

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

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

**MOTION TO INTERVENE
OF THE CITY OF DAYTON**

Pursuant to Ohio Revised Code § 4903.221 and O.A.C. 4901-1-11, the city of Dayton hereby moves to intervene in these proceedings. Dayton has a number of real and substantial interests in these proceedings and its interests, which may be prejudiced by the results of these proceedings, are not adequately represented by existing parties. Thus, as set forth more fully in the attached memorandum in support, Dayton respectfully requests that the Commission grant this timely request to intervene.

Respectfully submitted,

/s/ N. Trevor Alexander

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ATTORNEYS FOR THE CITY OF DAYTON

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Dayton Power & 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 & Light Company For Approval of Revised Tariffs)	Case No. 16-0396-EL-ATA
)	
In the Matter of the Application of The Dayton Power & Light Company For Approval of Certain Accounting Authority Pursuant to Ohio Rev. Code § 4905.13)	Case No. 16-0397-EL-AAM

**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE
OF THE CITY OF DAYTON**

I. Introduction

In this proceeding The Dayton Power & Light Company (“DP&L”) seeks to establish a new standard service offer, accounting authority, and approval of revised tariffs (the “Application”). DP&L’s Application will significantly impact customers through, among other things, revised rates, new or revised programs, and retail issues. The manner in which this proceeding is resolved could significantly affect both Dayton as a purchaser of electricity and Dayton residents, including both shopping and non-shopping customers. Dayton accordingly has a real and substantial interest in this proceeding, and the Commission’s disposition of this proceeding may impair or impede Dayton’s ability to protect that interest. Thus, Dayton respectfully requests that the Commission grant its motion to intervene in this proceeding.

II. Legal Standard

R.C. § 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 own rules reinforce the right to intervene:

Upon timely motion, any person *shall be* permitted to intervene in a proceeding upon a showing that . . . [t]he 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.

O.A.C. 4901-1-11(A) (emphasis added). “The regulation’s text is very similar to Civ. R. 24 – the rule governing intervention in civil cases in Ohio – which is generally liberally construed in favor of intervention.” *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St. 3d 384, 387 (2006) (internal quotations omitted). In considering a motion to intervene, the Commission’s rule directs that the Commission should consider: the nature and extent of the intervenor’s interest; the legal position advanced by the intervenor and its probable relation to the merits of the case; whether intervention will unduly prolong or delay the proceedings; whether the intervenor will significantly contribute to full development and equitable resolution of the factual issues; and the extent to which the intervenor’s interest is represented by existing parties. *See* O.A.C. 4901-1-11(B)(1)-(5); *see also* R.C. § 4903.221(B)(1)-(4). Dayton’s motion to intervene satisfies each of these factors.

III. Argument

A. The Nature And Extent Of Dayton’s Interest

Dayton is directly affected by the Application as a customer in DP&L’s service territory. Dayton is also impacted by the Application on behalf of its residents, who are all customers in DP&L’s service territory and who are accordingly affected by the proposals in the Application.

This indirect impact includes, among other things, the impact of the Application on economic development and low-income customers. The structure and pricing of DP&L's Application will directly impact both Dayton and its residents. As such, Dayton has a substantial interest in the outcome of this proceeding and in ensuring that the rates are established appropriately. That interest cannot be represented by any other party to this proceeding, as no other party to this proceeding represents Dayton's interest as a customer and on behalf of its residents.

B. The Legal Position Asserted By Dayton

Dayton supports DP&L's goals of providing safe and reliable service. However, the specific details regarding how the Application is implemented may have a significant impact on Dayton and its residents. As such, Dayton seeks to intervene to ensure that DP&L's Application is implemented in an orderly manner consistent with all relevant legal principles.

C. Dayton's Intervention Will Not Unduly Prolong Or Delay The Proceedings

The Application was filed on February 22, 2015. The Attorney Examiners have established an intervention deadline of June 30, 2016.¹ As a result, Dayton's Motion to Intervene is timely and will not prejudice any existing parties or unduly prolong or delay the proceedings.²

¹ Entry dated April 11, 2016, p. 2.

²See O.A.C. 4901:1-11(E) (providing that a motion to intervene "will not be considered timely if it is filed later than five days prior to the scheduled date of hearing or any specific deadline established by order of the commission for purposes of a particular proceeding").

D. Dayton Will Contribute To The Full Development Of Factual Issues And Dayton's Interests Are Not Already Represented By Existing Parties.

Dayton is uniquely situated to contribute to the full development of factual issues in this case as one of the largest municipalities in DP&L's service territory. Dayton has substantial experience in Commission proceedings, which experience may benefit the Commission's review of the Application.³ Dayton's participation will significantly contribute to the full development and resolution of the issues raised by the Application.

Dayton's interests are not already represented by existing parties, as no other party currently involved in this proceeding currently represents Dayton's interests as a customer and municipality.

IV. Conclusion

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

Respectfully submitted,

/s/ N. Trevor Alexander _____
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³ See, e.g., Case No. 12-426-EL-SSO; Case No. 15-1830-EL-AIR.

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 13th day of April, 2016. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ N. Trevor Alexander
One of the Attorneys for the City of Dayton

This foregoing document was electronically filed with the Public Utilities

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Case No(s). 16-0395-EL-SSO, 16-0396-EL-ATA, 16-0397-EL-AAM

Summary: Motion to Intervene electronically filed by Mr. Nathaniel Trevor Alexander on behalf of City of Dayton