

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company and the Toledo Edison) Case No. 19-361-EL-RDR
Company for an Extension of Their)
Distribution Modernization Rider)

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

Pursuant to Section 4903.221, Revised Code and Rule 4901-1-11, Ohio Administrative Code, The Kroger Co. (Kroger) respectfully moves the Public Utilities Commission of Ohio (Commission) to intervene in this matter with the full powers and rights granted to intervening parties. As demonstrated in the attached memorandum in support, Kroger has real and substantial interests that this proceeding may adversely affect, and no existing parties adequately represent those interests. The Commission should grant this motion because Kroger satisfies the standard for intervention set forth by statute and in the Commission's rules. A memorandum in support is attached.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

On February 1, 2019, the Cleveland Electric Illuminating Company, the Toledo Edison Company, and the Ohio Edison Company (the Companies) filed an Application with the Public Utilities Commission of Ohio (Commission) to extend their Distribution Modernization Rider (Rider DMR) for two years. The Companies state that such an extension is necessary due to the financial state of the Companies.¹ The Companies ask for an extension of Rider DMR that would continue to allow the Companies to collect revenues in the amount of \$132.5 million per year on an after-tax basis.² The Companies have already charged customers hundreds of millions of dollars and also have a pending request for an additional \$516 million that purports to advance grid modernization.³

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

¹ See Application at 2-3.

² Id. at 4.

³ Id. at 5.

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.

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 the Companies. 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 the Companies' service territories are considerable, and the costs associated with obtaining such services from the Companies 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,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 this proceeding, and Kroger's interest will not be adequately represented by other parties to

⁴ See *In the Matter of the Filing by Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company of a Grid Modernization Business Plan, et al.*, Case Nos. 16-481-EL-UNC, et al., Entry at ¶¶ 7-8 (January 29, 2019); *In the Matter of the Application of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, Case No. 14-1297-EL-SSO, Entry at 18 (December 1, 2014).

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 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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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 March 13, 2019.

/s/ Angela Paul Whitfield
Angela Paul Whitfield

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