

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
Ohio Edison Company, The Cleveland	)	Case No. 14-1297-EL-SSO
Electric Illuminating Company, and	)	
The Toledo Edison Company for	)	
Authority to Provide a Standard	)	
Service Offer Pursuant to R.C.	)	
4925.143 the Form of an Electric	)	
Security Plan.	)	

---

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

---

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 proceedings for the reasons set forth in the attached Memorandum in Support.

Respectfully submitted,

  
\_\_\_\_\_  
Mark S. Yurick (0039176)  
Counsel of Record  
Email: myurick@taftlaw.com  
Direct: (614) 334-7197  
Zachary D. Kravitz (0084238)  
Email: zkravitz@taftlaw.com  
Direct: (614) 334-6117  
TAFT STETTINIUS & HOLLISTER LLP  
65 East State Street, Suite 1000  
Columbus, Ohio 43215  
Telephone: (614) 221-2838  
Facsimile: (614) 221-2007

***Attorneys for The Kroger Co.***

## **MEMORANDUM IN SUPPORT**

Kroger respectfully submits that it is entitled to intervene in these proceedings, because Kroger has a real and substantial interest in the proceedings, the disposition of which may impair or impede Kroger's ability to protect that interest. For purposes of considering requests for leave to intervene in a Commission proceeding, the Ohio Administrative Code 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.

OAC 4901-1-11(A).

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.

On August 4, 2014, the Ohio Edison Company, the Cleveland Illuminating Company, and the Toledo Edison Company (together "FirstEnergy") filed an Application seeking authority from the Commission to establish a standard service offer ("SSO") in the form an electric security plan ("ESP"). Kroger is a consumer of significant amounts of electric service in FirstEnergy's service territories. If the Commission approves AEP Ohio'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

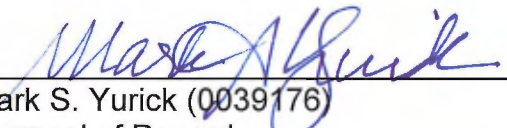
this proceeding.

Without Kroger's ability to fully participate in this proceeding, Kroger's substantial interest will be prejudiced because no other party participating in this proceeding represents 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. Furthermore, Kroger's intervention will not delay this proceeding.

### **CONCLUSION**

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

Respectfully submitted,

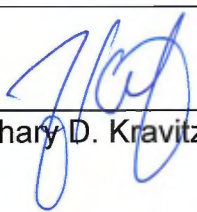
  
\_\_\_\_\_  
Mark S. Yurick (0039176)  
Counsel of Record  
Email: [myurick@taftlaw.com](mailto:myurick@taftlaw.com)  
Direct: (614) 334-7197  
Zachary D. Kravitz (0084238)  
Email: [zkravitz@taftlaw.com](mailto:zkravitz@taftlaw.com)  
Direct: (614) 334-6117  
TAFT, STETTINIUS & HOLLISTER LLP  
65 East State Street, Suite 1000  
Columbus, Ohio 43215  
Telephone: (614) 221-2838  
Facsimile: (614) 221-2007

***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 20<sup>th</sup> day of August, 2014 upon the following via electronic mail.

<a href="mailto:William.wright@puc.state.oh.us">William.wright@puc.state.oh.us</a>	<a href="mailto:mkurtz@bkllawfirm.com">mkurtz@bkllawfirm.com</a> <a href="mailto:kboem@bkllawfirm.com">kboem@bkllawfirm.com</a> <a href="mailto:jkylercohn@bkllawfirm.com">jkylercohn@bkllawfirm.com</a>
<a href="mailto:Burkj@firstenergycorp.com">Burkj@firstenergycorp.com</a> <a href="mailto:cdunn@firstenergycorp.com">cdunn@firstenergycorp.com</a>	<a href="mailto:sam@mwncmh.com">sam@mwncmh.com</a> <a href="mailto:fdarr@mwncmh.com">fdarr@mwncmh.com</a> <a href="mailto:mpritchard@mwncmh.com">mpritchard@mwncmh.com</a>
<a href="mailto:dakutik@jonesday.com">dakutik@jonesday.com</a>	<a href="mailto:stnourse@aep.com">stnourse@aep.com</a> <a href="mailto:mjsatterwhite@aep.com">mjsatterwhite@aep.com</a> <a href="mailto:yalami@aep.com">yalami@aep.com</a>
<a href="mailto:ilang@calfee.com">ilang@calfee.com</a> <a href="mailto:talexander@calfee.com">talexander@calfee.com</a>	<a href="mailto:callwein@wamenergylaw.com">callwein@wamenergylaw.com</a>
<a href="mailto:cmooney@ohiopartners.org">cmooney@ohiopartners.org</a>	<a href="mailto:Larry.sauer@occ.ohio.gov">Larry.sauer@occ.ohio.gov</a> <a href="mailto:Kevin.moore@occ.ohio.gov">Kevin.moore@occ.ohio.gov</a>
Attorney Examiners: <a href="mailto:Gregory.price@puc.state.oh.us">Gregory.price@puc.state.oh.us</a> <a href="mailto:Mandy.willey@puc.state.oh.us">Mandy.willey@puc.state.oh.us</a>	

  
\_\_\_\_\_  
Zachary D. Kravitz

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**8/20/2014 5:01:50 PM**

**in**

**Case No(s). 14-1297-EL-SSO**

Summary: Motion to Intervene electronically filed by Mark Yurick on behalf of The Kroger Company