

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates.)	Case No. 21-887-EL-AIR
)	
In the Matter of the Application of Duke Energy Ohio, Inc., for Tariff Approval.)	Case No. 21-888-EL-ATA
)	
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Change Accounting Methods.)	Case No. 21-889-EL-AAM
)	

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

The Kroger Co. (Kroger) hereby respectfully submits its motion to intervene in the above-captioned proceeding to the Public Utilities Commission of Ohio (Commission), with the full powers and rights granted to intervening parties, pursuant to R.C. 4903.221 and Ohio Adm. Code 4901-1-11. 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 existing parties. Accordingly, Kroger satisfies the standard for intervention set forth in Ohio statutes and regulations and respectfully requests that the Commission grant its timely motion to intervene and make Kroger a full party of record in these proceedings.

Respectfully submitted,

/s/ Angela Paul Whitfield

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MEMORANDUM IN SUPPORT

On September 1, 2021, Duke Energy Ohio, Inc. (Duke) filed a Notice of its Intent to file an Application for an increase in its electric distribution rates.¹ Therein, Duke proposed a date certain of June 30, 2021 and a test period of twelve months ending March 31, 2022,² which the Commission has since authorized.³ Duke filed its Application on October 1, 2021 and requested a \$54.7 million increase to its distribution operating revenues or roughly a 10.0% increase in average annual total revenue over the test period.⁴ Additionally, Duke proposed a 7.26% rate of return⁵ and the continuation and modification of several riders established under its Fourth Electric Security Plan (ESP IV).⁶

¹ See Notice of Intent (Sept. 1, 2021).

² *Id.* at Tab 1 B(1)(a) PFN Exhibit 1.

³ Entry at ¶ 6 (Oct. 20, 2021).

⁴ Application at ¶ 8 (Oct. 1, 2021).

⁵ *Id.* at ¶ 10.

⁶ *Id.* at ¶¶ 11, 23.

R.C. 4903.221 and Ohio Adm. Code 4901-1-11 establish the standards for intervention in Commission proceedings. R.C. 4903.221 provides, in pertinent part, that any person “who may be adversely affected” by a Commission proceeding is entitled to seek intervention in that proceeding. R.C. 4903.221(B) 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. 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 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. Since Duke proposes significant rate increases for several classes of customers across its entire service area,⁷ the outcome of this proceeding will directly impact Kroger’s electric service and the costs associated with obtaining such service from Duke. Kroger has participated in other cases before the

⁷ See *Id.* at Schedules E-3 through E-5.

Commission involving rates charged by Duke,⁸ including Duke's previous applications to increase distribution rates.⁹

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. Accordingly, Kroger respectfully requests that its motion to intervene be granted and that Kroger be made a full party of record in this proceeding.

Respectfully submitted,

/s/ Angela Paul Whitfield
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⁸ See, e.g., *In the Matter of Application of Duke Energy Ohio, Inc., for Approval of its Temporary Plan and Waiver of Tariffs and Rules Related to the COVID-19 State of Emergency*, Case No. 20-599-GE-UNC; *In the Matter of the Review of the Reconciliation Rider of Duke Energy Ohio, Inc.*, Case No. 20-167-EL-RDR; *In the Matter of the Application of Duke Energy Ohio, Inc. for Adjustments to the Rider MGP Rates*, Case Nos. 14-375-GA-RDR, et al.; *In the Matter of the Application of Duke Energy Ohio for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service*, Case Nos. 14-841-EL-SSO et al..

⁹ See, e.g., *In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in its Electric Distribution Rates*, Case No. 17-0032-EL-AIR.

CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document also is being served via electronic mail on February 22, 2022 upon the parties listed below.

/s/ Angela Paul Whitfield
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Case No(s). 21-0887-EL-AIR, 21-0888-EL-ATA, 21-0889-EL-AAM

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