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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Application for )  
Approval of a Contract for Electric )  
Service Between Ohio Power Company ) Case No. 08-884-EL-AEC  
and Global Metallurgical, Inc. )  
)  
)

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**MOTION FOR INTERVENTION AND MEMORANDUM IN SUPPORT OF  
THE KROGER CO.**

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John W. Bentine, Esq. (0016388)  
E-Mail: [jbentine@cwslaw.com](mailto:jbentine@cwslaw.com)  
Direct Dial: (614) 334-6121  
Mark S. Yurick, Esq. (0039176)  
E-mail: [myurick@cwslaw.com](mailto:myurick@cwslaw.com)  
Direct Dial: (614) 334-7197  
Matthew S. White, Esq. (0082859)  
E-mail: [mwhite@cwslaw.com](mailto:mwhite@cwslaw.com)  
Direct Dial: (614) 334-6172  
Chester, Willcox & Saxbe LLP  
65 East State Street, Suite 1000  
Columbus, Ohio 43215-4213  
(614) 221-4000 (Main Number)  
(614) 221-4012 (Facsimile)  
**Attorneys for The Kroger Co.**

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**I. MOTION FOR INTERVENTION**

Pursuant to Ohio Revised Code ("RC") § 4903.221 and Ohio Administrative Code ("OAC") 4901-1-11, The Kroger Co. respectfully moves the Commission for leave to intervene in the above-captioned docket, for the reasons more fully set forth below in the Memorandum in Support.

**II. MEMORANDUM IN SUPPORT**

From the standpoint of both the substantive merits and timeliness of its request, The Kroger Co. respectfully submits that it is entitled to intervene in these proceedings. For purposes of considering requests for leave to intervene in a Commission proceeding, OAC 4901-1-11(A) provides that:

Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that: ... (2) The person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person's interest is adequately represented by existing parties.

Further, RC § 4903.221(B) and OAC 4901-1-11(B) provide that the Commission, in ruling upon applications to intervene in its proceedings, shall consider the following criteria:

(1) The nature and extent of the prospective intervenor's interest; (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case; (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings; (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the

factual issues.

OAC 4901-1-11(B) also provides that an additional factor in considering a request to intervene will be the extent to which the person's interest is represented by existing parties.

In the above-captioned proceeding, the Ohio Power Company ("Ohio Power") entered into a contract for reasonable arrangements with Global Metallurgical, Inc. ("Global") to provide electric services on a schedule not offered on Ohio Power's Standard Service Offering ("SSO"). Pursuant to RC § 4905.31, Ohio Power and Global filed the contract with the Public Utilities Commission of Ohio ("Commission") for the Commission's approval ("Application"). The Application states that the contract is contingent on the Commission's approval of the full recovery by Ohio Power of the discount in rates given to Global under the contract ("Delta Revenues") through an economic development rider to be paid by customers in Ohio Power's service territory. *Application* at p. 2.

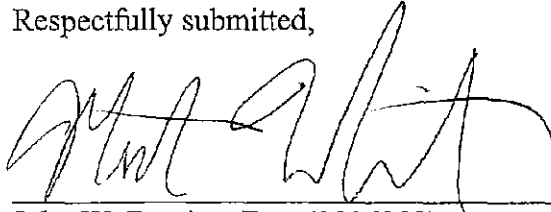
The Kroger Co. is a consumer of significant amounts of electric service in numerous locations throughout Ohio Power's service territory. Ohio Power's recovery of Delta Revenues through an economic development rider will directly affect the rates The Kroger Co. pays to Ohio Power. Accordingly, The Kroger Co. has direct, real, and substantial interests in this proceeding. The disposition of this proceeding without The Kroger Co.'s full participation will prejudice and impede The Kroger Co.'s ability to protect its substantial business interests in this proceeding.

Further, others participating in this proceeding do not represent The Kroger Co.'s interests. Inasmuch as others participating in these proceedings cannot adequately protect The Kroger Co.'s interests, it would be inappropriate to determine this proceeding without The Kroger Co.'s participation. The Kroger Co. submits that its unique perspectives will contribute to the full, equitable, and expeditious resolution of these proceedings. Finally, The Kroger Co.'s timely intervention will not unduly delay the proceedings, or unjustly prejudice the interests of any existing party to this proceeding.

### **III. CONCLUSION**

For the reasons set forth above, The Kroger Co. respectfully requests the Commission grant The Kroger Co.'s request to intervene in the above-captioned docket.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John W. Bentine", written over a horizontal line.

John W. Bentine, Esq. (0016388)

E-Mail: [jbentine@cwslaw.com](mailto:jbentine@cwslaw.com)

Direct Dial: (614) 334-6121

Mark S. Yurick, Esq. (0039176)

E-mail: [myurick@cwslaw.com](mailto:myurick@cwslaw.com)

Direct Dial: (614) 334-7197

Matthew S. White, Esq. (0082859)

E-mail: [mwhite@cwslaw.com](mailto:mwhite@cwslaw.com)

Direct Dial: (614) 334-6172

Chester, Willcox & Saxbe LLP

65 East State Street, Suite 1000

Columbus, Ohio 43215-4213

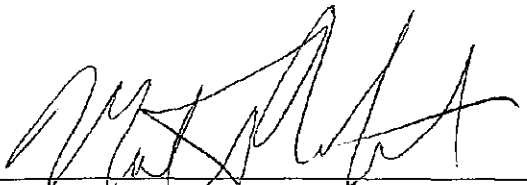
(614) 221-4000 (Main Number)

(614) 221-4012 (Facsimile)

**Attorneys for The Kroger Co.**

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following parties of record or as a courtesy, via U.S. Mail postage prepaid, express mail, hand delivery, or electronic transmission, on August 5, 2008.

  
Matthew S. White, Esq.

### SERVICE LIST

Ohio Power Company  
Selwyn J. R. Dias  
88 East Broad Street  
Suite 800  
Columbus, OH 43215

Globe Metallurgical, Inc.  
1598 Sparling Road  
Beverly, OH 45715

Ohio Energy Group  
David Boehm  
36 East Seventh Street, Suite 1510  
Cincinnati, OH 45202

Marvin Resnik  
American Electric Power Corporation  
1 Riverside Plaza  
29<sup>th</sup> Floor  
Columbus, OH 43215

Gregory Poulos  
Office of the Ohio Consumers Counsel  
10 West Broad Street, Suite 1800  
Columbus, OH 43215