

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)	
Energy Ohio, Inc., for an Adjustment to)	Case No. 17-596-GA-RDR
Rider MGP Rates.)	

In the Matter of the Application of Duke)	Case No. 17-597-GA-ATA
Energy Ohio, Inc., for Tariff Approval.)	

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

Pursuant to Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Adm. Code, The Kroger Co. (Kroger) respectfully moves the Public Utilities Commission of Ohio (Commission) for leave to intervene in the above-captioned matters with the full powers and rights granted to intervening parties. As demonstrated in the attached Memorandum in Support, Kroger has a real and substantial interest in these proceedings which may be adversely affected by the outcome herein, and which cannot be adequately represented by any other existing parties. Accordingly, Kroger satisfies the standard for intervention set forth in Ohio statutes and regulations.

Therefore, Kroger respectfully requests that the Commission grant this motion to intervene and that Kroger be made a full party of record in these proceedings.

Respectfully submitted,

/s/ Angela Paul Whitfield

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In the Matter of the Application of Duke Energy Ohio, Inc., for an Adjustment to Rider MGP Rates.))	Case No. 17-596-GA-RDR
)		
In the Matter of the Application of Duke Energy Ohio, Inc., for Tariff Approval.))	Case No. 17-597-GA-ATA
)		

On March 31, 2017, Duke Energy Ohio, Inc. (Duke) filed an application seeking approval to adjust its Manufactured Gas Plant Rider (Rider MGP) to recovery 2016 costs for investigation and remediation of manufactured gas plant (MGP) sites.¹ Duke also filed a motion to consolidate various cases.² As explained in more detail below, Kroger has a real and substantial interest in the outcome of these proceedings.

Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code, establish the standard for intervention in the above-captioned proceedings. 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.

² Motion to Consolidate Cases at 1 (March 31, 2017).

Rule 4901-1-11, Ohio Adm. Code, permits intervention by 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 Duke. The facilities operated by Kroger use electricity for food storage, lighting, cooling, and distribution, often 24 hours a day, 7 days a week. Kroger's electric and energy needs associated with its facilities in Duke's service territory are considerable, and its electric service and the costs associated with obtaining such service from Duke will be impacted by the outcome of these proceedings. Kroger was granted intervention in the case where the Rider MGP originally was approved.³

Therefore, Kroger has a direct, real, and substantial interest in the issues raised in these proceedings and is so situated that the disposition of these proceedings may, as a practical matter, impair or impede its ability to protect that interest. Kroger is regularly and actively involved in Commission proceedings,⁴ and as in previous proceedings, Kroger's unique knowledge and perspective will contribute to the full development and equitable resolution of the factual issues in these proceedings, and Kroger's interest will not be adequately represented by

³ See *In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Gas Rates*, Case No. 12-1685-GA-AIR et al., Entry at 2 (January 18, 2013) (Entry granting Kroger's Motion to Intervene).

⁴ See e.g., *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Continue Cost Recovery Mechanism for Energy Efficiency Programs through 2016*, Case No. 14-1580-EL-RDR; *In the Matter of the Application of the Duke Energy Ohio for Authority to Establish a Standard Service Officer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Service Plan, Accounting Modifications and Tariffs for Generation Service et al.*, Case Nos. 14-841-EL-SSO et al.; and *In the Matter of the Application of Duke Energy Ohio, Inc. for a Waiver to File a New Energy Efficiency and Peak Demand Reduction Portfolio Application*, Case No. 16-576-EL-WVR.

other parties to these proceedings. Finally, this timely intervention will not unduly delay or prolong these proceedings.

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

Accordingly, 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,

/s/ Angela Paul Whitfield

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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 April 19, 2017.

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Summary: Motion Motion To Intervene Of The Kroger Co. electronically filed by Mrs. Angela Whitfield on behalf of The Kroger Co.