

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The	:	
Dayton Power and Light Company for	:	Case No. 12-3062-EL-RDR
Authority to Recover Certain Storm Related	:	
Service Restoration Costs.	:	

In the Matter of the Application of the	:	Case No. 12-3266-EL-AAM
Dayton Power and Light Company for	:	
Approval of Certain Accounting Authority.	:	

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 leave 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 December 21, 2012, Dayton Power and Light Company ("DP&L") filed its application for authority to recover certain storm-related restoration costs through a Storm Cost Recovery Rider. Specifically, DP&L seeks to recover expenses for all major event storms in 2011, 2012 and certain 2008 storm expenses. DP&L is also requesting authority to recover all storm related costs going forward and to establish accounting authority to defer O&M costs until they are recovered through this rider.

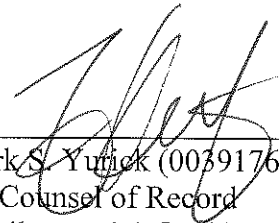
Kroger is one of the largest grocers in the United States and has numerous facilities served by DP&L that consume significant amounts of electrical service; to wit, roughly 1% of DP&L's electric load is consumed by Kroger. The Storm Cost Recovery Rider will have a significant impact on the price of Kroger's electric service. Kroger will be substantially impacted by the outcome of this proceeding. 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 14th day of January, 2013 via electronic mail or U.S. regular mail, postage prepaid upon the following:

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Summary: Motion The Kroger Company's Motion to Intervene electronically filed by Mr. Zachary D. Kravitz on behalf of The Kroger Co.