

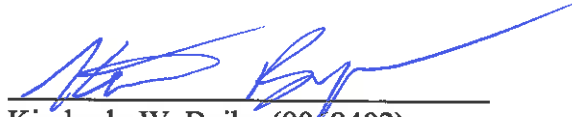
**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The)
Dayton Power and Light Company for) Case No. 16-649-EL-POR
Approval of its Energy Efficiency and Peak)
Demand Reduction Portfolio Plan.)

**MOTION TO INTERVENE AND COMMENTS OF
THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

In accordance with R.C. 4903.221 and Ohio Adm. Code 4901-1-11, the Ohio Manufacturers' Association Energy Group (OMAEG) respectfully moves to intervene in this matter with the full powers and rights granted to intervening parties. OMAEG has a real and substantial interest that may be adversely affected by this proceeding and that interest cannot be adequately represented by any existing parties. Because OMAEG satisfies the standard for intervention set forth in the Public Utilities Commission of Ohio's (Commission) rules and by statute, the motion should be granted. OMAEG also respectfully submits comments in opposition to Dayton Power and Light Company's (DP&L) request for a waiver. A memorandum in support is attached.

Respectfully submitted,

A handwritten signature in blue ink, appearing to be 'Kimberly W. Bojko', is written over a horizontal line.

Kimberly W. Bojko (0069402)

Danielle M. Ghiloni (0085245)

Carpenter Lipps & Leland LLP

280 North High Street, Suite 1300

Columbus, Ohio 43215

Telephone: (614) 365-4100

Email: Bojko@carpenterlipps.com

(willing to accept service by email)

Ghiloni@carpenterlipps.com

(willing to accept service by email)

Counsel for the OMAEG

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The)
Dayton Power and Light Company for) Case No. 16-649-EL-POR
Approval of its Energy Efficiency and Peak)
Demand Reduction Portfolio Plan.)

MEMORANDUM IN SUPPORT

I. OMAEG's request for intervention.

Pending before the Commission is an application filed by DP&L that seeks a limited waiver of Ohio Adm. Code 4901:1-39-04(A).¹ DP&L's request for a waiver is being sought to enable it to make its energy efficiency and peak-demand reduction program portfolio plan (EE/PDR plan) filing on or after October 15, 2016.² In the opinion of DP&L, ongoing matters pending before the Commission and the General Assembly provide good cause for granting the motion.³ Specifically, DP&L cites to the pendency of cases before the Commission that may impact the structure of its EE/PDR plan and to potential actions the General Assembly may take in response to the report issued by the Energy Mandates Study Committee.⁴ An expedited ruling is being requested together with the waiver request.⁵ As explained below, OMAEG has a real and substantial interest in the outcome of this proceeding.

¹ DP&L Waiver Application at 1 (March 25, 2016).

² Id. at 2.

³ Id.

⁴ Id.

⁵ Id.

Ohio Adm. Code 4901-1-11 permits intervention by a party who has a real and substantial interest in the proceeding and who is so situated that the disposition of the proceeding may impair or impede its ability to protect that interest and whose interest is not adequately represented by an existing party. Likewise, R.C. 4903.221 authorizes intervention where a party: may be adversely affected by the proceeding; will contribute to a full development and equitable resolution of factual issues; and will not unduly prolong or delay the proceedings.

OMAEG is a non-profit entity that strives to improve business conditions in Ohio and drive down the cost of doing business for Ohio manufacturers. OMAEG works directly with elected officials, regulatory agencies, the judiciary, and the media to provide education and information to energy consumers, regulatory boards and suppliers of energy; advance energy policies to promote an adequate, reliable, and efficient supply of energy at reasonable prices; and advocate in critical cases before the Commission. OMAEG members purchase electric services from DP&L and OMAEG has previously participated in a proceeding involving DP&L.⁶

OMAEG has a direct, real, and substantial interest in the issues raised in this proceeding and is so situated that the disposition of the proceeding may, as a practical matter, impair or impede its ability to protect that interest. OMAEG's unique knowledge and perspective will contribute to the full development and equitable resolution of the factual issues in this proceeding. OMAEG's interest will not be adequately represented by other parties to the proceeding and its timely intervention will not unduly delay or prolong the proceeding.

