

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Updates to the Solar)
Generation Fund Rider of The Dayton Power) Case No. 22-1059-EL-RDR
and Light Company d/b/a AES Ohio.)

**MOTION TO INTERVENE
OF
THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

Pursuant to R.C. 4903.221 and Ohio Adm.Code 4901-1-11, the Ohio Manufacturers' Association Energy Group (OMAEG) respectfully moves the Public Utilities Commission of Ohio (Commission) to intervene in this matter with the full powers and rights granted to intervening parties. As demonstrated in the attached Memorandum in Support, OMAEG has a real and substantial interest in this proceeding that may be adversely affected by the outcome herein, and which cannot be adequately represented by any other party. Accordingly, OMAEG satisfies the standard for intervention set forth in Ohio statutes and regulations.

Therefore, OMAEG respectfully requests that the Commission grant this motion to intervene for the reasons stated herein and as more fully set forth in the attached Memorandum in Support. OMAEG also requests that it be made a full party of record in this proceeding.

Respectfully submitted,

/s/ Kimberly W. Bojko

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MEMORANDUM IN SUPPORT

Following the enactment of H.B. 128 in 2021, the Commission established the nonbypassable Solar Generation Fund Rider (Rider SGF) as a rate mechanism for the retail recovery of costs related to the solar generation fund for the period up to December 31, 2027.¹ The Commission ordered Rider SGF to be established with an annual revenue requirement of \$20 million and created charges for all non-residential customers as a monthly per kWh charge for all kWhs up to 833,000 kWhs per month per account to collect costs related to the Solar Generation Fund.² Rider SGF was established to apply a monthly cost cap of \$242 to any non-residential customers eligible to become self-assessing purchasers.³

Over OMAEG's objections,⁴ the Commission approved riders for the utilities with a \$20 million revenue requirement regardless of whether that amount is required for disbursements from

¹ *In the Matter of Establishing the Solar Generation Fund Rider Pursuant to R.C. 3706.46*, Case No. 21-447-EL-UNC, Entry (July 14, 2021).

² *Id.* at ¶5, ¶19.

³ *Id.* at ¶ 4.

⁴ OMAEG appealed the Commission's decision to the Supreme Court of Ohio, where a final decision remains pending. *In the Matter of Establishing the Solar Generation Fund Rider Pursuant to R.C. 3706.46*, 2021-Ohio-1374, Notice of Appeal (November 8, 2021).

the Solar Generation Fund.⁵ The Commission also established Rider SGF on a per account basis instead of on a per customer basis as prescribed by law.⁶

On November 17, 2022, AES filed a so called “application” to update Rider SGF.⁷ This one-page letter filing and tariff update was filed without documentation and without support for the calculation.⁸ AES simply states that the Commission should contact it “if [it] have any questions” and that the update would become effective January 1, 2023.⁹ AES proposes increasing Rider SGF to \$0.000285/kWh.¹⁰ This increase comes despite a notable lack of any evidence or findings as to whether qualifying facilities were actually operating and earning credits during the prior twelve-month period, or will be operating and earning credits during the entirety of the next twelve-month period. Without such a showing and without any documentation or data, the prudence of both the charges themselves and the increased rates come into question. Accordingly, OMAEG hereby moves to intervene in this matter in order to ensure that its members only pay just and reasonable rates for AES’ electric distribution service, including Rider SGF rates. Given the impact that approval of AES’ increased rider rate will have on Ohio’s manufacturers, OMAEG has a real and substantial interest in the outcome of this proceeding.

R.C. 4903.221 and Ohio Adm.Code 4901-1-11 establish the standard for intervention in the above-captioned proceeding. R.C. 4903.221 provides, in part, that any person “who may be adversely affected” by a Commission proceeding is entitled to seek intervention in that proceeding.

⁵ See *In the Matter of Establishing the Solar Generation Fund Rider Pursuant to R.C. 3706.46*, Case No. 21-447-EL-UNC, OMAEG Application for Rehearing (August 13, 2021).

⁶ *Id.*

⁷ *In the Matter of the Updates to the Solar Generation Fund Rider of The Dayton Power and Light Company d/b/a AES Ohio*, Case No. 22-1059-EL-RDR, Application at 1 (November 17, 2022).

⁸ See *id.*

⁹ *Id.* at 1.

¹⁰ *Id.* at 4.

R.C. 4903.221(B) further requires the Commission to consider the nature and extent of the prospective intervenor's interest, the legal position advanced by the prospective intervenor and its probable relation to the merits of the case, whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding, and the prospective intervenor's potential contribution to a just and expeditious resolution of the issues involved.

OMAEG is a non-profit entity that strives to improve business conditions in Ohio and drive down the cost of doing business for Ohio manufacturers. OMAEG members and their representatives work directly with elected officials, regulatory agencies, the judiciary, and the media to provide education and information to energy consumers, regulatory boards and suppliers of energy; advance energy policies to promote an adequate, reliable, and efficient supply of energy at reasonable prices; and advocate in critical cases before the Commission. As consumers of significant amounts of energy in AES' service territory, OMAEG has been involved in numerous cases before the Commission involving AES,¹¹ including the proceeding that established Rider SGF.¹² Here, OMAEG has a substantial interest in ensuring that AES only charges its customers just, reasonable, and prudent rates.

For these reasons, OMAEG has a direct, real, and substantial interest in the issues raised in this proceeding and is so situated that the disposition of this proceeding may, as a practical matter, impair or impede its ability to protect that interest. It is regularly and actively involved in

¹¹ See, e.g., *In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan*, et al., Case Nos. 16-395-EL-SSO, et al.; *In the Matter of the Application of The Dayton Power and Light Company for A Finding That Its Current Electric Security Plan Passes the Significantly Excessive Earnings Test and More Favorable in the Aggregate Test in R.C. 4928.143(E)*, Case Nos. 20-680-EL-UNC, et al.; *In the Matter of the Application of The Dayton Power and Light Company for Extension of Distribution Modernization Rider*, Case No. 19-162-EL-RDR; *In the Matter of the Application of The Dayton Power and Light Company for an Increase in its Electric Distribution Rates*, Case Nos. 15-1830-EL-AIR, et al..

¹² *In the Matter of Establishing the Solar Generation Fund Rider Pursuant to R.C. 3706.46*, Case No. 21-447-EL-UNC.

Commission proceedings and, as in previous proceedings, OMAEG's unique knowledge and perspective will contribute to the full development and equitable resolution of the factual issues in this case. OMAEG's interest will not be adequately represented by other parties and its timely intervention will not unduly delay or prolong this proceeding.

Because OMAEG satisfies the criteria set forth in R.C. 4903.221 and Ohio Adm.Code 4901-1-11, it is authorized to intervene in this proceeding with the full powers and rights granted by the Commission to intervening parties. Accordingly, OMAEG respectfully requests that the Commission grant this motion to intervene and that OMAEG be made a full party of record.

Respectfully submitted,

/s/ Kimberly W. Bojko

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CERTIFICATE OF SERVICE

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. In addition, the undersigned hereby certifies that a copy of the foregoing document also is being served via electronic mail on November 22, 2022 upon the parties listed below.

/s/ Kimberly W. Bojko
Kimberly W. Bojko

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Summary: Motion to Intervene and Memorandum in Support electronically filed by
Mrs. Kimberly W. Bojko on behalf of The Ohio Manufacturers' Association Energy
Group