

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**MOTION TO INTERVENE BY THE OHIO ENVIRONMENTAL
COUNCIL AND ENVIRONMENTAL DEFENSE FUND**

The Ohio Environmental Council (“OEC”) and Environmental Defense Fund (“EDF”) respectfully move for leave to intervene in the above-captioned cases, a “Distribution Modernization Plan,” filed by Dayton Power & Light Company. The purpose of the Distribution Modernization Plan is to “provide significant benefits to Dayton Power & Light Company’s customers, [which] will result in efficiencies to Dayton Power & Light Company and will provide certain societal benefits.”

Pursuant to Ohio Revised Code § 4903.221 and Ohio Administrative Code 4901-1-11, the Public Utilities Commission of Ohio (“the Commission”) should grant OEC and EDF’s Motion. OEC and EDF have a real and substantial interest in this proceeding, they represent interests separate from those of the already existing parties, and their contributions will lead to a just and expeditious resolution of the issues involved in the proceeding without causing undue

delay. OEC and EDF have provided a detailed explanation of their reasons for intervention in the accompanying Memorandum in Support.

Respectfully Submitted,

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March 15, 2019

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MEMORANDUM IN SUPPORT

I. Introduction

The Ohio Environmental Council (“OEC”) and Environmental Defense Fund (“EDF”) request to intervene in the above-captioned proceeding, in which The Dayton Power and Light Company (“DP&L”) asks the Public Utilities Commission of Ohio (“Commission” or “PUCO”) to approve DP&L’s Distribution Modernization Plan (“DMP”). As non-profit environmental advocacy organizations who focus heavily on the environmental impacts of energy usage, the OEC and EDF have a special interest in the outcome of this case. The customer benefits identified by DP&L that will be delivered by the DMP relate directly to issues that the OEC and EDF focus on, including integration of DERs into the grid, expansion of electric vehicle usage, access to grid data, customer energy choice, and more. Accordingly, OEC and EDF’s interest in

this proceeding arises from the direct and indirect impacts of the DMP on Ohio's environment and its electricity costs.

II. Ohio law permits intervention of parties in cases before the PUCO.

The Ohio Revised Code permits parties “who may be adversely affected by a public utilities commission proceeding [to] intervene in such proceeding.” R.C. § 4903.221. The Commission may permit intervention under a balancing test based on the following five factors:

- (1) 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.
- (2) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings.
- (3) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.
- (4) The extent to which the person's interest is represented by existing parties.

Ohio Admin. Code 4901-1-11(B). OEC and EDF satisfy this balancing test.

III. The OEC and EDF satisfy the PUCO's permissive intervention standard.

The OEC's mission is to protect Ohio's environment and ensure clean energy for all of the State's citizens, and that interest will assist the Commission decisions made as part of this docket. EDF's interest is to link science, economics, and law to create innovative, equitable and cost-effective solutions to society's most urgent environmental problems. Further, the Ohio Supreme Court has emphasized that “intervention 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].”¹ For the following reasons, OEC and EDF request that the Commission grant their Motion to Intervene in DP&L's DMP proceedings.

¹ *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, 856 N.E.2d 940, ¶ 20.

a. The OEC and EDF have real and substantial interests related to the merits of the case that may be adversely affected by the outcome of the proceeding.

The OEC is a not-for-profit organization incorporated in Ohio under Section 501(c)(3) of the U.S. Internal Revenue Code, with approximately 3,000 individual members. Its main office is located at 1145 Chesapeake Avenue, Suite I, Columbus, Ohio 43212. The OEC's principal purpose is to protect the natural resources and environment of the citizens of the State of Ohio. EDF is a national non-profit membership organization engaged in linking science, economics and law to create innovative, equitable and cost-effective solutions to society's most urgent environmental problems. EDF has over 300,000 members nationwide and has 9,590 members in Ohio. The OEC and EDF actively work in Ohio on environmental policies, including smart power, energy efficiency, climate change, natural gas fracking and sustainable agriculture. OEC and EDF also support state energy policies that reduce greenhouse gas emissions, supporting efforts to mitigate the causes of climate change.

