing the competitive electric service markets in Ohio.

Second, Noble Solutions’ perspective is not represented by the parties to this matter. No CRES provider is currently a party to this proceeding, and Noble Solutions will therefore provide important insight on how the proposed ESP will affect CRES providers and their customers. Should other CRES providers seek intervention, however, their business and marketing strategies are likely to diverge widely from that of Noble Solutions, and from those of each other.

Accordingly, it would be appropriate for this Commission to grant intervention to all CRES entities that seek intervention.

Third, Noble Solutions' admittance into these proceedings will not cause undue delay or unjustly prejudice any party. The Commission has not yet set a procedural schedule for this case, and Noble Solutions is committed to working within any schedule the Commission sets.

Finally, Noble Solutions will significantly contribute to the development, and ultimate resolution, of the factual issues in this case by providing the perspective of a CRES provider that exclusively markets to mercantile customers.

III. CONCLUSION

For the reasons set forth above, Noble Solutions respectfully requests the Commission grant its Motion to Intervene.

Respectfully submitted,

/s/ Michael D. Dortch

Michael D. Dortch (0043897)

Richard R. Parsons (0082270)

Kravitz, Brown & Dortch, LLC

65 East State Street, Suite 200

Columbus, Ohio 43215

Tel: (614) 464-2000

Fax: (614) 464-2002

E-mail: mdortch@kravitzllc.com

Attorneys for NOBLE SOLUTIONS
ENERGY SOLUTIONS

CERTIFICATE OF SERVICE

I hereby certify that true and accurate copies of the foregoing were served via electronic transmission upon the persons listed below this March 24, 2016.

/s/ Michael D. Dortch

Michael D. Dortch

cfaruki@ficlaw.com
djireland@ficlaw.com
jsharkey@ficlaw.com

joliker@igsenergy.com

Michael.schuler@aes.com

dboehm@bklawfirm.com
kboehm@BKLawfirm.com
mkurtz@BKLawfirm.com
jkylercohn@BKLawfirm.com

fdarr@mwncmh.com
mpritchard@mwncmh.com
srandazzo@mwncmh.com

mfleisher@elpc.org

jeffrey.mayes@monitoringanalytics.com

bojko@carpenterlipps.com
O'Rourke@carpenterlipps.com
ghiloni@carpenterlipps.com

ibatikov@vorys.com
glpetrucci@vorys.com
mjsettineri@vorys.com
smhoward@vorys.com

Kevin.moore@occ.ohio.gov
William.michael@occ.ohio.gov

William.wright@puc.state.oh.us

evelyn.robinson@pjm.com

schmidt@sppgrp.com

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Summary: Motion to Intervene electronically filed by Mr. Michael D. Dortch on behalf of Noble Americas Energy Solutions LLC