

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

IN THE MATTER OF The Electronic Application of Duke Energy :
Kentucky, Inc., for: 1) An Adjustment of the Electric Rates; 2 :
Approval of an Environmental Compliance Plan and Surcharge : **Case No. 2017-00321**
Mechanism; 3) Approval of New Tariffs; 4) Approval of :
Accounting Practices to Establish Regulatory Assets and :
Liabilities; and 5) All Other Required Approvals and Relief :
:

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

Pursuant to 807 KAR 5:001, Section 4(11), KRS 278.310, and KRS 278.040(2), the Kroger Co. (“Kroger”) moves that it be granted full intervenor status in the above-captioned proceeding and states in support thereof as follows:

1. 807 KAR 5:001, Section 4(11)(a)(1) requires that a person requesting leave to intervene as a party to a case before the Kentucky Public Service Commission (“Commission”), by timely motion, must state his or her interest in the case and how intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

2. 807 KAR 5:001, Section 4(11)(b) provides that the Commission shall grant a person leave to intervene if the Commission finds that he or she has made a timely motion for intervention and that he or she has a special interest in the case that is not otherwise adequately represented or that his or her intervention is likely to present issues or to develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

3. Kroger is a corporation engaged in the business of selling groceries at retail throughout the United States. Kroger’s principal office is located at 1014 Vine Street, Cincinnati, Ohio, 45202. Kroger is one of the largest retail food companies in the United States as measured by total annual sales. Kroger purchases

millions of kWh annually from Duke Energy Ky., Inc., (“Duke Energy”). The grocery stores operated by Kroger are high load factor facilities that use energy for food storage, lighting, heating, cooling and distribution, often on a 24 hour a day, 7 day a week basis.

4. The attorneys for Kroger authorized to represent them in this proceeding and to take service of all documents are:

Kurt J. Boehm, Esq.
Jody Kyler Cohn, Esq.
BOEHM, KURTZ & LOWRY
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
Ph: (513) 421-2255, Fax: (513) 421-2765
kboehm@bkllawfirm.com
jkylercohn@bkllawfirm.com

5. Kroger filed a timely motion to intervene in this proceeding.

6. Petitioner has a substantial and vital interest in the outcome of this proceeding which cannot be adequately represented by any other party. As a commercial customer of Duke Energy purchasing a substantial quantity of electric services, Kroger has a direct, immediate and substantial interest in the subject matter of this proceeding. While the Kentucky Attorney General’s Office of Rate Intervention is statutorily charged with representing the interests of “consumers” pursuant to KRS 367.150(8), that duty relates primarily to residential customers. In contrast, Kroger’s interest is exclusively related to large, multi-site DS and DT customers. Kroger’s facilities are also distinguished by the fact that they are largely high-load factor facilities that use the Duke system’s capacity resources in a relatively efficient manner. Therefore, Kroger has a special interest in ensuring that Duke’s rates properly recover demand-related costs through demand charges.

7. Kroger’s intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matters at hand. Kroger has participated in regulatory commission proceedings in over 20 different states and is well-versed in revenue requirement and rate allocation issues.

8. Kroger intends to play a constructive role in the Commission’s decision-making process. Kroger will not unduly complicate or disrupt the proceedings.

WHEREFORE, The Kroger Co. requests that it be granted full intervenor status in the above-captioned proceeding.

Respectfully submitted,



Kurt J. Boehm, Esq.
Jody Kyler Cohn, Esq.
BOEHM, KURTZ & LOWRY
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
Ph: 513.421.2255 Fax: 513.421.2764
kboehm@bkllawfirm.com
jkylercohn@bkllawfirm.com

COUNSEL FOR THE KROGER CO.

September 13, 2017