Both OEC and EDF's members may be adversely affected by the outcome of DP&L's DMP. DP&L's DMP implicates policies that affect reliable energy needs, electric vehicles, and community solar programs, all issues that impact Ohio's environment. Because OEC and EDF protect Ohio's environment by reducing air pollution coming from the electric power sector, they have a real and substantial interest in the issues and outcome of the Commission's consideration of the DMP. Their legal position in support of clean energy policy directly relates to the merits of the case, for any grid modernization in Ohio must support a clean energy future that mitigates the causes of climate change. OEC and EDF therefore satisfy the first two prongs of the OAC's balancing test for permissive intervention before the Commission.

b. The intervention of the OEC and EDF will not cause undue delay.

OEC and EDF have timely filed this Motion to Intervene to pursue fair adjudication of the merits of the above-captioned case. The intervenors' experience in matters before the Commission illustrates their ability to participate without causing undue delay in any type of proceeding. OEC and EDF's intervention will not unduly prolong or delay the proceeding, but will in fact add value to the developments in this case.

c. The OEC and EDF will contribute to a just and expeditious resolution of the issues involved in the proceeding.

OEC and EDF will contribute to a just and expeditious resolution of the issues involved in the approval of DP&L's DMP because of their expertise in presenting relevant factors for the Commission's review of adjudicatory matters. OEC and EDF have consistently contributed to just resolutions in efficiency portfolio cases, rulemakings, electric utility ratemaking cases, grid modernization proceedings, the PowerForward dockets, and a host of other cases before the Commission. Accordingly, OEC and EDF's perspectives will assist in the just and expeditious resolution of the issues and will not detract or confuse that process.

d. The OEC and EDF have different interests than those of existing parties, and they can represent those interests more effectively than existing parties.

OEC and EDF intervene in the proceeding with a particular focus on the clean energy and environmental needs of Ohioans. OEC and EDF represent different interests and different constituents than those already existing parties, and thus the interests of the OEC and EDF are vital to the Commission's adjudication of DP&L'S DMP. OEC and EDF also note that the Commission's stated policy encourages "the broadest possible participation in its proceedings",²

² *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry dated January 14, 1986, at 2.

and the Commission should not apply its intervention criteria in a manner that would favor one environmental or consumer advocate to the exclusion of others.

IV. Conclusion

The OEC and EDF respectfully request that the Commission grant their Motion to Intervene in the Commission's docketed cases approving DP&L's DMP. The OEC and EDF have a real and substantial interest in Ohio's clean energy future and the development of a modern grid, an important legal perspective in this proceeding. The OEC and EDF's intervention will not cause undue delay in the Commission's review, and the organizations will contribute to a just and expeditious resolution of the issues involved, while representing their interests more effectively than already existing parties. Finally, the Ohio Supreme Court has emphasized the liberal nature of the legal standard at play for intervention into Commission proceedings.³ Because OEC and EDF meet all of the criteria established by R.C. 4903.221 and O.A.C. 4901-1-11(A)(5), OEC and EDF respectfully request that the Commission grant their Motion to Intervene in the above-captioned case.

Respectfully Submitted,

/s/ Miranda Leppla
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March 15, 2019

***Counsel for the Ohio Environmental Council
and Environmental Defense Fund***

³ See *Ohio Consumer's Council*, at ¶ 20.

CERTIFICATE OF SERVICE

I hereby certify that a copy of this filing will be electronically served via the Public Utility Commission of Ohio's e-filing system on all parties referenced in the service list of the docket.

/s/ Miranda Leppla
Miranda R. Leppla

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

Summary: Motion to Intervene and Memorandum in Support by the Ohio Environmental Council and Environmental Defense Fund electronically filed by Ms. Miranda R Leppla on behalf of Ohio Environmental Council and Environmental Defense Fund