

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric) Case No. 19-2080-EL-ATA
Illuminating Company and The Toledo) Case No. 19-2081-EL-AAM
Edison Company for Approval of a)
Decoupling Mechanism

**MOTION TO INTERVENE OF
THE KROGER COMPANY**

Pursuant to Section 4903.221, Revised Code and Rule 4901-1-11, Ohio Administrative Code, The Kroger Co. (Kroger) respectfully moves the Public Utilities Commission of Ohio (Commission) to intervene in this matter with the full powers and rights granted to intervening parties. As demonstrated in the attached memorandum in support, Kroger has real and substantial interests that this proceeding may adversely affect, and no existing parties adequately represent those interests. The Commission should grant this motion because Kroger satisfies the standard for intervention set forth by statute and in the Commission's rules. A memorandum in support is attached.

Respectfully submitted,

/s/ Angela Paul Whitfield
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MEMORANDUM IN SUPPORT

On November 21, 2019, the Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (collectively, the Companies) filed an application for approval of a decoupling mechanism pursuant to R.C. 4928.471.¹ Specifically, Am. Sub. H. B. 6 (HB 6), which promulgated R.C. 4928.471, was signed into law on July 23, 2019 and went into effect on October 22, 2019. R.C. 4928.471 authorizes an electric distribution utility (EDU) to file an application to implement a decoupling mechanism within thirty days of the effective date of the new law. As a result, the Companies filed their application. Thereafter, on December 3, 2019, the Public Utilities Commission of Ohio (Commission) invited interested parties to comment upon the establishment of a decoupling mechanism under R.C. 4928.471.² Because Kroger is an interested party, it reserves the right to submit reply comments to any initial comments submitted by other parties regarding the establishment of a decoupling mechanism by the Companies.

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

¹ See Case No. 19-2080-EL-ATA, et al., Application (November 21, 2019).

² See Case No. 19-2080-EL-ATA, et al., Entry at ¶8 (December 3, 2019).

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 the Companies. 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 distribution needs associated with its facilities in the Companies' service territories are considerable, and the costs associated with obtaining such services from the Companies will be impacted by the outcome of this proceeding. Indeed, Kroger has participated in other cases before the Commission involving implementation of new provisions in HB 6 over the past several months.³ Here, Kroger purchases electric services from the Companies and thus has an interest in ensuring that any application to implement a decoupling mechanism approved by the Commission is just and reasonable and consistent with Ohio law.

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,

³ See Case No. 19-1808-EL-UNC (OVEC Cost Recovery Proceedings); Case No. 17-1398-EL-POR (Comments Regarding Future of Energy Efficiency Programs).

impair or impede its ability to protect that interest. Kroger is regularly and actively involved in Commission proceedings,⁴ 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.

Respectfully submitted,

/s/ Angela Paul Whitfield
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Counsel for The Kroger Co.

⁴ See *In the Matter of the Filing by Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company of a Grid Modernization Business Plan, et al.*, Case Nos. 16-481-EL-UNC, et al., Entry at ¶¶ 7-8 (January 29, 2019); *In the Matter of the Application of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, Case No. 14-1297-EL-SSO, Entry at 18 (December 1, 2014).

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 on December 17, 2019.

/s/ Angela Paul Whitfield
Angela Paul Whitfield (0068774)

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Case No(s). 19-2080-EL-ATA, 19-2081-EL-AAM

Summary: Motion To Intervene Of The Kroger Company electronically filed by Mrs. Angela Whitfield on behalf of The Kroger Co.