

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The)	
Dayton Power and Light Company for)	Case No. 18-1875-EL-GRD
Approval of Its Plan to Modernize Its)	
Distribution Grid)	
)	
In the Matter of the Application of The)	Case No. 18-1876-EL-WVR
Dayton Power and Light Company for)	
Approval of a Limited Waiver of Ohio)	
Adm. Code 4901:1-18-06(A)(2))	
)	Case No. 18-1877-EL-AAM
In the Matter of the Application of The)	
Dayton Power and Light Company for)	
Approval of Certain Accounting Methods)	

**MOTION TO INTERVENE
OF THE CITY OF DAYTON**

Pursuant to Ohio Revised Code § 4903.221 and O.A.C. 4901-1-11, the City of Dayton (“Dayton”) hereby moves to intervene in the above-captioned cases. Dayton has real and substantial interests in this proceeding and its interests, which may be prejudiced by the results of this proceeding, are not adequately represented by existing parties. Thus, as set forth more fully in the attached memorandum in support, Dayton respectfully requests that the Commission grant this timely request to intervene.

Respectfully submitted,

/s/ N. Trevor Alexander

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ATTORNEYS FOR THE CITY OF DAYTON

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**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE
OF THE CITY OF DAYTON**

I. Introduction

The Dayton Power and Light Company (“DP&L”) filed an application in this proceeding seeking approval of its Distribution Modernization Plan (“DMP”), which includes, among other things, the proposed implementation of Advanced Metering Infrastructure (“AMI”), a new Computer Information System (“CIS”), electric vehicle (“EV”) charging stations, a community solar program, battery storage programs, and other advanced technology and infrastructure to improve DP&L’s distribution system (“Application”). The Application will significantly impact customers through, among other things, an increase in rates under the SmartGrid Rider (“SGR”). According to the Application, DP&L intends to obtain cost recovery of the substantial capital investment and expenses associated with the DMP under the SGR. As a large customer and the largest municipality in the service territory of DP&L, the City of Dayton (“Dayton”) has real and substantial interests in this proceeding, and the Commission’s disposition of this proceeding may

impair or impede Dayton's ability to protect those interests. Thus, Dayton respectfully requests that the Commission grant its Motion to Intervene ("Motion") in the above-captioned cases.

II. Legal Standard

R.C. § 4903.221 provides that any "person who may be adversely affected by a public utilities commission proceeding" may intervene in the proceeding. The Commission's own rules reinforce the right to intervene:

Upon timely motion, any person *shall be* permitted to intervene in a proceeding upon a showing that . . . [t]he person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person's interest is adequately represented by existing parties.

O.A.C. 4901-1-11(A) (emphasis added). "The regulation's text is very similar to Civ. R. 24 – the rule governing intervention in civil cases in Ohio – which is generally liberally construed in favor of intervention." *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St. 3d 384, 387 (2006) (internal quotations omitted). In considering a motion to intervene, the Commission's rule directs that the Commission should consider: the nature and extent of the intervenor's interest; the legal position advanced by the intervenor and its probable relation to the merits of the case; whether intervention will unduly prolong or delay the proceedings; whether the intervenor will significantly contribute to full development and equitable resolution of the factual issues; and the extent to which the intervenor's interest is represented by existing parties. *See* O.A.C. 4901-1-11(B)(1)-(5); *see also* R.C. § 4903.221(B)(1)-(4). Dayton's Motion satisfies each of these factors.

III. Argument

A. The Nature And Extent Of Dayton's Interests

Dayton is directly affected by the Application as a large customer in DP&L's service territory. In addition, Dayton is impacted by the Application on behalf of its 140,000+ residents, who are all customers in DP&L's service territory. According to the Application, DP&L projects that its DPM will cost \$867 million over the next twenty years, which may have a direct and serious impact on the rates and charges paid by customers, particularly low-income and elderly residents in Dayton. The proposed investments set forth in the Application will also have a serious impact on economic development in the region, as DP&L recognized in its Application.¹ As such, Dayton has a substantial interest in the outcome of this proceeding and in ensuring that the rates and charges imposed on customers to fund the DPM are established appropriately. That interest cannot be represented by any other party to this proceeding, as no other party to this proceeding represents Dayton's interests as a customer.

B. The Legal Position Asserted By Dayton

Dayton supports DP&L's goals of bringing substantial benefits to its customers by making innovative, cost-effective, and smart investments to the distribution system. However, the specific details regarding how the proposals set forth in the Application are implemented will have a significant impact on Dayton and its residents. As such, Dayton seeks to intervene to ensure that the proposed DPM as set forth in the Application is implemented and funded in an orderly, cost-efficient, and fair manner consistent with all relevant legal principles.

C. Dayton's Intervention Will Not Unduly Prolong Or Delay The Proceeding

¹ Application, ¶ 18.

The Application was filed on December 21, 2018. As of the date of this filing, the Attorney Examiners have not established a deadline for intervention. As a result, Dayton's Motion is timely and will not prejudice any existing parties or unduly prolong or delay the proceedings.²

D. Dayton Will Contribute To The Full Development Of Factual Issues And Dayton's Interests Are Not Already Represented By Existing Parties.

Dayton is the largest municipality and a large customer with extensive operations in DP&L's service territory; as a result, Dayton is uniquely situated to contribute to the full development of factual issues in this case. Dayton has substantial experience in Commission proceedings, experience which may benefit the Commission's review of the Application.³ Dayton's participation will significantly contribute to the full development and resolution of the issues raised by the Application. Dayton's interests are not already represented by existing parties, as no other party currently involved in this proceeding represents Dayton's interests as a customer or Dayton's interests regarding its 140,000+ residents.

IV. Conclusion

WHEREFORE, Dayton respectfully requests that the Commission grant this Motion to Intervene and allow Dayton to be made a party of record to this proceeding.

² See O.A.C. 4901:1-11(E) (providing that a motion to intervene "will not be considered timely if it is filed later than five days prior to the scheduled date of hearing or any specific deadline established by order of the commission for purposes of a particular proceeding").

³ See, e.g., Case No. 18-298-GA-AIR; Case No. 16-395-EL-SSO; Case No. 15-1830-EL-AIR; 12-426-EL-SSO; Case No. 08-1094-EL-SSO.

Respectfully submitted,

/s/ N. Trevor Alexander

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CERTIFICATE OF SERVICE

I certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 31st day of January, 2019. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ Mark T. Keaney
One of the Attorneys for The City of Dayton

This foregoing document was electronically filed with the Public Utilities

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Case No(s). 18-1875-EL-GRD, 18-1876-EL-WVR, 18-1877-EL-AAM

Summary: Motion to Intervene of the City of Dayton electronically filed by Mr. Mark T Keaney on behalf of City of Dayton