

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

|                                                |   |                        |
|------------------------------------------------|---|------------------------|
| In the Matter of the Application of The Dayton | ) |                        |
| Power and Light Company d/b/a AES Ohio         | ) | Case No. 22-900-EL-SSO |
| For Approval of its Electric Security Plan.    | ) |                        |
|                                                | ) |                        |
| In the Matter of the Application of The Dayton | ) |                        |
| Power and Light Company d/b/a AES Ohio         | ) | Case No. 22-901-EL-ATA |
| For Approval of Revised Tariffs.               | ) |                        |
|                                                | ) |                        |
| In the Matter of the Application of The Dayton | ) |                        |
| Power and Light Company d/b/a AES Ohio         | ) | Case No. 22-902-EL-AAM |
| For Approval of Accounting Authority           | ) |                        |
| Pursuant to Ohio Rev. Code § 4905.13           | ) |                        |

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**MOTION TO INTERVENE  
BY OHIO PARTNERS FOR AFFORDABLE ENERGY**

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For the reasons set forth in the accompanying Memorandum in Support, Ohio Partners for Affordable Energy (“OPAE”) respectfully moves the Public Utilities Commission of Ohio for leave to intervene in the above-captioned case pursuant to Ohio Revised Code 4903.221 and Ohio Administrative Code 4901-1-11, and to grant to the OPAE the full powers and rights specifically authorized by statute or by the provisions of the Ohio Administrative Code. Additionally, OPAE’s interests are not adequately represented by any other party to this matter, and its participation in this proceeding will contribute to a just and expeditious resolution of the issues and questions. Further, OPAE’s participation will not unduly delay the proceedings or prejudice any other party.

OPAE respectfully requests that this Commission grant its Motion to Intervene for the reasons set forth in more detail in the attached Memorandum in Support.

*[Signature block on the next page.]*

Respectfully submitted,

/s/ Robert Dove

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**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE  
BY OHIO PARTNERS FOR AFFORDABLE ENERGY**

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**I. Introduction**

Ohio Revised Code (“ORC”) § 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 (“Commission”) makes certain determinations. Ohio Partners for Affordable Energy (“OPAE”) seeks intervention in this proceeding in which Dayton Power and Light Company dba AES Ohio (“AES”) seeks approval of its fourth electric security plan (“ESP IV”). As part of its ESP IV, AES seeks to recover costs associated with potential investments in AES’ distribution system, transmission system, and smart grid. AES also proposes new programs including an electric vehicle program and demand side management program.

OPAE is an Ohio non-profit corporation with a stated purpose of advocating for affordable energy policies for low-and moderate-income Ohioans. OPAE includes, as members

non-profit organizations located in the service area that will be affected by AES' request. Moreover, many of OPAE's members are Community Action Agencies. Under the federal legislation authorizing the creation and funding of these agencies, originally known as the Economic Opportunity Act of 1964, Community Action Agencies are charged with advocating for low-income residents of their communities. OPAE's interests are not adequately represented by any other parties in this proceeding. As such, OPAE is entitled to intervene in the above captioned proceeding.

## **II. Legal Standard**

Ohio law states that a party may intervene in a Commission proceeding if that party "may be adversely affected by a public utilities commission proceeding."<sup>1</sup> In the determination of whether a party may be adversely affected for purposes of intervention, the Commission is required to evaluate:

- (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.<sup>2</sup>

The Commission's rules similarly provide that any person may intervene where "[t]he person has a real and substantial interest in the proceeding."<sup>3</sup> The PUCO regulations set forth the same four standards that are established in Ohio Revised Code 4903.221(B) for determining

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<sup>1</sup> R.C. 4903.221.

<sup>2</sup> R.C. 4903.221(B).

<sup>3</sup> Ohio Adm. Code 4901-1-11(A)(2).

whether a party may be “adversely affected,” and also purport to add a fifth factor regarding “the extent to which the person’s interest is represented by existing parties.”<sup>4</sup>

As the Ohio Supreme Court recently held, intervention in Commission proceedings “ought to be liberally allowed so that the positions of all persons with a real and substantial interest in the proceedings can be considered by the [Commission].”<sup>5</sup> The Commission has consistently maintained a policy to “encourage the broadest possible participation” in its proceedings, even under extenuating circumstances.<sup>6</sup> OPAE satisfies these liberal intervention standards and respectfully requests that its intervention be granted in these cases.

