

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The)
Dayton Power and Light Company d/b/a AES) Case No. 22-900-EL-SSO
Ohio for Approval of Its Electric Security)

Plan)

In the Matter of the Application of The)
Dayton Power and Light Company d/b/a AES) Case No. 22-901-EL-ATA
Ohio for Approval of Revised Tariffs)

In the Matter of the Application of The)
Dayton Power and Light Company d/b/a AES) Case No. 22-902-EL-AAM
Ohio for Approval of Accounting Authority)
Pursuant to Ohio Rev. Code § 4905.13)

MOTION TO INTERVENE OF THE RETAIL ENERGY SUPPLY ASSOCIATION

Pursuant to R.C. 4903.221 and Ohio Adm.Code 4901-1-11, the Retail Energy Supply Association (“RESA”) moves to intervene. The reasons supporting this motion are set forth in the accompanying Memorandum in Support.

Respectfully submitted,

/s/ Matthew R. Pritchard

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November 28, 2022

**ON BEHALF OF THE RETAIL ENERGY SUPPLY
ASSOCIATION**

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Pursuant to Ohio Rev. Code § 4905.13)

**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE OF THE
RETAIL ENERGY SUPPLY ASSOCIATION**

Pursuant to R.C. 4903.221 and Ohio Adm. Code 4901-1-11, RESA has met the standard for intervention and respectfully requests that the Public Utilities Commission of Ohio (“Commission”) grant its motion to intervene.¹ In this case, the Dayton Power and Light Company d/b/a AES Ohio has proposed to establish an electric security plan (“ESP”) that includes numerous changes to rates and customer programs that would impact suppliers of competitive retail electric service in the AES Ohio service territory. Other intervenors could also make proposals that affect the competitive retail electric market in Ohio and which could negatively affect RESA and its members. Accordingly, RESA and its members have a real and substantial interest in this

¹ The statements expressed in this filing represent the position of RESA as an organization but may not represent the view of any individual member of RESA. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable, and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service to retail, residential, commercial, and industrial customers. More information on RESA can be found at www.resausa.org.

proceeding and will significantly contribute to the full development and equitable resolution of the case.

I. The Public Utilities Commission of Ohio has been directed to grant intervention liberally

R.C. 4903.221 provides for intervention in hearings before the Commission of any person who may be adversely affected by the outcome of the proceeding.² In assessing a motion to intervene, the Commission is to consider the nature and extent of the moving party's interest, the legal position of the moving party and its relation to the merits of the case, whether the intervention of the moving party will unduly prolong or delay the proceedings, and whether the moving party will significantly contribute to the full development and equitable resolution of the factual issues.³

² R.C. 4903.221 provides:

Any other person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding, provided:

(A) That such other person files a motion to intervene with the commission no later than:

(1) Any specific deadline established by order of the commission for purposes of a particular proceeding; or, if no such deadline is established;

(2) Five days prior to the scheduled date of hearing. The public utilities commission may, in its discretion, grant motions to intervene which are filed after the deadlines set forth in divisions (A)(1) and (2) of this section for good cause shown.

(B) That the commission, in ruling upon applications to intervene in its proceedings, shall consider the following criteria:

(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.

³ See R.C. 4903.221(B). Under its rules of procedure, the Commission has also directed that it will decide whether to allow intervention based on 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, whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues, and the extent to which the person's interest is represented by existing parties. Rule 4901-1-11(B), Ohio Administrative Code.

Further, the Supreme Court of Ohio has directed the Commission to liberally grant intervention so that the positions of all persons with a real and substantial interest in the proceeding can be considered by the Commission.⁴

II. Members of RESA are actively engaged in the competitive generation service market

RESA is a non-profit 501(c)(6) organization headquartered in Harrisburg, Pennsylvania. State-specific chapters exist in each jurisdiction that permits retail competition. RESA's member companies supply retail electricity and natural gas to residential, commercial, industrial, and governmental customers throughout Ohio, including within the service territory of AES Ohio. RESA members also provide energy efficiency-related services and products.

Since its inception, RESA has historically been active in many electric industry proceedings before the Commission in furtherance of its members' activities in Ohio. RESA has participated in numerous Commission proceedings to assure that electric utilities comply with requirements of Ohio law that proscribe their ability to leverage their monopoly status in competitive markets.

III. RESA should be granted intervention

As noted above, AES Ohio is seeking to establish an ESP under R.C. 4928.141 and 4928.143. If authorized, AES Ohio's application could adversely affect the interests of RESA and its members. For example, AES Ohio has proposed "an enhanced competitive bid plan" for its standard service offer load, electric vehicle programs, and demand side management programs to residential customers. AES Ohio's proposals, and proposals made by intervenors in the case, could impact the rates for generation service offered by RESA members, could negatively impact the competitive retail electric market, and in some instances could permit the monopoly utility to offer

⁴ *Consumers' Counsel v. Public Utils. Comm'n of Ohio*, 111 Ohio St. 3d 384, 388 (2006).

services that should instead be offered by competitive suppliers. Accordingly, based on the applicable requirements under Ohio law and the Commission's rules, RESA should be granted intervention. Additionally, RESA's motion to intervene is timely, and granting its intervention will not prolong or delay the proceeding. Moreover, the expertise of RESA and its members will contribute to the full development and equitable resolution of the factual issues presented by AES Ohio's application.

Although RESA's interests may overlap with some parties in the proceeding, the totality of RESA's interests are unique and not adequately represented by other parties because the outcome in this matter has broader ramifications for the competitive retail electric service market in the AES Ohio service territory.

IV. Conclusion

For these reasons set forth in this Memorandum in Support, the Commission should grant the motion of RESA to intervene.

Respectfully submitted,

/s/ Matthew R. Pritchard

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**ON BEHALF OF THE RETAIL ENERGY SUPPLY
ASSOCIATION**

CERTIFICATE OF SERVICE

In accordance with Ohio Adm.Code 4901-1-05, the Commission's e-filing system will electronically serve notice of the filing of this document upon the interested parties, this 28th day of November 2022. The following parties were provided by electronic mail a copy of this document.

/s/ Matthew R. Pritchard

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