

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The)
Dayton Power and Light Company to) Case No. 18-1309-EL-RDR
Update its Regulatory Compliance Rider.)

**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" or the "Utility") proposes to update the amount that it charges customers under its Regulatory Compliance Rider ("RCR"). Under this rider, customers pay for consumer education campaign costs, retail settlement system costs, green pricing program costs, generation separation costs, and bill format redesign costs, as approved in DP&L's most recent electric security plan case.¹

OCC represents the interests of DP&L's 460,000 residential electric utility customers. The PUCO should grant OCC's motion to intervene for the reasons set forth in the attached memorandum in support.

¹ See Application at 1-2 (Aug. 31, 2018).

Respectfully submitted,

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Ohio Consumers' Counsel

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MEMORANDUM IN SUPPORT

In this case, DP&L seeks to update the amount that it charges customers for various categories of regulatory costs under its Regulatory Compliance Rider. OCC has statutory authority to represent the interests of DP&L's 460,000 residential electric utility customers under 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 regarding charges to consumers under DP&L's electric security plan. 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 DP&L in this case involving rider charges to customers under DP&L's electric security plan. 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 shareholders.

Second, OCC's advocacy for residential customers will include advancing the position that all charges to customers should be just and reasonable. 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 determine whether to approve DP&L's proposed update to its Regulatory Compliance Rider.

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 (“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.²

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

² See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

Respectfully submitted,

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Ohio Consumers' Counsel

/s/ Christopher Healey

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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 12th day of October 2018.

/s/ Christopher Healey _____

Christopher Healey
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Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Healey, Christopher Mr.