**III. OPAE is entitled to intervene under §4903.221 because the organization and its members “may be adversely affected” by the outcome of this proceeding.**

OPAE is entitled to intervene in this proceeding because OPAE satisfies each of the four statutory factors demonstrating that the organization and its members “may be adversely affected” by the outcome. First, the nature and extent of OPAE’s interests in the proceeding is real and substantial,<sup>7</sup> as the issues involved herein are directly related to OPAE’s interests in protecting it and its members’ interests within AES’ service territory. AES’ application will directly impact OPAE’s interests within the AES’ service territory because it will directly impact the rates both low-income Ohioans and OPAE’s members within AES’ service territory will pay as well as the services available to them. Therefore, OPAE has a real and substantial interest in this proceeding.

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<sup>4</sup> Ohio Adm. Code 4901-1-11(B).

<sup>5</sup> *Ohio Consumers’ Counsel v. Pub. Util Comm’n of Ohio* (2006), 111 Ohio St. 3d 384, 388, 2006 Ohio 5853, 856 N.E.2d 940.

<sup>6</sup> See e.g. *In the Matter of the Application of The Dayton Power and Light Company*, 2009 WL 322883 at 1, Ohio PUC February 5, 2009 (Commission granted motion to intervene in light of policy to encourage participation, despite party’s failure to file within the deadline).

<sup>7</sup> R.C. 4903.221(B)(1).

Second<sup>8</sup>, because of the potential impacts on OPAE's interests and its members, OPAE wants to ensure that AES' application meets the applicable legal requirements, adequately protects low-income customers, and promotes sound policies in Ohio. Therefore, OPAE's position is directly related to the merits of the case. Additionally, the disposition of this matter may impair or impede the ability of OPAE to protect its interests. No other party to the matter will adequately represent the interests of OPAE.

Third, OPAE's intervention will not unduly prolong or delay the proceeding<sup>9</sup> as this motion is being filed before the deadline for intervention has passed and OPAE is able to comply with all case management deadlines that will be established by the Commission and/or agreed to by the parties.

Fourth, intervention by OPAE will significantly contribute to the full development of the record in this proceeding.<sup>10</sup> OPAE will bring significant expertise to bear in these proceedings. OPAE has been recognized by the Commission in the past as an advocate for consumers, and particularly low-income consumers, all of whom will be affected by the outcome of this case. As such, OPAE should be permitted to intervene pursuant to Ohio Revised Code §4903.221.

**IV. OPAE may intervene because OPAE and its members have a “real and substantial interest” in the proceeding as presented in Ohio Administrative Code 4901-1-11(B).**

OPAE may also intervene in these proceedings because it satisfies each of the five factors listed in the PUCO rules demonstrating that it has a “real and substantial interest” in these cases.<sup>11</sup> The first four factors are identical to those set forth under §4903.221(B) and, therefore, OPAE should be permitted to intervene for the same reasons as set forth in Section III above.

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<sup>8</sup> R.C. 4903.221(B)(2).

<sup>9</sup> R.C. 4903.221(B)(3).

<sup>10</sup> R.C. 4903.221(B)(4).

<sup>11</sup> Ohio Adm.Code 4901-1-11(B).

As for the fifth factor, OPAC's interests in these proceedings will not be fully represented by other parties.<sup>12</sup> No other parties can adequately represent OPAC's interests because OPAC is a rare organization that serves as an advocate and service provider for low-income customers as well as being a non-residential customer group. No other party represents this group of interests.

## **V. Conclusion**

For the foregoing reasons, OPAC respectfully request that its Motion to Intervene be granted, and OPAC be authorized to participate as full parties to this proceeding.

/s/Robert Dove  
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<sup>12</sup> Ohio Adm. Code 4901-1-11(B)(5).

**CERTIFICATE OF SERVICE**

I certify that The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case on this the 17<sup>th</sup> day of October 2022.

/s/ Robert Dove  
Robert Dove

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

**Case No(s). 22-0900-EL-SSO, 22-0901-EL-ATA, 22-0902-EL-AAM**

Summary: Motion to Intervene and Memorandum in Support electronically filed by  
Mr. Robert Dove on behalf of Ohio Partners for Affordable Energy