

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)
Investigation of the Financial Impact of the) Case No. 18-0047-AU-COI
Tax Cuts and Jobs Act of 2017 on Regulated)
Ohio Utility Companies)

**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 matter with the full powers and rights granted to intervening parties. 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 existing parties. In fact, Kroger has already filed numerous pleadings in this docket. Accordingly, Kroger satisfies the standard for intervention set forth in Ohio statutes and regulations and respectfully requests that the Commission grant this motion to intervene and that Kroger be made a full party of record in this proceeding. A memorandum in support is attached hereto.

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.

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)
Investigation of the Financial Impact of the) Case No. 18-0047-AU-COI
Tax Cuts and Jobs Act of 2017 on Regulated)
Ohio Utility Companies)

MEMORANDUM IN SUPPORT

On January 10, 2018, the Public Utilities Commission of Ohio (Commission) opened this docket to assess the impacts of the Tax Cuts and Jobs Act of 2017 (TCJA) on regulated Ohio utilities.¹ On May 24, 2018, the Commission set a June 15, 2018 deadline for parties to intervene in this matter.² Kroger hereby moves to intervene in this matter in order to ensure that the numerous Kroger facilities across the State of Ohio fully realize the tax savings benefits of the TCJA.

Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code, establish the standard for intervention in the above-captioned proceeding. 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 Entry at ¶ 1 (January 10, 2018).

² Entry at ¶ 9 (May 24, 2018).

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 Ohio public utilities. The facilities operated by Kroger use natural gas and electricity for food storage, lighting, heating, cooling, and distribution, often 24 hours a day, 7 days a week. Kroger's electric distribution needs associated with its facilities across the state are considerable, and this proceeding will impact the costs associated with obtaining such services.

Therefore, Kroger has a direct, real, and substantial interest in the issues raised in this proceeding and is so situated that the disposition of this proceeding may, as a practical matter, impair or impede its ability to protect that interest. Kroger is regularly and actively involved in Commission proceedings,³ 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 this proceeding, and Kroger's interest will not be adequately represented by other parties to this proceeding. In fact, Kroger already has been participating in this matter, by filing a memorandum contra to the application for rehearing on February 21, 2018 and reply comments on March 7, 2018.⁴ Finally, this timely intervention will not unduly delay or prolong this proceeding.

³ See e.g., *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service*, Case Nos. 17-1263-EL-SSO; *In the Matter of the Application of The Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143*, Case Nos. 16-1852-EL-SSO, et al.; *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.

⁴ See The Kroger Co.'s Memorandum Contra Joint Application for Rehearing (February 20, 2018); Reply Comments of The Kroger Co. (March 7, 2018).

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 in the above-captioned proceeding 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
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 all parties of record via electronic mail June 15, 2018.

/s/ Angela Paul Whitfield
Angela Paul Whitfield

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

6/15/2018 1:57:47 PM

in

Case No(s). 18-0047-AU-COI

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