

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)
Power Company to Initiate its gridSMART) Case No. 19-1475-EL-RDR
Phase 3 Project)
)

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

Pursuant to R.C. 4903.221 and Ohio Adm. Code 4901-1-11, the Kroger Co. (Kroger) hereby respectfully submits its motion to intervene in the above-captioned matter to the Public Utilities Commission of Ohio (PUCO), 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 this proceeding which may be adversely affected by the outcome herein, and which cannot be adequately represented by any other party. 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
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MEMORANDUM IN SUPPORT

On July 26, 2019, the Ohio Power Company (AEP Ohio) filed an Application seeking approval from the Public Utilities Commission of Ohio (Commission) to initiate Phase 3 of the gridSMART project.¹ Specifically, AEP Ohio seeks approval of its plan to, among other things, complete Advanced Metering Infrastructure (AMI) deployment, thereby allegedly building upon Phase 1 of the gridSMART project, Case No. 08-917-EL-SSO, and Phase 2 of the gridSMART project, Case No. 11-346-EL-SSO.² As explained in more detail below, given the costs of such initiatives and projects, Kroger has a real and substantial interest in the outcome of these proceedings, and which cannot be adequately represented by any other party.

R.C. 4903.221 and Ohio Adm. Cod 4901-1-11 establish the standards for intervention in PUCO proceedings. R.C. 4903.221 provides, in pertinent part, that any person “who may be adversely affected” by a PUCO proceeding is entitled to seek intervention in that proceeding. R.C. 4903.221(B) further requires the PUCO 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

¹ See Application of Ohio Power Company (July 26, 2019).

² Direct Testimony of Scott S. Osterholt at 8, 44-47 (July 26, 2019).

unduly prolong or delay the proceeding, and the prospective intervenor's potential contribution to a just and expeditious resolution of the issues involved. Ohio Adm. Code 4901-1-11 permits intervention to 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 the 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 AEP Ohio. Kroger's electric and energy needs associated with its facilities in AEP Ohio's service territory are considerable, and its electric service and the costs associated with obtaining such service from AEP Ohio will be impacted by the outcome in this proceeding. Indeed, Kroger has been a participant in other cases before the Commission involving rates charged by AEP Ohio and costs recovered from customers, including AEP Ohio's electric security plan cases.³ As such, Kroger has an interest in ensuring that any projects or initiatives approved by the Commission are permissible under Ohio law and serve to benefit AEP Ohio's customers.

For the foregoing reasons, Kroger has a direct, real, and substantial interest in the issues raised in this proceeding and is so situated that the disposition of the proceeding may, as a practical matter, impair or impede its ability to protect that interest. Kroger's interests will not be adequately represented by other parties to the proceeding. Finally, Kroger's intervention is timely and will not unduly delay or prolong the proceeding.

³ See *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Case Nos. 16-1852-EL-SSO, et al., Opinion and Order (April 25, 2018) and *In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider, et al.*, Case Nos. 14-1693-EL-RDR, et al. Opinion and Order (March 31, 2016). Also see *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company, Individually and, if Their Proposed Merger is Approved, as a Merged Company (collectively, AEP Ohio) for an Increase in Electric Distribution Rates, et al.*, Case Nos. 11-351-ELAIR, et al., Entry (November 1, 2011).

Kroger satisfies the criteria set forth in R.C. 4903.221 and Ohio Adm. Code 4901-1-11, and is, therefore, authorized to intervene with the full power and rights granted by the Commission to intervening parties. Kroger respectfully requests that the Commission grant its motion to intervene and designate Kroger as a full party of record in the above-captioned case.

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 parties of record via electronic mail on September 12, 2019.

/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). 19-1475-EL-RDR

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