

**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)	
Dayton Power and Light Company for)	Case No. 18-1876-EL-WVR
Approval of a 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)	Case No. 18-1877-EL-AAM
Approval of Certain Accounting Methods)	

**MOTION TO INTERVENE
BY THE NATURAL RESOURCES DEFENSE COUNCIL**

For the reasons set forth in the accompanying Memorandum in Support, the Natural Resources Defense Council ("NRDC") 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 NRDC the full powers and rights specifically authorized by statute or by the provisions of the Ohio Administrative Code. Additionally, the interests of NRDC 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 presented. Further, NRDC's participation will not unduly delay the proceeding or prejudice any other party.

NRDC respectfully requests that this Commission grant its motion to intervene for these reasons and those set forth in more detail in the attached Memorandum in Support.

Respectfully submitted,

/s/ Robert Dove

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**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE
BY THE NATURAL RESOURCES DEFENSE COUNCIL**

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. The Natural Resources Defense Council (“NRDC”) seeks intervention in this proceeding in which the Dayton Power & Light Company (“DP&L”) has filed a “Distribution Modernization Plan” (“Plan”) addressing various issues related clean energy resources and customer energy usage such as the use of advanced metering infrastructure, electric vehicles, community solar, and the use of distributed energy resources as a “non-wires” alternative to new infrastructure. NRDC is a national, non-profit environmental organization with thousands of members in Ohio. Many of those members reside within the DP&L’s service

territory. NRDC's and its members' interests are not adequately represented by any other parties in this proceeding. As such, NRDC 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.”¹ 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.²

The Commission’s rules similarly provide that any person may intervene where “[t]he person has a real and substantial interest in the proceeding.”³ The PUCO regulations set forth the same four standards that are established in Ohio Revised Code 4903.221(B) for determining 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.”⁴

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

¹ R.C. 4903.221.

² R.C. 4903.221(B).

³ Ohio Adm. Code 4901-1-11(A)(2).

⁴ Ohio Adm. Code 4901-1-11(B).

interest in the proceedings can be considered by the [Commission].”⁵ The Commission has consistently maintained a policy to “encourage the broadest possible participation” in its proceedings, even under extenuating circumstances.⁶ NRDC satisfies these liberal intervention standards and respectfully requests that its intervention be granted in these cases.

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

NRDC is entitled to intervene in this proceeding because NRDC 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 NRDC’s interests in the proceeding is real and substantial,⁷ as the issues involved herein are directly related to NRDC’s interests in protecting its members’ interests within DP&L’s service territory. NRDC regularly participates in proceedings before the Commission with an interest in a variety of distribution system issues, including grid modernization and issues related to advanced metering infrastructure and voltage optimization. Because this case seeks to explore and implement technologies that will impact grid and technology investments, and the efficiency and conservation-minded programs DP&L can offer its members, NRDC has a real and substantial interest in this proceeding.

In particular, NRDC is a national, non-profit environmental organization that has worked for its 40 year history to, among other things, promote energy efficiency and conservation and to protect air and water quality. NRDC has thousands of members in Ohio, many of whom reside in the DP&L’s service territory. DP&L’s Plan relates to its long-term grid modernization

⁵ *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.

⁶ 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).

⁷ R.C. 4903.221(B)(1).

including DP&L's ability to enhance sustainability. The Plan also speaks directly to DP&L's customers', some of whom are NRDC members, ability to monitor and control their consumption, as well as investments in grid infrastructure that will be borne by customers. Therefore, no other Intervenor can adequately represent and protect the interests of NRDC's members on these issues within the DP&L service territory except for NRDC.

Second⁸, because of the potential impacts on NRDC and its members in Ohio, NRDC wants to ensure that DP&L's Plan meets the applicable legal requirements, adequately protects the environment, and promotes environmentally sound policies in Ohio.

Third, NRDC's intervention will not unduly prolong or delay the proceeding⁹ as this motion is being filed before a deadline has been set for intervention and NRDC 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 NRDC will significantly contribute to the full development of the record in this proceeding.¹⁰ NRDC will bring significant expertise to bear in these proceedings. NRDC's staff and consultants have extensive experience in energy efficiency, analyzing the potential for grid modernization to be used to further smart consumption and conservation, and in the relevant laws and regulations. Further, NRDC has intervened and/or provided testimony on these issues in similar proceedings in a number of states including Illinois, Minnesota, Wisconsin, New York, Oregon, California, New Jersey, and Iowa, and has been granted intervention in numerous cases before this Commission. NRDC has regularly presented testimony before the U.S. Congress and various state legislatures related to the electric utility

⁸ R.C. 4903.221(B)(3).

⁹ R.C. 4903.221(B)(3).

¹⁰ R.C. 4903.221(B)(4).

industry, including energy efficiency, renewable energy, nuclear energy, and coal generation. As such, NRDC should be permitted to intervene pursuant to Ohio Revised Code §4903.221.

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

NRDC 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.¹¹ The first four factors are identical to those set forth under §4903.221(B) and, therefore, NRDC should be permitted to intervene for the same reasons as set forth in Section III above.

As for the fifth factor, NRDC’s interests in these proceedings will not be fully represented by other parties.¹² No other parties can adequately represent NRDC’s interests as a national environmental organization, with members in Ohio, that is interested in environmental protection and the promotion of clean energy and smart, cost-effective distribution system investments. Because no other party to these proceedings advocates from a national platform at the intersection of these issues, and no other party represents the interests of NRDC’s 10,600 members in Ohio, no other party can represent NRDC’s interests and the interests of its members.

V. Conclusion

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

[Signature block on the next page.]

¹¹ Ohio Adm.Code 4901-1-11(B).

¹² Ohio Adm. Code 4901-1-11(B)(5).

/s/Robert Dove

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served on all parties of record via the DIS system on August 9, 2019.

/s/ Robert Dove
Robert Dove

This foregoing document was electronically filed with the Public Utilities

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Summary: Motion to Intervene electronically filed by Mr. Robert Dove on behalf of Natural Resources Defense Council