

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)
Energy Ohio, Inc. for Approval to Continue)
Cost Recovery Mechanism for Energy) Case No. 14-1580-EL-RDR
Efficiency Programs through 2016.)

**MOTION TO INTERVENE
OF
THE KROGER COMPANY**

Pursuant to Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code, The Kroger Company (Kroger) hereby respectfully submits to the Public Utilities Commission of Ohio (Commission) its motion for leave to intervene in the above-captioned matter, with the full powers and rights granted to intervening parties.

As demonstrated in the attached Memorandum in Support, Kroger has a real and substantial interest in this proceeding which may be adversely affected by the outcome herein, and which cannot be adequately represented by any other party. Accordingly, Kroger satisfies the standard for intervention set forth in Ohio statutes and regulations.

WHEREFORE, Kroger respectfully requests that the Commission grant its motion for leave to intervene, designating Kroger as a full party of record in this proceeding.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

Duke Energy Ohio, Inc. (Duke Energy Ohio or the Company) filed an application on September 9, 2014, seeking Commission approval to continue, through 2016, the cost recovery (shared savings) mechanism for its energy efficiency programs. Previously, in Case No. 11-4393-EL-RDR, the Commission approved the implementation of a cost recovery mechanism for program costs associated with Duke Energy Ohio's energy efficiency and peak demand reduction programs and operation of the mechanism through 2015.¹ The programs the Company offers pursuant to its currently-approved portfolio plan are approved for continuation through 2016. In contrast, however, Duke Energy Ohio's shared savings mechanism is only approved for use through 2015.²

Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code (O.A.C.), set forth the standard for intervention in proceedings before the Commission. Under Section 4903.221, Revised Code, any person who may be adversely affected by means of a Commission proceeding is entitled to seek intervention in that proceeding. Section 4903.221(B), Revised Code, also requires the Commission to consider the nature and extent of the prospective

¹ *In the Matter of the Application of Duke Energy Ohio, Inc., for an Energy Efficiency Cost Recovery Mechanism and for Approval of Additional Programs for Inclusion in its Portfolio*, Case No. 11-4393-EL-RDR, Opinion and Order (August 15, 2012).

² *In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of its Energy Efficiency and Peak Demand Reduction Portfolio of Programs*, Case No. 13-431-EL-POR, Opinion and Order (December 15, 2013).

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, and the prospective intervenor's potential contribution to a just and expeditious resolution of the issues involved.

Rule 4901-1-11, O.A.C., allows a party who demonstrates a real and substantial interest in the proceeding and who is so situated that the disposition of the proceeding may impair or impede its ability to protect that interest and whose interest is not adequately represented by an existing party to intervene in a Commission proceeding.

Kroger is one of the largest grocers in the United States, with 2,640 stores in 34 states, including numerous facilities served by Duke Energy Ohio. Kroger's electric and energy needs associated with its facilities in Duke Energy Ohio's service territory are considerable, and its electric service and the costs associated with obtaining such service from Duke Energy Ohio will be impacted by the outcome in this proceeding. Further, Kroger participated in Case No. 13-431-EL-POR, in which the parties, by means of a stipulation, approved the use of the Company's shared savings mechanism only through 2015, as referenced above.

For the foregoing reasons, Kroger has a direct, real, and substantial interest in the issues raised in this proceeding and is so situated that the disposition of the proceeding may, as a practical matter, impair or impede its ability to protect that interest. Kroger's interests will not adequately be represented by other parties to the proceeding. Finally, Kroger's intervention is timely and will not unduly delay or prolong the proceeding.

Kroger satisfies the criteria set forth in Section 4903.221, Revised Code, and Rule 4901-1-11, O.A.C., and is, therefore, authorized to intervene with the full powers and rights granted by the Commission to intervening parties.

WHEREFORE, Kroger respectfully requests that the Commission grant its motion for leave to intervene and designate Kroger as a full party of record in the above-captioned case.

Respectfully submitted,

/s/ Rebecca L. Hussey

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon the following parties via electronic mail on November 5, 2014.

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Summary: Motion Motion to Intervene by The Kroger Company electronically filed by Ms. Cheryl A Smith on behalf of The Kroger Co.