

In the Matter of Application of)
The Dayton Power and Light Company) Case No. 18-1257-EL-WVR
for a Limited Waiver of Rule 4901:1-18-)
06(A)(2), Ohio Administrative Code.)

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene¹ in this case where The Dayton Power and Light Company ("DP&L" or "the utility") seeks permission to disconnect electric service without the personal notice required in Ohio Admin. Code 4901:1-18-06(A)(2). The waiver is requested on a limited basis for some customers whom DP&L has deemed as creating risks for its employees -- "Code Red" customers. OCC files on behalf of 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.

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

Respectfully submitted,

BRUCE WESTON (0016973)
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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Application of the)	
Application of The Dayton Power and)	Case No. 18-1257-EL-WVR
Light Company for a Limited Waiver of)	
Rule 4901:1-18-06(A)(2), Ohio)	
Administrative Code.)	

MEMORANDUM IN SUPPORT

To prevent health and safety issues that can occur when electric service is disconnected, customers are entitled to personal notice on the day of disconnection.² This notice provides consumers with one last opportunity to pay past due balances or to make arrangement for payments to avoid service being disconnected.

In this case, DP&L is requesting a waiver of personal notice to customers prior to disconnecting service for non-payment on the day of disconnection of electric service. DP&L seeks a waiver of the personal notice rule for customers whom DP&L has deemed as “Code Red” customers.³ DP&L labels customers “Code Red” if those customers have acted aggressively towards DP&L representatives in the past.

The application requests a waiver for DP&L to install new meters on the premises of current customers deemed “Code Red” as well as any new “Code Red” customers. Once installed on customer premises, the new meters can be remotely disconnected by the utility without giving personal notice to the customer.⁴

² See, Ohio Adm. Code 4901:1-18-06(A)(2).

³ DP&L Limited Waiver Application at 1.

⁴ Application at 2.

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 whether a waiver from personal service for disconnection should be granted. 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;
- (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.

First, the nature and extent of OCC’s interest is representing the residential customers of the Dayton Power & Light Company in this case where the PUCO will determine whether the utility should be granted a waiver from important consumer protections regarding personal notice before electric service is disconnected for non-payment. This interest is different from that of any other party and especially different from that of the electric utility whose advocacy includes the financial interest of stockholders. OCC has authority under law⁵ to represent the interests of the residential utility customers of Dayton Power & Light, pursuant to R.C. Chapter 4911.

⁵ R.C. Chapter 4911.

Second, OCC's advocacy for residential customers will include, but not be limited to ensuring that the utility has policies and practices in place to prevent its use of such a waiver for disconnection of customers that are not strictly within the confines of a reasonable Code Red designation. 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 proceedings. 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 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 the PUCO will decide if DP&L should be granted a waiver from providing personal service on the day of disconnection to certain customers by installing meters capable of remote disconnection on their premises.

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. OCC has been uniquely 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 (“Court”) 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.⁶

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.

⁶ See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

Respectfully submitted,

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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 30th day of August 2018.

/s/ Amy Botschner-O'Brien

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Summary: Motion Motion to Intervene by The Office of the Ohio Consumers' Counsel electronically filed by Ms. Jamie Williams on behalf of Botschner-O'Brien, Amy Ms.