

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Dayton Power and)	
Light Company's Portfolio Status Report)	Case No. 18-742-EL-RDR
and Application to Adjust Baselines)	

**MOTION TO INTERVENE BY NATURAL RESOURCES DEFENSE COUNCIL,
ENVIRONMENTAL LAW & POLICY CENTER, OHIO ENVIRONMENTAL
COUNCIL, AND ENVIRONMENTAL DEFENSE FUND**

Pursuant to Ohio Revised Code 4903.221 and Ohio Administrative Code 4901-1-11, the Natural Resources Defense Council (“NRDC”), Environmental Law & Policy Center (“ELPC”), Ohio Environmental Council (“OEC”), and Environmental Defense Fund (“EDF”) (collectively, “Environmental Intervenors”) respectfully move to intervene in the above-captioned proceeding. As explained more thoroughly in the attached Memorandum in Support, the Environmental Intervenors have a real and substantial interest in this case, in which Dayton Power & Light (“DP&L” or the “Company”) seeks approval from the Public Utilities Commission of Ohio for its Energy Efficiency and Peak Demand Reduction Program Portfolio Status Report and Application to Adjust Baselines for 2017. Additionally, the interests of the Environmental Intervenors are not adequately represented by any other party to this matter and our participation in this proceeding will contribute to a just and expeditious resolution of the issues and questions. Further, the Environmental Intervenors’ participation will not unduly delay the proceedings or prejudice any other party.

The Environmental Intervenors respectfully request this Commission grant our Motion to Intervene for these reasons and those set forth in more detail in the attached Memorandum in Support.

June 14, 2018

Respectfully submitted,

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Light Company's Portfolio Status Report)	Case No. 18-742-EL-RDR
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**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE BY NATURAL
RESOURCES DEFENSE COUNCIL, ENVIRONMENTAL LAW & POLICY CENTER,
OHIO ENVIRONMENTAL COUNCIL, AND ENVIRONMENTAL DEFENSE FUND**

Ohio Revised Code (“R.C.”) 4903.221 states that “[a]ny other person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding” provided the Public Utilities Commission of Ohio (“PUCO” or “Commission”) makes certain determinations.

The Natural Resources Defense Council (“NRDC”) is a national, non-profit environmental organization that has worked since it was founded in 1970 to, among other things, promote energy efficiency and renewable energy sources, and to protect air and water quality. NRDC has more than 10,600 members in Ohio, many of whom reside in DP&L’s service area and/or live near its power generating facilities.

Environmental Law & Policy Center (“ELPC”) is a non-profit environmental advocacy organization whose mission is to improve the Midwest’s environmental quality and economic development. ELPC is an advocate for both environmental health and sustainable economic development.

The Ohio Environmental Council (“OEC”) is a non-profit, charitable organization comprised of a network of affiliated member groups and thousands of individual members. OEC’s mission is to secure healthy air, land, and water for all who call Ohio home. Founded in

1969, OEC has been a leading advocate for fresh air, clean water, and sustainable energy use in Ohio.

Environmental Defense Fund (“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.

The Environmental Intervenors regularly participate in proceedings before the Commission with an interest in advancing resource choices that minimize or eliminate pollutant emissions and maximize energy efficiency, and have been consistently involved in the development and enactment of S.B. 221 and associated rules, including as a party in numerous cases before the Commission. Additionally, NRDC and EDF have litigated similar issues in other Public Utility Commissions around the United States, and ELPC has litigated these issues across the Midwest. As organizations with a presence and membership in Ohio, the Environmental Intervenors and our members may be adversely affected by the outcome of this proceeding, and our interests are not adequately represented by the other parties hereto.

R.C. 4903.221 requires the Commission to consider four factors when presented with a motion to intervene. In addition, the Commission’s procedural rules at Ohio Administrative Code (“Ohio Adm. Code”) 4901-11-1 similarly provide that it shall consider five factors when weighing a motion to intervene. The Environmental Intervenors’ Motion meets all of the factors required by statute and rule.

Pursuant to R.C. 4903.221, the Commission must consider:

- (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(B).

With respect to the first factor, the Environmental Intervenors have a substantial interest in the application of Dayton Power & Light ("DP&L" or the "Company") for recovery of costs related to its 2017 energy efficiency programs. The Environmental Intervenors have an interest in ensuring the protection and promotion of cost-effective clean and efficient energy in the state. The Environmental Intervenors have participated in litigation regarding DP&L's efficiency programs, *see e.g.* Case Nos. 13-0833-EL-POR, 16-649-EL-POR and 17-1398-EL-POR, and are active members of DP&L's stakeholder collaborative regarding its energy efficiency and peak demand reduction efforts, including its 2017 programs. Further, the Environmental Intervenors have members in Ohio and our work focuses on Ohio energy and environmental issues. DP&L's energy efficiency cost recovery filing affects these interests because it sets forth DP&L's documentation of its energy savings results from its 2017 programs. Accurate calculation of those savings results is vital to ensuring DP&L recovers costs related only to savings that its customers have actually realized. As to the second factor, because of the potential impacts on the Environmental Intervenors and its Ohio members, the Environmental Intervenors seek to ensure that DP&L calculates its savings in accordance applicable law and with Ohio policy under R.C. 4928.02 supporting cost-effective energy efficiency for customers.

Under the third factor, the Environmental Intervenors' inclusion will not unduly delay or prolong the proceeding. The Commission has not yet set a procedural schedule for the case, and the Environmental Intervenors are committed to working within any schedule that is imposed by this Commission to achieve the efficient and orderly disposition of the questions presented. The Environmental Intervenors also plan to file comments in accordance with applicable deadlines under PUCO regulations.

Finally, the Environmental Intervenors will significantly contribute to the full development and resolution of the proceeding by bringing our unique perspective to bear. The Environmental Intervenors have expertise and experience in Ohio, throughout the Midwest and across the country regarding clean energy policy that will contribute to resolving the pending issues. The Environmental Intervenors have participated in multiple proceedings in Ohio as well as other states regarding energy efficiency and peak demand reduction programs, including the DP&L cases cited above.

Similarly, the Environmental Intervenors meet the requirements set forth in Ohio Adm. Code 4901-11-1(B):

- (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;
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues;
[and]
- (5) The extent to which the person's interest is represented by existing parties.

The first four factors mirror those in R.C. 4903.221, and for the same reasons as stated above, the Environmental Intervenors meet those factors. As to the fifth, the Environmental Intervenors

maintain that no other party can adequately represent our interests as environmental advocacy organizations that also focus on “green” economic development, including new manufacturing and job creation.

Finally, this Commission’s policy is to “encourage the broadest possible participation in its proceedings.” *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry at 2 (Jan. 14, 1986). The Environmental Intervenors inclusion in this proceeding will contribute to this goal of broad participation in PUCO proceedings.

Because the Environmental Intervenors meet the criteria set forth in both R.C. 4903.221 and Ohio Adm. Code 4901-11-1, we respectfully ask this Commission to grant our Motion to Intervene in the above-captioned proceedings.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion to Intervene submitted on behalf of the Environmental Intervenors was served by electronic mail, upon all Parties of Record on June 14, 2018.

/s/ Miranda Leppla
Miranda Leppla

This foregoing document was electronically filed with the Public Utilities

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Summary: Motion to Intervene By Natural Resources Defense Council, Environmental Law & Policy Center, Ohio Environmental Council, and Environmental Defense Fund electronically filed by Ms. Miranda R Leppla on behalf of Natural Resources Defense Council and Environmental Law & Policy Center and Ohio Environmental Council and Environmental Defense Fund