

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**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 cases, in which the Dayton Power and Light Company (“DP&L” or “the Company”) submits its Application for Authority to Provide a Standard Service Offer Pursuant to ORC §4928.143, in the Form of an Electric Security Plan (“Application”). As more fully discussed in the accompanying memorandum, EDF and OEC have a real and substantial interest in this proceeding. 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 Ave., Suite I

Columbus, Ohio 43212-3449

(614) 487-7506 - Telephone

(614) 487-7510 - Fax

[tdougherty@theOEC.org](mailto:tdougherty@theOEC.org)

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

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| 4905.13                                 | ) |                         |
|   | ) |                         |

**MEMORANDUM IN SUPPORT**

Ohio 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 46-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 laws.

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 electricity 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, including the proposed power purchase agreement for over 2,000 MW of coal generation, and its other included tariffs and riders will have on the current and future implementation and effectiveness of alternative energy resources, renewable energy generation, energy efficiency and demand response in the state. 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 maintains that DP&L’s Application, which includes complex and novel fixed charges, power purchase agreements, and treatment of advanced energy and energy efficiency riders, should be properly scrutinized by interested parties to ensure that it complies with the letter and intent of the state’s energy law and stated state energy policies.

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 S.B. 221 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 Company’s proposals 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.

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 Ave., Suite I  
Columbus, Ohio 43212-3449  
(614) 487-7506 - Telephone  
(614) 487-7510 - Fax  
[tdougherty@theOEC.org](mailto:tdougherty@theOEC.org)

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

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

## **CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing has been served upon the following parties by electronic mail this 24th day of March, 2016.

/s/Trent Dougherty  
Trent Dougherty

William.wright@puc.state.oh.us  
cfaruki@ficlaw.com  
djieland@ficlaw.com  
jsharkey@ficlaw.com  
mfleisher@elpc.org  
Evelyn.robinson@pjm.com  
schmidt@sppgrp.com  
jeffrey.mayes@monitoringanalytics.com  
dboehm@BKLawfirm.com  
mkurtzt@BKLawfirm.com  
kboehm@BKLawfirm.com  
kylercohn@BKLawfirm.com  
William.michael@occ.ohio.gov  
Kevin.moore@occ.ohio.gov  
O'Rourke@carpenterlipps.com  
Bojko@carpenterlipps.com  
Ghiloni@carpenterlipps.com  
fdarr@mwncmh.com  
mpritchard@mwncmh.com  
misettineri@vorys.com  
smhoward@vorys.com  
glpetrucci@vorys.com  
ibatikov@vorys.com  
mdortch@kravitzllc.com  
joliker@igsenergy.com

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Summary: Motion JOINT MOTION TO INTERVENE & MEMORANDUM IN SUPPORT BY  
THE OHIO ENVIRONMENTAL COUNCIL and ENVIRONMENTAL DEFENSE FUND

electronically filed by Mr. Trent A Dougherty on behalf of Ohio Environmental Council and  
Environmental Defense Fund