

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Filing by FirstEnergy     )  
Solutions Corp. of a Petition for             )  
Reorganization Under Chapter 11 of the       )  
United States Bankruptcy Code.             )

Case No. 18-569-EL-UNC

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**THE DAYTON POWER & LIGHT COMPANY'S  
MOTION TO INTERVENE AND MEMORANDUM IN SUPPORT**

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Pursuant to Section 4903.221 of the Ohio Revised Code and O.A.C. 4901-1-11 of the Ohio administrative Code, The Dayton Power and Light company ("DP&L" hereby moves to intervene in this proceeding. The issues in this proceeding involve the Commission's review of the Chapter 11 bankruptcy of FirstEnergy Solutions Corp. ("FES") and the impact it may have on FES' ability to serve load in Ohio. The resolution of these issues in this proceeding will have a direct impact on DP&L. DP&L has a real and substantial interest in this proceeding and its interests are not adequately represented by existing parties. For the reasons more fully explained in the attached memorandum, DP&L respectfully requests that the Commission grant this motion to intervene.

Respectfully submitted,

*/s/ Michael J. Schuler*  
Michael J. Schuler (0082390)  
The Dayton Power and Light Company  
1065 Woodman Drive  
Dayton, OH 45432  
Telephone: (937) 259-7358  
Facsimile: (937) 259-7178  
Email: [michael.schuler@aes.com](mailto:michael.schuler@aes.com)  
Attorney for The Dayton Power and  
Light Company

(willing to accept electronic service)

## MEMORANDUM IN SUPPORT

Pursuant to R.C. 4903.221, any party who may be adversely affected by a public utilities commission proceeding may intervene provided that the motion to intervene is filed no later than a deadline set for intervention, or if none is set, five days prior to the scheduled date of a hearing. No intervention deadline has been established in this proceeding, and no hearing has been scheduled by the Commission and therefore this motion is timely.

In ruling upon applications to intervene in this proceeding, the Commission is directed to consider the following factors:

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

R.C. 4903.221. The Commission added an additional criterion to the requirement for intervention in proceedings before it. O.A.C. 4901-1-11(B), mirrors the statutory provisions found in 4903.21, and includes the additional criterion that the Commission will consider to the extent to which the movant's interest is represented by existing parties. In satisfaction of the requirements set forth in R.C. 4903.221 and O.A.C. 4901-1-11(B), DPL has a real and substantial interest in this proceeding. DP&L's unique interest is not presently represented in this proceeding. DP&L can positively contribute to the proceeding and will not unduly delay the proceeding or prejudice any existing party. Nor are DP&L's interests adequately represented by other parties in this proceeding.

This proceeding involves the Commission's investigation into the recent Chapter 11 bankruptcy filing of FES, whereby the Commission seeks to protect customers from any adverse impacts. Specifically, the Commission seeks to ensure that consumers will have continued supply of electric generation service. As part of the investigation, the Commission requires FES to "explain whether FES plans, and is able, to continue to provide generation for SSO customers in this state and confirm that FES has met its obligations to provide to collateral or other financial guarantees to the electric distribution utilities for which FES provides generation for SSO customers." (Entry at ¶ 11). The Commission is also investigating FES' plans and ability to serve CRES customers in the state. (*See*, Entry at ¶ 7). To that end, the Commission demands that FES file a report with this Commission by May 4, 2018, detailing certain future plans and abilities in light of FES' bankruptcy filing.

As acknowledged by the Commission in its Entry opening this matter, FES is a winning bidder serving part of the SSO supply for The Dayton Power and Light Company. (Entry at ¶ 10). FES is also serving shopping customers within DP&L's service territory. Thus, as the provider of last resort, DP&L has a real, direct, and substantial legal and business interest in the outcome of this proceeding; specifically, FES' ability to continue serving load and posting of collateral to ensure that customers continue to receive electric generation service in the Dayton service territory. Only one party, Industrial Energy Users-Ohio, has filed to intervene in this proceeding; therefore, DP&L's specific interests are not represented. Even if other parties were to intervene in this case, DP&L's issues, which stem from its unique obligations as the provider of last resort for the Company's service territory, DP&L's interests would not be adequately represented by other parties.

DP&L will contribute to the just and expeditious resolutions of issues being considered in this case. The Commission just opened this proceeding two weeks ago, and FES does not have to file its initial report until May 4; thus, DP&L's timely intervention does not cause any delay in the case. Moreover, as an experienced party, participating in many proceedings before the Commission, DP&L's participation in this proceeding will not cause undue delay nor will it unjustly prejudice any party. Finally, because of DP&L's unique knowledge of the potential impacts to customers as a result of FirstEnergy Solutions Corp.'s bankruptcy, permitting DP&L to intervene will assist the Commission in achieving a better outcome to this proceeding.

Based on the above, DP&L has a direct, real, and substantial interests in this issues and matters involved in this proceeding. DP&L interests can only be protected by its participation in this proceeding. Accordingly, DP&L respectfully requests that the Commission grant DP&L's Motion to Intervene in this matter.

Respectfully submitted,

/s/ Michael J. Schuler

Michael J. Schuler (0082390)

The Dayton Power and Light Company

1065 Woodman Drive

Dayton, OH 45432

Telephone: (937) 259-7358

Facsimile: (937) 259-7178

Email: [michael.schuler@aes.com](mailto:michael.schuler@aes.com)

Attorney for The Dayton Power and  
Light Company

(willing to accept electronic service)

**CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing was served upon the persons listed below via electronic transmission this 19<sup>th</sup> day of April 2018:

fdarr@mwncmh.com  
mpritchard@mwncmh.com  
talexander@calfee.com  
stnourse@aep.com  
cblend@aep.com

It is hereby certified that a true copy of the foregoing was served upon the persons listed below via ordinary U.S. mail this 19<sup>th</sup> day of April 2018:

Benjamin Rich  
FirstEnergy Solutions  
341 White Pond Drive  
Building B-3  
Akron, Ohio 44320

/s/ Michael J. Schuler  
Michael J. Schuler (0082390)

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

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Summary: Motion to Intervene and Memorandum in Support electronically filed by Eric R Brown on behalf of The Dayton Power and Light Company