

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Implementation of the) Case No. 18-1185-EL-UNC
Tax Cuts and Jobs Act of 2017)

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Approval of Tariff) Case No. 18-1186-EL-ATA
Amendments)

**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. 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 this proceeding. A memorandum in support is attached hereto.

Respectfully submitted,

/s/ Angela Paul Whitfield
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MEMORANDUM IN SUPPORT

On July 25, 2018, the Duke Energy Ohio, Inc. (Duke) filed an Application to Establish a Rider to Credit Its Electric Customers with the Benefits of the Tax Cuts and Jobs Act with the Public Utilities Commission of Ohio (Commission).¹ Duke initiated this proceeding in order to resolve issues related to the impact of the Tax Cuts and Jobs Act of 2017 (TCJA) on the rates charged to customers. Kroger hereby moves to intervene in this matter in order to ensure that the several Kroger facilities in Duke’s service territory 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

¹ See Ohio Power Company’s Motion for a Procedural Schedule and Request for Expedited Ruling (June 8, 2018).

prolong or delay the proceeding, and the prospective intervenor's potential contribution to a just and expeditious resolution of the issues involved.

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, heating, cooling, and distribution, often 24 hours a day, 7 days a week. Kroger's electric distribution needs associated with its facilities in Duke's service territory are considerable, and the costs associated with obtaining such services from Duke will be impacted by the outcome of this proceeding.

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,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 this proceeding, and Kroger's interest will not be adequately represented by other parties to this proceeding. Finally, this timely intervention will not unduly delay or prolong this proceeding.

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

² 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.

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
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(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 July 31, 2018.

/s/ Angela Paul Whitfield
Angela Paul Whitfield

This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 18-1185-EL-UNC, 18-1186-EL-ATA

Summary: Motion MOTION TO INTERVENE OF THE KROGER CO. electronically filed by Mrs. Angela Whitfield on behalf of The Kroger Co.