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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Application of Duke
Energy Ohio for Approval of a Market
Rate Offer to Conduct a Competitive
Bidding Process for Standard Service
Offer Electric Generation Supply,
Accounting Modifications, and Tariffs
for Generation Service.

Case No. 10-2586-EL-SSO

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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.

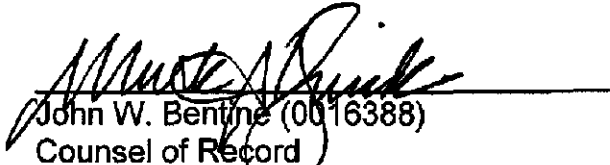
In the above-captioned proceeding, Duke Energy Ohio, Inc. ("Duke") is seeking approval from the Commission to conduct a competitive bidding process and make a market rate offer ("MRO") for standard service offer electric generation supply. Kroger is a consumer of significant amounts of electric service in Duke's service territory. If the Commission approves Duke's application, the price and reliability of Kroger's electric generation service 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,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing *The Kroger Co.'s Motion to Intervene* was served this 18th day of November, 2010 upon the following via electronic mail and U.S. regular mail, postage prepaid.

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