

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In The Matter of the Application of Ohio )  
Edison Company, The Cleveland Electric ) Case No. 16-743-EL-POR  
Illuminating Company, and The Toledo )  
Edison Company for Approval of Their )  
Energy Efficiency and Peak Demand )  
Reduction Program Portfolio Plans for 2017 )  
through 2019. )

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**MOTION TO INTERVENE  
OF  
THE KROGER CO.**

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Pursuant to R.C 4903.221 and Ohio Adm. Code 4901-1-11, The Kroger Co. (Kroger) hereby respectfully submits its motion to intervene in the above-captioned matter, with the full powers and rights granted to intervening parties, to the Public Utilities Commission of Ohio (Commission).

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 to intervene, designating Kroger as a full party of record in this proceeding.

Respectfully submitted,



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**MEMORANDUM IN SUPPORT**

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Pending before the Commission is an application filed by the Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy or Companies) that requests approval of their energy efficiency and peak demand reduction program portfolio plans for 2017 through 2019 (Plan).<sup>1</sup> FirstEnergy avers that the Plan reflects valuable insights from many parties and also states its interest in working with all interested parties as the Plan moves forward.<sup>2</sup> Costs associated with the Plan will be recovered through FirstEnergy's Rider DSE.<sup>3</sup>

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. R.C. 4903.221 and Ohio Adm. Code 4901-1-11 establish the standards for intervention in Commission proceedings. R.C. 4903.221 provides, in pertinent part, that any person "who may be adversely affected" by a Commission proceeding is entitled to seek intervention in that

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<sup>1</sup> Application at 1.

<sup>2</sup> Id. at 16.

<sup>3</sup> Id.

proceeding. R.C. 4903.221(B) further requires the Commission to consider the nature and extent of the prospective 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.

Ohio Adm. Code 4901-1-11 permits intervention to 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.

Kroger is one of the largest grocers in the United States, with numerous facilities served by FirstEnergy. Kroger's electric and energy needs associated with its facilities in FirstEnergy's service territory are considerable, and its electric service and the costs associated with obtaining such service from FirstEnergy will be impacted by the outcome in this proceeding.

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 be adequately 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 R.C. 4903.221 and Ohio Adm. Code 4901-1-11, and is, therefore, authorized to intervene with the full powers and rights granted by the Commission to intervening parties. Kroger respectfully requests that the Commission grant its motion to intervene and designate Kroger as a full party of record in the above-captioned case.

Respectfully submitted,



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*Counsel for The Kroger Co.*

## 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 May 17, 2016.



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Ryan P. O'Rourke

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

**Commission of Ohio Docketing Information System on**

**5/17/2016 2:51:27 PM**

**in**

**Case No(s). 16-0743-EL-POR**

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