

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Adjust its Power Forward Rider.	)	Case No. 19-1750-EL-UNC
	)	
	)	
In the Matter Of the Application of Duke Energy Ohio, Inc., for Approval to Change Accounting Methods	)	Case No. 19-1751-GE-AAM
	)	

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

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Pursuant to Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Adm. Code, The Kroger Co. (Kroger) respectfully moves the Public Utilities Commission of Ohio (Commission) for leave to intervene in the above-captioned proceeding 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 existing parties. Accordingly, Kroger satisfies the standard for intervention set forth in Ohio statutes and regulations.

Therefore, Kroger respectfully requests that the Commission grant this motion to intervene and that Kroger be made a full party of record in this proceeding.

Respectfully submitted,

/s/ Angela Paul Whitfield  
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*Counsel for Kroger*

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**MEMORANDUM IN SUPPORT**

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On September 24, 2019, Duke Energy Ohio, Inc. (Duke) filed an application in Case Nos. 19-1750-EL-UNC, et al., requesting approval of its Infrastructure Modernization Plan, adjustments to Rider Power Forward (Rider PF), and for deferral authority.<sup>1</sup> Specifically, the Application seeks approval to include in its Rider PF costs associated with “its initial infrastructure modernization plan consisting of information system upgrades and other infrastructure investment programs (‘Infrastructure Modernization Plan.’)[.]”<sup>2</sup> According to Duke’s Application, those costs relate to a new customer information system (i.e., Customer Connect) and three new programs “inspired by the [Commission’s] PowerForward initiative.”<sup>3</sup> In addition, Duke also is seeking to defer operations and maintenance (O&M) costs incremental to amounts in both its base electric and natural gas rates that have been or will be incurred in relation to its new Infrastructure Modernization Plan.<sup>4</sup> Duke asserts that it is filing its Application pursuant to the Stipulation and Recommendation filed in Case Nos. 17-0032-EL-AIR, et al., 17-1263-EL-SSO, et al., 17-872-EL-

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<sup>1</sup> See Application of Duke Energy Ohio, Inc. at 1-2 (September 24, 2019) (Application).

<sup>2</sup> Id. at 1.

<sup>3</sup> Id. at 2.

<sup>4</sup> Id. at 1-2.

RDR, et al., and 16-1602-EL-CSS, et al.<sup>5</sup>

Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code, establish the standard for intervention in the above-captioned proceeding. Section 4903.221, Revised Code, provides, in part, that any person “who may be adversely affected” by a Commission proceeding is entitled to seek intervention in that proceeding. Section 4903.221(B), Revised Code, 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.

Rule 4901-1-11, Ohio Adm. Code, permits intervention by 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 Duke. The facilities operated by Kroger use electricity for food storage, lighting, heating, cooling, and distribution, often 24 hours a day, 7 days a week. Kroger’s electric and energy needs associated with its facilities in Duke’s service territory are considerable, and its electric service and the costs associated with obtaining such service from Duke will be impacted by the outcome of this proceeding. In addition, Kroger was involved in the underlying consolidated proceedings

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<sup>5</sup> Id. at 2; see also *In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Electric Distribution Rates*, Consolidated Case Nos. 17-0032-EL-AIR, et al., Stipulation and Recommendation (April 13, 2018); and Opinion and Order at 84-85 (December 19, 2018).

resulting in the Stipulation and Recommendation referenced by Duke.<sup>6</sup>

Therefore, Kroger has a direct, real, and substantial interest in the issues raised in this proceeding and is so situated that the disposition of this proceeding may, as a practical matter, impair or impede its ability to protect that interest. Kroger is regularly and actively involved in Commission proceedings,<sup>7</sup> and, as in previous proceedings, Kroger's unique knowledge and perspective will contribute to the full development and equitable resolution of the factual issues in this proceeding, and Kroger's interest will not be adequately represented by other parties to this proceeding. Finally, this timely intervention will not unduly delay or prolong this proceeding.

Kroger satisfies the criteria set forth in Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Adm. Code, and is, therefore, authorized to intervene in the above-captioned proceeding with the full powers and rights granted by the Commission to intervening parties. Accordingly, Kroger respectfully requests that the Commission grant this motion for leave to intervene and that Kroger be made a full party of record in this proceeding.

Respectfully submitted,

/s/ Angela Paul Whitfield

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*Counsel for Kroger*

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<sup>6</sup> See *In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Electric Distribution Rates*, Consolidated Case Nos. 17-0032-EL-AIR, et al.

<sup>7</sup> See e.g., *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service*, Case Nos. 17-1263-EL-SSO; *In the Matter of the Application of The Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143*, Case Nos. 16-1852-EL-SSO, et al.; *In the Matter of the Application of The Dayton Power and Light Company for Approval of its Electric Security Plan, et al.*, Case Nos. 16-395-EL-SSO, et al.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing was served upon all parties of record via electronic mail October 31, 2019.

/s/ Angela Paul Whitfield  
Angela Paul Whitfield

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

**Commission of Ohio Docketing Information System on**

**10/31/2019 2:28:19 PM**

**in**

**Case No(s). 19-1750-EL-UNC, 19-1751-GE-AAM**

Summary: Motion TO INTERVENE OF THE KROGER CO. electronically filed by Mrs. Angela Whitfield on behalf of The Kroger Co.