Because OMAEG satisfies the criteria set forth in R.C. 4903.221 and Ohio Adm. Code 4901-1-11 it is authorized to intervene with the full powers and rights granted by the

⁶ *In the Matter of Application of The Dayton Power and Light Company for Approval of its Electric Security Plan, et al.*, Case No. 12-426-EL-SSO, et al., Opinion and Order at 5 (September 4, 2013).

Commission to intervening parties. OMAEG respectfully requests that the Commission grant this motion to intervene and that OMAEG be made a full party of record.

II. OMAEG's comments in opposition to DP&L's waiver request.

In order to justify its request to waive the filing requirement prescribed by Ohio Adm. Code 4901:1-39-04(A) and delay the filing of its EE/PDR plan until October 15, 2016 or later, DP&L must establish good cause pursuant to Ohio Adm. Code 4901:1-39-02(B). DP&L's request for a waiver is unsupported by good cause, and therefore the waiver should be denied.

The pendency of energy-efficiency-related matters before the Commission and speculation about potential legislation from the General Assembly do not constitute good cause. In virtually any matter that comes before the Commission, there is the chance that a forthcoming decision in a related case may influence the outcome of a pending case. Relatedly, there is always the chance that the General Assembly may enact a law that impacts the merits of a pending Commission case. Granting a waiver predicated on these two elements would set a decidedly low bar and create a precedent that could usher in a slew of waiver requests in the future. Irrespective of what may transpire at some point in the future, the Commission should reject DP&L's request for a waiver and direct DP&L to follow the law as it currently exists.

Additionally, the compacted schedule contemplated by DP&L would not provide adequate time for the Commission to analyze DP&L's EE/PDR plan, consider any objections from intervenors, and issue an order on the plan's features. A contested proceeding calling for testimony, a hearing, and briefs would only heighten these timing concerns. To illustrate how aggressive DP&L's schedule is, consider that it took roughly eight months for the Commission to issue a decision on DP&L's current EE/PDR plan.⁷ Here, DP&L's contemplated schedule

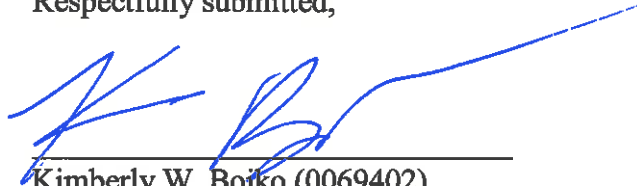
⁷ *In the Matter of the Application of The Dayton Power and Light Company for Approval of its Energy Efficiency and Peak Demand Reduction Program Portfolio Plan for 2013 through 2015, et al.*, Case No. 13-833-EL-POR, et

presumes that all this could be done in the span of two-and-a-half months for an EE/PDR plan to go in effect on January 1, 2017. Out of fairness to intervenors and the Commission, DP&L's waiver request should be denied so that adequate time may be given to consider the EE/PDR plan's features.

III. Conclusion.

For the foregoing reasons, OMAEG should be granted intervention in this proceeding. Moreover, as detailed in OMAEG's comments, DP&L's request for a waiver should be denied.

Respectfully submitted,



Kimberly W. Bojko (0069402)
Danielle M. Ghiloni (0085245)
Carpenter Lipps & Leland LLP
280 North High Street, Suite 1300
Columbus, Ohio 43215
Telephone: (614) 365-4100
Email: Bojko@carpenterlipps.com
(willing to accept service by email)
Ghiloni@carpenterlipps.com
(willing to accept service by email)

Counsel for the OMAEG

al., Opinion and Order (December 4, 2013). DP&L extended its plan through 2016. DP&L Waiver Application at 2.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon the following parties via electronic mail on April 6, 2016.



Danielle M. Ghiloni

Jeremy.grayem@icemiller.com
Christopher.healey@occ.ohio.gov
Kyle.kern@occ.ohio.gov

[656889]

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

4/6/2016 3:40:05 PM

in

Case No(s). 16-0649-EL-POR

Summary: Motion To Intervene And Comments Of The Ohio Manufacturers' Association
Energy Group electronically filed by Mrs. Kimberly W. Bojko on behalf of OMA Energy Group