

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

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

**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 case. Dayton has real and substantial interest in this proceeding and its interests, which may be prejudiced by the results of this proceeding, are not adequately represented by the 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,

**BARBARA J. DOSECK
CITY ATTORNEY**

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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

In this proceeding The Dayton Power & Light Company d/b/a AES Ohio (“AES”) seeks to increase its distribution rates, accounting authority, and approval of revised tariffs (the “Application”). AES’s Application will significantly impact customers through, among other things, revised distribution rates, new or revised programs, and retail issues.

The manner in which this proceeding is resolved could significantly affect both Dayton as a purchaser of electricity and Dayton residents, including both shopping and non-shopping customers. Dayton accordingly has a real and substantial interest in this proceeding, and the Commission’s disposition of this proceeding may impair or impede Dayton’s ability to protect that interest. Thus, Dayton respectfully requests that the Commission grant its motion to intervene in this proceeding.

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.

OAC. 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* OAC. 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 AES’s service territory. In addition, Dayton is impacted by the Application on behalf of its 140,000+ residents, who are all customers in AES’s service territory. This indirect impact includes, among other things, the impact of the Application on economic development and low-income customers. The

structure and pricing of AES's Application will directly impact both Dayton and its residents. As such, Dayton has a substantial interest in the outcome of this proceeding and in ensuring that the distribution rates 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 interest as a customer and on behalf of its residents.

B. The Legal Position Asserted By Dayton

Dayton supports AES'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

The Attorney Examiner has established an intervention cutoff of November 28, 2022. As a result, Dayton's Motion is timely and will not prejudice any existing parties or unduly prolong or delay the proceedings.¹

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 AES'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,

¹ 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").

experience which may benefit the Commission's review of the Application.² 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 interest 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.

Respectfully submitted,

BARBARA J. DOSECK
CITY ATTORNEY

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² 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.

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 23rd day of November, 2022. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ Leonard J. Bazelak
Attorney for The City of Dayton

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

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in

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

Summary: Motion Motion to Intervene of the City of Dayton electronically filed by
Amy Walp on behalf of City of Dayton