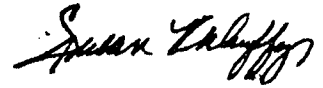


**BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

STATE CORPORATION COMMISSION

AUG 06 2009



Before Commissioners: Thomas E. Wright, Chairman  
Michael C. Moffet  
Joseph F. Harkins

In The Matter Of The Applications Of Westar Energy, Inc. : **Docket No. 09-WSEE-925-RTS**  
And Kansas Gas And Electric Company For Approval Of :  
Make Certain Changes In Their Charges For Electric Service :

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**PETITION TO INTERVENE**

COMES NOW, the Kroger Co. ("Kroger") and moves the Corporation Commission of the State of Kansas ("Commission") for an order granting Kroger intervention in the above-captioned matter. In support of its Petition, Kroger states the following:

1. On June 2, 2009 Westar Energy, Inc. filed its Application to make changes to their charges for electric service.
2. Kroger is a corporation engaged in the business of selling groceries at retail throughout the United States. Doing business as the *Dillon's* grocery store chain, Kroger has approximately 85 accounts in Westar's service territory. Kroger purchases more than 150 million 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.

3. If the Company's application is granted, 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.
4. It is respectfully requested that all pleadings and other documents issued in this proceeding by the Commission, the Commission Staff, or a party be served as counsel for the Kroger Co., to Michael L. Kurtz, Esq., Kurt J. Boehm, Esq., Boehm, Kurtz & Lowry, 36 E. Seventh St., Suite 1510, Cincinnati, Ohio 45202 and our consultant, Kevin C. Higgins, Energy Strategies, LLC, Parkside Towers, 215 South State Street, Suite 200, Salt Lake City, Utah 84111 and that the Commission's official service list be modified to reflect the same.

WHEREFORE, the Kroger Co. respectfully requests the Commission grant its Petition for Intervention in this Matter.

Respectfully submitted,



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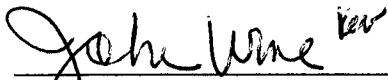
Michael L. Kurtz, Esq.  
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**COUNSEL FOR THE KROGER CO.**

August 4, 2009

WHEREFORE, the undersigned moves for the admission Pro Hac Vice of Michael L. Kurtz, Esq. and Kurt J. Boehm, Esq. as attorneys for The Kroger Co. in the above-captioned proceeding and for all other relief proper in the premises.

Respectfully submitted,



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Topeka, Kansas 66617  
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**COUNSEL FOR THE KROGER CO.**

August 4, 2009

**BOEHM, KURTZ & LOWRY**

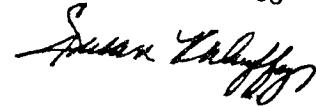
ATTORNEYS AT LAW  
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TELEPHONE (513) 421-2255  
TELECOPIER (513) 421-2764

Via Overnight Mail

August 4, 2009

STATE CORPORATION COMMISSION

AUG 06 2009



Ms. Susan Duffy, Executive Director  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, KS 66604-4027

**Re: Docket No. 09-WSEE-925-RTS**

Dear Ms. Duffy:

Enclosed please find an original and seven (7) copies of the PETITION TO INTERVENE OF THE KROGER CO. and MOTION FOR PRO HAC VICE OF MICHAEL L. KURTZ AND KURT J. BOEHM filed in the above-referenced matter.

Copies have been served on all parties of record.

Very truly yours,



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

**BOEHM, KURTZ & LOWRY**

MLKkew  
Enclosure

**CERTIFICATE OF SERVICE**

I hereby certify that true copy of the foregoing was served by electronic mail (when available) or regular U.S. mail (unless otherwise noted), this 4<sup>TH</sup> day of August, 2009 the following:

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Kurt J. Boehm, Esq.