

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of
Ohio Power Company and Columbus
Southern Power Company For
Authority to Merge and Related
Approvals.

Case No. 10-2376-EL-UNC

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**THE KROGER CO.'S
MOTION TO INTERVENE**

I. MOTION FOR INTERVENTION

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

II. MEMORANDUM IN SUPPORT

Kroger respectfully submits that it is entitled to intervene in this proceeding. 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.

In the above-captioned proceeding, Columbus Southern Power Company ("CSP") and Ohio Power Company ("OPC") are seeking authority from the Commission to merge into one company. Kroger is a consumer of significant amounts of electric service in both CSP's and OPC's service territory. If the Commission approves the joint application, the price and reliability of the electric service received by Kroger may be substantially impacted. Accordingly, Kroger has direct, real, and substantial interests in this proceeding.

Kroger's intervention will also not unduly delay this proceeding. Further, Kroger is regularly and actively involved in Commission proceedings, and as in previous proceedings, Kroger's unique knowledge and perspective will contribute to the equitable, and expeditious resolution of this proceeding. Kroger is so situated that without Kroger's ability to fully participate in this proceeding Kroger's substantial interest will be prejudiced. Others participating in this proceeding do not represent Kroger's interests. Inasmuch as others participating in this proceeding cannot adequately protect Kroger's interests, it would be inappropriate to determine this proceeding without Kroger's participation.

III. CONCLUSION

For the reasons set forth above, Kroger respectfully requests the Commission grant this Motion to Intervene.

Respectfully submitted,



John W. Bentine (0016388)
Counsel of Record
Email: jbentine@cwsllaw.com
Direct: (614) 334-6121
Mark S. Yurick (0039176)
Email: myurick@cwsllaw.com
Direct: (614) 334-7197
Matthew S. White (0082859)
Email: mwhite@cwsllaw.com
Direct: (614) 334-6172
Chester Willcox & Saxbe, LLP
65 East State Street, Suite 1000
Columbus, Ohio 43215
Telephone: (614) 221-4000
Facsimile: (614) 221-4012
Attorneys for The Kroger Co.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing *The Kroger Co.'s Motion to Intervene* was served this 5th day of November, 2010 upon the following via electronic mail and U.S. regular mail, postage prepaid.

Steven T. Nourse
Ann M. Vogel
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215
Email: stnourse@aep.com

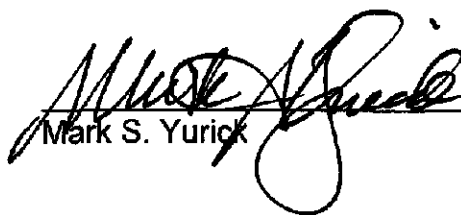
Samuel C. Randazo
Joseph M. Clark
McNees Wallace & Nurick LLC
21 E. State Street, 17th Floor
Columbus, Ohio 43215
Email: sam@mwncmh.com
Email: jclark@mwncmh.com

David C. Rinebolt
Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, Ohio 45839
Email: cmooney2@columbus.rr.com
Email: drinebolt@ohiopartners.org

Daniel R. Conway
Porter Wright Morris & Arthur
Huntington Center
41 S. High Street
Columbus, Ohio 43215
Email: dconway@porterwright.com

M. Howard Petricoff
Stephen M. Howard
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
Columbus, Ohio 43216
Email: mhpetricoff@vorys.com
Email: smhoward@vorys.com

Cynthia Fonner Brady
Senior Counsel
Constellation Energy Resources, LLC
550 West Washington Blvd., Suite 300
Chicago, Illinois 60661
Email: cynthia.brady@constellation.com


Mark S. Yurick