

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Market Rate Offer : Case No. 12-426-EL-SSO

In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs : Case No. 12-427-EL-ATA

In the Matter of the Application of The Dayton Power and Light Company for Approval of Certain Accounting Authority : Case No. 12-428-EL-AAM


In the Matter of the Application of The Dayton Power and Light Company for the Waiver of Certain Commission Rules : Case No. 12-429-EL-WVR

In the Matter of the Application of The Dayton Power and Light Company to Establish Tariff Riders : Case No. 12-672-EL-RDR

THE KROGER COMPANY'S MOTION TO INTERVENE

Pursuant to O.R.C. § 4903.221 and O.A.C. § 4901-1-11, The Kroger Company ("Kroger") moves the Public Utilities Commission of Ohio ("Commission") for leave to intervene in the above-captioned proceeding. Kroger's interests in this proceeding and the reasons supporting this Motion are set forth in the attached Memorandum in Support.

Respectfully submitted,


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MEMORANDUM IN SUPPORT

Kroger respectfully requests 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.

O.A.C § 4901-1-11(A).

Further, R.C. § 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 intervener's interest; (2) The legal position advanced by the prospective intervener and its probable relation to the merits of the case; (3) Whether the intervention by the prospective intervener will unduly prolong or delay the proceedings; (4) Whether the prospective intervener will significantly contribute to full development and equitable resolution of the factual issues.

On March 30, 2012, Dayton Power & Light Company ("DP&L") filed an application for approval of its standard service offer ("SSO"), as required pursuant to O.R.C. § 4928.141. For the purpose of meeting its SSO requirement, DP&L filed a market rate offer ("MRO"), pursuant to O.R.C. § 4928.142. Kroger is one of the largest grocers in the United States. Kroger has several facilities served by DP&L that consume a significant amount of electric service. If the Commission approves DP&L's application, the price and reliability of Kroger's electric generation service may be substantially impacted. Accordingly, Kroger has

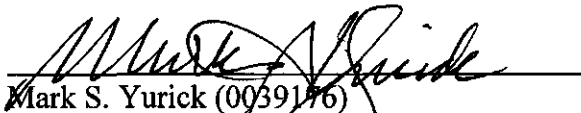
direct, real, and substantial interests in this proceeding.

Kroger's intervention will not unduly delay this proceeding. Further, Kroger is regularly and actively involved in Commission proceedings, and as in previous proceedings, Kroger's unique knowledge and perspective will contribute to the equitable and expeditious resolution of this proceeding. Kroger is so situated that without Kroger's ability to fully participate in this proceeding, Kroger's substantial interest will be prejudiced. 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.

III. CONCLUSION

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

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing *The Kroger Co. 's Motion to Intervene and Memorandum in Support* was served this 13th day of April, 2012 via electronic mail and U.S. regular mail, postage prepaid upon the following:

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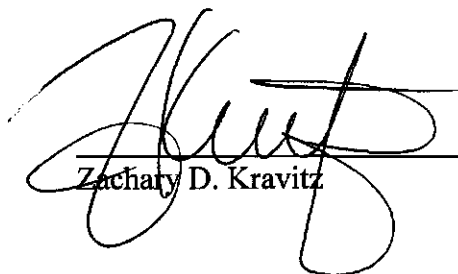
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