

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In The Matter of the Application of The)
Dayton Power and Light Company for) Case No. 16-1369-EL-WVR¹
Approval of its Energy Efficiency and Peak)
Demand Reduction Program Portfolio Plan)
for 2017 through 2019.)

**MOTION TO INTERVENE
ON BEHALF OF THE KROGER CO.**

Pursuant to R.C 4903.221 and Ohio Adm. Code 4901-1-11, The Kroger Co. (Kroger) hereby respectfully submits its motion to intervene in the above-captioned matter, with the full powers and rights granted to intervening parties, to the Public Utilities Commission of Ohio (Commission).

As demonstrated in the attached Memorandum in Support, Kroger has a real and substantial interest in this proceeding which may be adversely affected by the outcome herein, and which cannot be adequately represented by any other party. Accordingly, Kroger satisfies the standard for intervention set forth in Ohio statutes and regulations.

¹ This case was filed together with Case No. 16-649-EL-POR. Kroger has previously been granted intervention in Case No. 16-649-EL-POR. See *In the Matter of the Application of the Dayton Power and Light Company for Approval of its Program Portfolio Plan, et al.*, Case No. 16-649-EL-POR, et al., Entry at 3 (April 7, 2016).

WHEREFORE, Kroger respectfully requests that the Commission grant its motion to intervene.

Respectfully submitted,



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MEMORANDUM IN SUPPORT

On June 15, 2016, the Dayton Power & Light Company (DP&L) filed an Application (Application) for Approval of its Energy Efficiency and Peak Demand Reduction Program Portfolio Plan for 2017 through 2019 (Proposed Plan).² The Proposed Plan contains program offerings for residential and non-residential customers, as well as cross sector programs.³ DP&L proposes to recover all prudently incurred costs identified in the Proposed Plan through its Energy Efficiency Rider (EER) and its Distribution Decoupling Rider.⁴ Additionally, DP&L requests to earn a shared savings incentive to the extent it exceeds its cumulative benchmarks for the current year.⁵

Kroger should be granted intervention in this proceeding because it has a real and substantial interest in this proceeding which may be adversely affected by the outcome herein, and which cannot be adequately represented by any other party. R.C. 4903.221 and Ohio Adm. Code 4901-1-11 establish the standards for intervention in Commission proceedings. R.C.

² DP&L Application at 1.

³ Id. at 3-4.

⁴ Id. at 8-9.

⁵ Id. at 5.

4903.221 provides, in pertinent part, that any person “who may be adversely affected” by a Commission proceeding is entitled to seek intervention in that proceeding. R.C. 4903.221(B) 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. Ohio Adm. Code 4901-1-11 permits intervention to 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 DP&L. Kroger’s electric and energy needs associated with its facilities in DP&L’s service territory are considerable, and its electric service and the costs associated with obtaining such service from DP&L will be impacted by the outcome in this proceeding.

For the foregoing reasons, 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’s interests will not be adequately represented by other parties to the proceeding. Finally, Kroger’s intervention is timely and will not unduly delay or prolong the proceeding. In sum, Kroger satisfies the criteria set forth in R.C. 4903.221 and Ohio Adm. Code 4901-1-11, and is, therefore, authorized to intervene with the full powers and rights granted by the Commission to intervening parties.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon the following parties via electronic mail on June 27, 2016.



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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

6/27/2016 4:22:58 PM

in

Case No(s). 16-1369-EL-WVR

Summary: Motion Motion To Intervene On Behalf Of The Kroger Co. electronically filed by Ms. Cheryl A Smith on behalf of The Kroger Co.