

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The Dayton       )  
Power and Light Company for Authority to       ) Case No. 18-0077-EL-RDR  
Recover Certain Storm-Related Service       )  
Restoration Costs.       )

---

**MOTION TO INTERVENE  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

---

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case where The Dayton Power and Light Company ("DP&L") seeks to charge consumers for major storm-related costs.<sup>1</sup> OCC is filing on behalf of DP&L's 460,000 residential utility customers. The reasons the Public Utilities Commission of Ohio ("PUCO") should grant OCC's Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

BRUCE WESTON (0016973)  
OHIO CONSUMERS' COUNSEL

/s/ Terry L. Etter

Terry L. Etter (0067445), Counsel of Record  
Bryce McKenney (0088203)  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**  
65 East State Street, 7<sup>th</sup> Floor  
Columbus, Ohio 43215-4213  
Telephone [Etter]: (614) 466-7964  
Telephone [McKenney]: (614) 466-9585  
terry.etter@occ.ohio.gov  
bryce.mckenney@occ.ohio.gov  
(Will accept service via email)

---

<sup>1</sup> See R.C. Chapter 4911, R.C. 4903.221, and Ohio Adm. Code 4901-1-11.

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The Dayton       )  
Power and Light Company for Authority to       ) Case No. 18-0077-EL-RDR  
Recover Certain Storm-Related Service       )  
Restoration Costs .       )

---

**MEMORANDUM IN SUPPORT**

---

Ohio law requires the PUCO to ensure that public utilities provide Ohioans with adequate service and that the charges consumers pay for that service are just and reasonable.<sup>2</sup> In this case, the PUCO will determine the reasonableness and lawfulness of the charges DP&L proposes to make customers pay for restoration costs after major storms in 2016. OCC has authority under law to represent the interests of all 460,000 DP&L residential utility customers, pursuant to R.C. Chapter 4911.

R.C. 4903.221 provides, in part, that any person “who may be adversely affected” by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio’s residential customers may be “adversely affected” by this case, especially if the customers were unrepresented in a proceeding to determine how much they will be charged on their electric bills for costs to restore electric service because of major storms. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the PUCO to consider the following criteria in ruling on motions to intervene:

- (1) The nature and extent of the prospective intervenor’s interest;

---

<sup>2</sup> R.C. 4905.22.

- (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 proceeding;
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest is representing DP&L's residential customers in this case to determine the reasonableness and lawfulness of storm-related service restoration costs that they will pay in rates. This interest is different from that of any other party and especially different from that of the utility whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential customers will include advancing the position that consumers should pay no more for electric service than what is reasonable and lawful under Ohio law, for service that is adequate under Ohio law. OCC's position is therefore directly related to the merits of this case that is pending before the PUCO, the authority with regulatory control of public utilities' rates and service quality in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceeding. OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to the full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). To

intervene, a party should have a “real and substantial interest” according to Ohio Adm. Code 4901-1-11(A)(2). As the advocate for residential utility customers, OCC has a very real and substantial interest in this case where DP&L seeks to charge customers for major storm costs on their electric bills.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that OCC already has addressed and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the PUCO shall consider: “The extent to which the person’s interest is represented by existing parties.” While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion in that it uniquely has been designated as the state representative of the interests of Ohio’s residential utility customers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio confirmed OCC’s right to intervene in PUCO proceedings, in deciding two appeals in which OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its discretion in denying OCC’s interventions and that OCC should have been granted intervention in both proceedings.<sup>3</sup>

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio residential customers, the PUCO should grant OCC’s Motion to Intervene.

---

<sup>3</sup> See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

Respectfully submitted,

BRUCE WESTON (0016973)  
OHIO CONSUMERS' COUNSEL

/s/ Terry L. Etter

Terry L. Etter (0067445), Counsel of Record  
Bryce McKenney (0088203)  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**

65 East State Street, 7<sup>th</sup> Floor  
Columbus, Ohio 43215-4213  
Telephone [Etter]: (614) 466-7964  
Telephone [McKenney]: (614) 466-9585  
terry.etter@occ.ohio.gov  
bryce.mckenney@occ.ohio.gov  
(Will accept service via email)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Motion to Intervene was served on the persons stated below via electronic transmission, this 22<sup>nd</sup> day of March 2018.

/s/ Terry L. Etter

Terry L. Etter

Assistant Consumers' Counsel

**SERVICE LIST**

William.wright@ohioattorneygeneral.gov      michael.schuler@aes.com

Attorney Examiner:

gregory.price@puc.state.oh.us

patricia.schabo@puc.state.oh.us

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**3/22/2018 4:07:48 PM**

**in**

**Case No(s). 18-0077-EL-RDR**

Summary: Motion Motion to Intervene by The Office of the Ohio Consumers' Counsel electronically filed by Ms. Jamie Williams on behalf of Etter, Terry Mr.