

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Application of Duke
Energy Ohio, Inc. for Approval of an
Electric Security Plan)

Case No. 08-920-EL-SSO

In the Matter of the Application of Duke
Energy Ohio, Inc. for Approval to
Amend Accounting Methods)

Case No. 08-921-EL-AAM

In the Matter of the Application of Duke
Energy Ohio, Inc. for Approval of a
Certificate of Public Convenience and
Necessity to Establish an Unavoidable
Capacity Charge(s))

Case No. 08-922-EL-UNC

In the Matter of the Application of Duke
Energy Ohio, Inc. for Approval to
Amend its Tariff)

Case No. 08-923-EL-ATA

**MOTION FOR INTERVENTION AND MEMORANDUM IN SUPPORT OF
THE KROGER CO.**

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In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Amend its Tariff)	Case No. 08-923-EL-ATA

**MOTION FOR INTERVENTION AND MEMORANDUM IN SUPPORT OF
THE KROGER CO.**

I. MOTION FOR INTERVENTION

Pursuant to Ohio Revised Code ("RC") § 4903.221 and Ohio Administrative Code ("OAC") 4901-1-11, The Kroger Co. respectfully moves the Commission for leave to intervene in the above-captioned docket, for the reasons more fully set forth below in the Memorandum in Support.

II. MEMORANDUM IN SUPPORT

From the standpoint of both the substantive merits and timeliness of its request, The Kroger Co. respectfully submits that it is entitled to intervene in these proceedings. For purposes of considering requests for leave to intervene in a Commission proceeding, OAC 4901-1-11(A) provides that:

Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that: ... (2) The 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.

Further, RC § 4903.221(B) and OAC 4901-1-11(B) provide 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.

OAC 4901-1-11(B) also provides that an additional factor in considering a request to intervene will be the extent to which the person's interest is represented by existing parties.

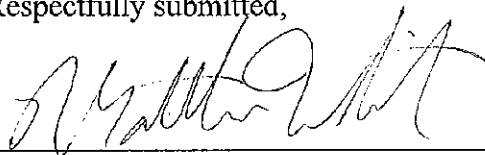
The Kroger Co. is a large consumer of significant amounts of electric service provided by Duke Energy Ohio, Inc ("Duke") in numerous locations throughout Duke's service territory. In the above-captioned proceedings, Duke is proposing an Electric Service Plan and related proposals, collectively ("ESP"). Duke's proposed ESP will directly affect the rates paid by The Kroger Co. for such electric service by Duke as well as the terms and conditions under which that electric service is rendered. Accordingly, The Kroger Co. has direct, real, and substantial interests in this proceeding. The disposition of this proceeding without The Kroger Co.'s full participation will prejudice and impede The Kroger Co.'s ability to protect its substantial business interests in this proceeding.

Further, others participating in this proceeding do not represent The Kroger Co.'s interests. Inasmuch as others participating in these proceedings cannot adequately protect The Kroger Co.'s interests, it would be inappropriate to determine this proceeding without The Kroger Co.'s participation. The Kroger Co. submits that its unique perspectives will contribute to the full, equitable, and expeditious resolution of these proceedings. Finally, The Kroger Co.'s timely intervention will not unduly delay the proceedings, or unjustly prejudice the interests of any existing party to this proceeding.

III. CONCLUSION

For the reasons set forth above, The Kroger Co. respectfully requests the Commission grant The Kroger Co.'s request to intervene in the above-captioned docket.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John W. Bentine", is written over a horizontal line.

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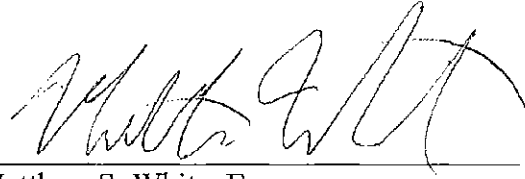
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following parties of record or as a courtesy, via U.S. Mail postage prepaid, express mail, hand delivery, or electronic transmission, on August 5, 2008.

A handwritten signature in black ink, appearing to read 'Matthew S. White', written over a horizontal line.

Matthew S. White, Esq.

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