

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>In the Matter of the 2014 Review of the</b>	<b>)</b>	
<b>Distribution Investment Rider</b>	<b>)</b>	<b>Case No. 15-0066-EL-RDR</b>
<b>Contained in the Tariff of Ohio Power</b>	<b>)</b>	
<b>Company.</b>	<b>)</b>	
	<b>)</b>	

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**THE KROGER CO.'S MOTION TO INTERVENE**

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Pursuant to Ohio Revised Code ("RC") § 4903.221 and Ohio Administrative Code ("OAC") 4901-1-11, The Kroger Co. ("Kroger") respectfully moves to intervene in the above-captioned proceedings for the reasons set forth in the attached Memorandum in Support.

Respectfully submitted,

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## **MEMORANDUM IN SUPPORT**

Kroger respectfully submits that it is entitled 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 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.

OAC 4901-1-11(A).

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

On August 8, 2012, the Commission modified and approved an application for an electric security plan ("ESP") filed by the Ohio Power Company d/b/a AEP Ohio ("AEP Ohio"). *In re Ohio Power Co., Case No. 11-346-EL-SSO*, et al., Opinion and Order (Aug. 8, 2012). The ESP established a distribution investment rider ("DIR") which allows AEP Ohio to recovery capital costs for distribution improvement investments. When the DIR was established, the Commission ordered that the DIR be reviewed

annually for accounting accuracy, prudence, and compliance with the DIR plan.

Kroger is one of the largest grocers in the United States and has numerous facilities served by AEP Ohio that consume significant amounts of electric service. Because the DIR has 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.

Without Kroger's ability to fully participate in this proceeding, Kroger's substantial interest will be prejudiced because no other party participating in this proceeding represents Kroger's interests. 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. Furthermore, Kroger's intervention will not delay this proceeding.

### **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* was served this 4th day of June, 2015 upon the following via electronic mail.

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Summary: Motion to Intervene electronically filed by Mr. Devin D. Parram on behalf of The Kroger Co.