

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke
Energy Ohio, Inc. Concerning its Energy
Efficiency and Peak Demand Reduction
Programs and Portfolio Planning

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Case No. 13-0431-EL-POR

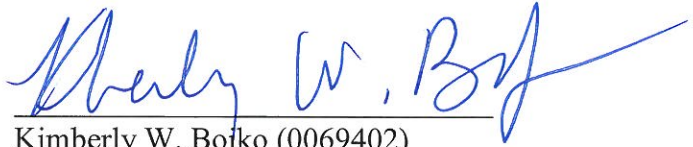
MOTION TO INTERVENE BY THE KROGER CO.

Pursuant to Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code, The Kroger Co. (Kroger) hereby respectfully moves the Public Utilities Commission of Ohio (Commission) for leave to intervene in the above-captioned matter with the full powers and rights granted to intervening parties.

As demonstrated further in the attached Memorandum in Support, Kroger has a real and substantial interest in this proceeding, which may be adversely affected by the outcome of this proceeding and which cannot be adequately represented by any existing parties. Accordingly, Kroger satisfies the standard for intervention set forth in the Commission's rules and by statute.

WHEREFORE, 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,



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MEMORANDUM IN SUPPORT

On April 15, 2013, Duke Energy Ohio, Inc. (Duke) filed an application for approval of its proposed Portfolio of Energy Efficiency and Peak Demand Reduction Programs (EE/PDR), which is required to assure that Duke is in compliance with the state's energy efficiency benchmarks. Duke is also seeking an extension of the shared savings cost recovery, which was set forth in Case No. 11-4393-EL-RDR. On May 9, 2013, Duke filed an amended application. Kroger will be impacted by the Commission's decision relating to Duke's EE/PDR, and Kroger should be permitted to intervene in the above-captioned proceeding. The application filed by Duke, if granted by the Commission, may directly or indirectly impact the provision of electric distribution service to Kroger, and could significantly impact prices paid by it for electric distribution services.

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.

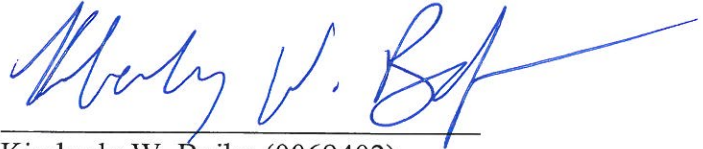
Rule 4901-1-11, Ohio Administrative Code, permits intervention to a party who has a real and substantial interest in the proceeding and who is so situated that the disposition of the proceeding may impair or impede his ability to protect that interest and whose interest is not adequately represented by an existing party.

Kroger is one of the largest grocers in the United States, with over 65 facilities served by Duke. The grocery stores operated by Kroger use electricity for food storage, lighting, heating, cooling, and distribution, often 24 hours a day, 7 days a week. Therefore, 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 is regularly and actively involved in Commission proceedings, and as in previous proceedings, Kroger's unique knowledge and prospective 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 the proceeding. Finally, this timely intervention will not unduly delay or prolong the proceeding.

Kroger satisfies the criteria set forth in Section 4903.221, Revised Code, and Rule 4901-1-11 Ohio Administrative Code, and is, therefore, authorized to intervene with the full powers and rights granted by the Commission to intervening parties.

WHEREFORE, 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,

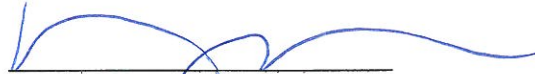


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served this 25th day of June, 2013 by electronic mail if available or by regular U.S. mail, postage prepaid, upon the persons listed below.



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Summary: Motion Motion to Intervene by The Kroger Co. electronically filed by Mrs. Kimberly W. Bojko on behalf of The Kroger Co.