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BEFORE  
THE NORTH CAROLINA UTILITIES COMMISSION  
Docket No. E-7, Sub 856

FILED

JUL 25 2008

Clerk's Office  
N.C. Utilities Commission

Application Of Duke Energy Carolinas, LLC For	:	PETITION TO INTERVENE OF THE KROGER CO.
Approval Of A Solar Photovoltaic Distributed	:	
Generation Program And For Approval Of	:	
Proposed Method Of Recovery Of Associated	:	
Costs	:	

**PETITION TO INTERVENE OF KROGER CO.**

The Kroger Co. ("Petitioner") hereby petitions the North Carolina Utilities Commission ("Commission") for leave to intervene and participate in the proceeding concerning the application of the Duke Energy Carolinas, LLC ("Applicant"). In support of its Petition it states as follows:

1. **Name and Addresses of Petitioner:**

The Kroger Co.  
Attn: Corporate Energy Manager  
1014 Vine Street  
Cincinnati, Ohio 45202

2. **Name and Address of Attorneys/Consultants Representing Petitioner:**

Petitioner requests that copies of all notices, filings or other communications with respect to this docket be served on the following representatives of Petitioner:

Michael L. Kurtz, Esq.  
Kurt J. Boehm, Esq.  
**BOEHM, KURTZ & LOWRY**  
36 East Seventh Street, Suite 1510  
Cincinnati, Ohio 45202  
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Full Dist.

Daniel C. Higgins  
Burns, Day & Presnell, P.A.  
P.O. Box 10867  
Raleigh, N.C. 27605  
E-mail: dhiggins@bdppa.com

3. **Identify the Petitioner:**

Petitioner is a retail electric customer of the Duke Energy Carolinas, LLC (the “Company”). Petitioner has numerous grocery stores and other facilities that purchase their electric supply from the Company.

4. **Petitioner’s Interest in this Proceeding:**

Kroger is a corporation engaged in the business of selling groceries at retail throughout the United States. One of the largest retail food companies in the United States, Kroger operates numerous grocery stores in the state of North Carolina that purchase their electric supply from the Company. These stores purchase millions of kWh of electricity from the Company annually. Petitioner is one of the largest commercial customers served by the Company. 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. If the Company’s application is granted, then the cost for electric power service to Petitioner could be substantially impacted. Accordingly, Petitioner has a substantial and vital interest in the outcome of this proceeding which cannot be adequately represented by any other party.

5. **Issues To Be Raised:**

The primary issue the Petitioner intends to address in this case will be whether the proposed cost recovery sought by the Applicant is reasonable and justified. We also intend to address whether the proposed allocation of such costs is just and reasonable.

**WHEREFORE**, for the reasons set forth above, Petitioner requests that this Petition to Intervene be granted and that:

1. Petitioner be permitted to intervene and to become a party to this docket;
2. Petitioner be permitted to file comments and other papers, call and examine witnesses, cross-examine opposing witnesses and be heard on all matters relative to the issues involved in this docket.

DATED this the <sup>25<sup>th</sup></sup>~~24<sup>th</sup>~~ day of July, 2008.

Michael L. Kurtz, Esq.  
Kurt J. Boehm, Esq.  
BOEHM, KURTZ & LOWRY  
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Cincinnati, Ohio 45202  
Telephone: (513) 421-2255

BURNS, DAY & PRESNELL, P.A.

By: 

Daniel C. Higgins  
P.O. Box 10867  
Raleigh, North Carolina 27605  
Telephone: (919) 782-1441

**VERIFICATION**

Kurt J. Boehm, first being duly sworn, deposes and says that he is the attorney for The Kroger Co. ("Kroger"); that he has read the foregoing Petition to Intervene Motion and the same is true of his personal knowledge, except as to any matters and things therein state on information and belief, and as to those, he believes them to be true; and that he is authorized to sign this verification on behalf of Kroger.



Kurt J. Boehm, Esq.

Subscribed and sworn to 24 day of July, 2008, by Kurt J. Boehm, Esq.

Notary Public



KIMBERLY WALTON  
Notary Public, State of Ohio  
My commission expires 08/26/2009

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Petition to Intervene of Kroger Co. in Docket No. E-7, Sub 856 has been served by electronic mail (when available) or by depositing a copy in the United States mail, postage prepaid, addressed to the parties of record, or their counsel.

This the <sup>25<sup>th</sup></sup>~~24<sup>th</sup>~~ day of July, 2008.

BURNS, DAY & PRESNELL, P.A.

By: \_\_\_\_\_

Daniel C. Higgins

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Raleigh, North Carolina 27605