

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The)
Dayton Power and Light Company for) Case No. 17-1398-EL-POR
Approval of its Energy Efficiency and Peak) Case No. 17-1399-EL-WVR
Demand Reduction Program Portfolio for)
2018 through 2020.)

**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
Angela Paul Whitfield (0068774)
Carpenter Lipps & Leland LLP
280 North High Street, Suite 1300
Columbus, Ohio 43215
Telephone: (614) 365-4100
Email: paul@carpenterlipps.com
(willing to accept service by email)

Counsel for The Kroger Co.

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MEMORANDUM IN SUPPORT

On June 15, 2017, The Dayton Power and Light Company (DP&L) filed an application in Case Nos. 17-1398-EL-POR, et al. requesting approval of its energy efficiency and peak demand reduction program portfolio plan for 2018 – 2020).¹ In its Application, DP&L has proposed to implement several new programs not currently part of its existing program portfolio. Further, DP&L’s application fails to propose any cap on shared savings or an annual cap on the total amount customers can be charged for energy efficiency programs. 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.

¹ Application of DP&L at 1 (June 15, 2017) (Application).

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 DP&L. 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 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 of these proceedings.

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,² 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 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

² See e.g., *In the Matter of the Application of The Dayton Power and Light Company for Approval of its Energy Efficiency and Peak Demand Reduction Portfolio Plan*, Case No. 16-649-EL-POR; *In the Matter of the Application of The Dayton Power and Light Company for Approval of its Electric Security Plan, et al.*, Case Nos. 16-395-EL-SSO, et al.; *In the Matter of the Application of The Dayton Power and Light Company for an Increase in its Electric Distribution Rates, et al.*, Case Nos. 15-1830-EL-AIR, et al.

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
Angela Paul Whitfield (0068774)
Carpenter Lipps & Leland LLP
280 North High Street, Suite 1300
Columbus, Ohio 43215
Telephone: (614) 365-4100
Email: paul@carpenterlipps.com
(willing to accept service by email)

Counsel for The Kroger Co.

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 July 12, 2017.

/s/ Angela Paul Whitfield
Angela Paul Whitfield

michael.schuler@aes.com
William.wright@ohioattorneygeneral.gov
christopher.healey@occ.ohio.gov
cmooney@ohiopartners.org
mfleisher@elpc.org

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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.