

**FILE**

**BOEHM, KURTZ & LOWRY**

ATTORNEYS AT LAW  
36 EAST SEVENTH STREET  
SUITE 1510  
CINCINNATI, OHIO 45202  
TELEPHONE (513) 421-2255  
TELECOPIER (513) 421-2764

5  
RECEIVED-DOCKETING  
2007 SEP 20 PM 1:41

**VIA OVERNIGHT MAIL**

September 19, 2007

Public Utilities Commission of Ohio  
PUCO Docketing  
180 E. Broad Street, 10th Floor  
Columbus, Ohio 43215

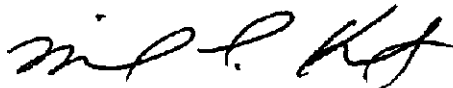
**In re: 07-1003-EL-ATA AND 07-1004-EL-AAM**

Dear Sir/Madam:

Please find enclosed an original and ten (10) copies of THE KROGER CO.'S PETITION TO INTERVENE filed in the above-referenced matter.

Copies have been served on all parties on the attached certificate of service. Please place this document of file.

Respectfully yours,



Michael L. Kurtz, Esq.  
Kurt J. Boehm, Esq.  
**BOEHM, KURTZ & LOWRY**

MLKkew  
Encl.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
Technician JS Date Processed 9-20-07

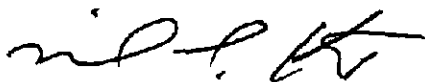
### CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by regular mail, unless otherwise noted, this 19<sup>th</sup> day of September, 2007 to the following:

FirstEnergy Service Company  
Burk James W  
76 S Main St  
Akron Oh 44308

Industrial Energy Users-Ohio  
Samuel C. Randazzo, General Counsel  
McNees Wallace & Nurick LLC  
21 East State Street 17th Floor  
Columbus Oh 43215

Clark, Joseph M Attorney At Law  
McNees Wallace & Nurick LLC  
21 East State Street, 17th Fl.  
Columbus Oh 43215-4228



---

Michael L. Kurtz, Esq.  
Kurt J. Boehm, Esq.

BEFORE THE  
PUBLIC UTILITY COMMISSION OF OHIO

RECEIVED-DOCKETING DIV  
2007 SEP 20 PM 1:41

In The Matter Of The Application Of Ohio Edison :  
Company The Cleveland Electric Illuminating : Case Nos. 07-1003-EL-ATA  
Company And The Toledo Edison Company for : 07-1004-EL-AAM  
Authority to Modify Certain Accounting Practices :  
and for Tariff Approvals :

---

INTERVENTION OF THE  
THE KROGER CO.

---

Pursuant to the Ohio Rev. Code §4903.22.1 and Ohio Admin. Code §4901-1-11, the Kroger Co. ("Kroger") moves for leave to intervene in this proceeding. The Public Utility Commission of Ohio ("Commission") should grant Kroger leave to intervene because Kroger has a real and substantial interest in the proceeding, and the Commission's disposition of this proceeding may impair or impede Kroger's ability to protect that interest.

Respectfully submitted,



---

Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

**BOEHM, KURTZ & LOWRY**

36 East Seventh Street, Suite 1510

Cincinnati, Ohio 45202

Ph: (513) 421-2255 Fax: (513) 421-2764

E-Mail: [mkurtz@BKLawfirm.com](mailto:mkurtz@BKLawfirm.com)

[kboehm@BKLawfirm.com](mailto:kboehm@BKLawfirm.com)

September 14, 2007

**COUNSEL FOR THE KROGER CO.**

**BEFORE THE  
PUBLIC UTILITY COMMISSION OF OHIO**

<b>In The Matter Of The Application Of Ohio Edison</b>	<b>:</b>	
<b>Company The Cleveland Electric Illuminating</b>	<b>:</b>	<b>Case Nos. 07-1003-EL-ATA</b>
<b>Company And The Toledo Edison Company for</b>	<b>:</b>	<b>07-1004-EL-AAM</b>
<b>Authority to Modify Certain Accounting Practices</b>	<b>:</b>	
<b>and for Tariff Approvals</b>		

---

**MEMORANDUM IN SUPPORT OF  
THE KROGER CO.'S  
MOTION TO INTERVENE**

---

Pursuant to Ohio Rev. Code §4903.22.1 and Ohio Admin. Code §4901-01-11, the Public Utility Commission of Ohio ("Commission") should grant the Kroger Co. ("Kroger") leave to intervene 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 approximately 200 grocery stores in the state of Ohio. Of that total, approximately 25 purchase their electric supply from FirstEnergy. These stores purchase more than 80 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. Therefore, the interests of Kroger may be directly affected by the outcome of this proceeding. The interests of Kroger

cannot be adequately represented by any other party. Kroger intends to play a constructive role in this case and provide information which will assist the Commission.

No other party to this proceeding can adequately represent Kroger's interest. Intervention would not unduly delay the proceeding nor unjustly prejudice any existing party.

Accordingly, Kroger has a real and substantial interest and is entitled to intervene in this action under Ohio Rev. Code §4903.22.1 and Ohio Admin. Code §4901-1-11.

Respectfully submitted,



---

Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

**BOEHM, KURTZ & LOWRY**

36 East Seventh Street, Suite 1510

Cincinnati, Ohio 45202

Ph: (513) 421-2255 Fax: (513) 421-2764

E-Mail: [mkurtz@BKLawfirm.com](mailto:mkurtz@BKLawfirm.com)

[kboehm@BKLawfirm.com](mailto:kboehm@BKLawfirm.com)

**COUNSEL FOR THE KROGER CO.**

September 19, 2007