

**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. )

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**MOTION FOR LEAVE TO FILE OBJECTIONS OUT-OF-TIME  
AND REQUEST FOR EXPEDITED RULING**

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Pursuant to Rules 4901-1-12 and 4901-1-13(A), Ohio Administrative Code, The Kroger Co. (Kroger) respectfully requests leave to file objections to Dayton Power and Light Company's (DP&L) Energy Efficiency and Peak Demand Reduction Program Portfolio Plan (EE/PDR Plan) in the above-captioned proceeding one day out-of-time for the reasons discussed in the memorandum in support. Further, Kroger requests that the motion be granted on an expedited basis so the objections are part of the record as the case proceeds forward.

Respectfully submitted,

/s/Angela Paul Whitfield  
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**MEMORANDUM IN SUPPORT OF KROGER'S MOTION FOR LEAVE TO FILE  
OBJECTIONS OUT-OF-TIME AND REQUEST FOR EXPEDITED RULING**

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Kroger respectfully requests leave to file its objections to DP&L's EE/PDR Plan one day out-of-time. Pursuant to Ohio Adm. Code 4901:1-39-04(D), Kroger's objections to DP&L's EE/PDR Plan were due to be filed on August 14, 2017. Due to a minor technical issue, Kroger filed its objections on August 14, 2017, at 5:32 p.m. Because the filing was completed two minutes after the 5:30 p.m. deadline, Kroger's Objections are deemed to be filed one day out-of-time.

Given the brief delay in the filing, no parties to this proceeding will be prejudiced as a result of the late filing. Indeed, Kroger served its Objections on all the parties on the due date of August 14, 2017. As such, there will not be any undue delay to this proceeding and allowing Kroger to file its Objections one day out-of-time will not result in any harm or burden to the parties to this proceeding. Motions for out-of-time filings are routinely granted by the Commission for good cause shown absent a showing of prejudice.<sup>1</sup>

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<sup>1</sup> Rule 4901-1-13(A), Ohio Administrative Code, states that "[e]xcept as otherwise provided by law, and notwithstanding any other provision in this chapter, continuances of public hearings and extensions of time to file pleadings or other papers may be granted upon motion of any party for good cause shown, or upon motion of the commission, the legal director, the deputy legal director, or an attorney examiner."

Therefore, for the reasons provided herein, Kroger respectfully requests the motion for leave to file its Objections to DP&L's EE/PDR Plan be granted on an expedited basis so as to allow the objections to be part of the record as the case proceeds forward.

Respectfully submitted,

/s/Angela Paul Whitfield  
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*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 August 15, 2017.

/s/ Angela Paul Whitfield  
Angela Paul Whitfield

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**Case No(s). 17-1398-EL-POR, 17-1399-EL-WVR**

Summary: Motion MOTION FOR LEAVE TO FILE OBJECTIONS OUT-OF-TIME  
AND REQUEST FOR EXPEDITED RULING electronically filed by Mrs. Angela Whitfield on  
behalf of The Kroger Co.