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February 10, 2011

RECEIVED-DOCKETING DIV  
2011 FEB 11 AM 11:14  
PUCO

VIA UPS  
Public Utilities Commission of Ohio  
Docketing Division  
180 E. Broad Street  
Columbus, Ohio 43215-3793

Re: Case No. 10-3126-EL-UNC

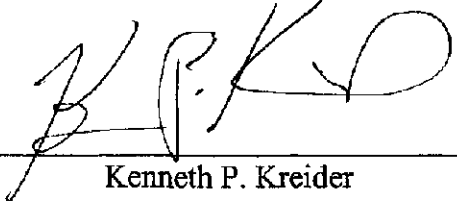
Dear Sir or Madam:

Please find enclosed the original and fifteen (15) copies of the 1) MOTION TO INTERVENE OF WAL-MART STORES EAST, LP AND SAM'S EAST, INC.; and 2) MOTION FOR ADMISSION *PRO HAC VICE* OF HOLLY RACHEL SMITH; and 3) COMMENTS OF WAL-MART STORES EAST, LP AND SAM'S EAST, INC. each to be filed in the above-referenced case.

Copies have been served on all parties on the attached Certificates of Service. Please enter this document in the case file and return an extra file-stamped copy of each (provided) in the enclosed postage paid envelope. Thank you.

Very truly yours,

KEATING MUETHING & KLEKAMP PLL

By:   
Kenneth P. Kreider

KPK:ang

Enclosures

c: Certificate of Service

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 AN Date Processed FEB 11 2011

**BEFORE**  
**THE PUBLIC UTILITIES COMMISSION OF OHIO** FEB 11 AM 11:22

PUCO

)  
In the Matter of Aligning Electric Distribution Utility )  
Rate Structure With Ohio's Public Policies to )  
Promote Competition, Energy Efficiency, and )  
Distributed Generation. )

Case No. 10-3126-EL-UNC

**MOTION TO INTERVENE OF WAL-MART STORES EAST, LP  
AND SAM'S EAST, INC.**

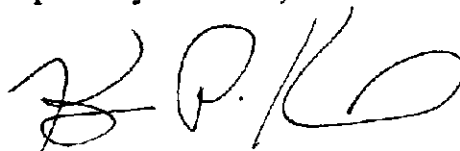
Now comes Wal-Mart Stores East, LP and Sam's East, Inc. (collectively, "Walmart"), by its attorneys, and respectfully moves the Public Utilities Commission of Ohio ("Commission"), pursuant to Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code, for leave to intervene in the above-captioned matter with the full powers and rights granted by the Commission, specifically by statute or by the provisions of the Ohio Administrative Code, to intervening parties.

As demonstrated further in the Memorandum In Support attached hereto and incorporated herein, Walmart has a direct, real and substantial interest in the issues and matters involved in the above-captioned proceeding, and is so situated in the disposition of these proceedings may, as a practical matter, impair or impede its ability to protect that interest. Walmart's real and substantial interest in this proceeding is not adequately represented by any other party, and as such, Walmart is entitled to intervene with the full powers and rights granted by the Commission. Further, Walmart's participation will not unduly delay the proceedings or prejudice any other party thereto.

By separate motion, a request for admission *pro hac vice* for Holly Rachel Smith, of the firm of Holly Rachel Smith, PLLC, has been filed in the above-captioned proceeding. Walmart requests that if approved, Ms. Smith be added to the official service list. Additional contact information for the additional counsel and representatives are provided in the attached Memorandum in Support.

WHEREFORE, Walmart respectfully requests this Commission grant its motion to intervene for these reasons and those set forth in more detail in the attached Memorandum in Support.

Respectfully submitted,



Date: February 10, 2011

Kenneth P. Kreider (#0042624)  
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**COUNSEL FOR WAL-MART STORES EAST,  
LP AND SAM'S EAST, INC.**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Power	)	
Company for Approval of the Shutdown of Unit 5	)	<b>Case No. 10-1454-EL-RDR</b>
Of the Philip Sporn Generating Station and to	)	
Establish a Plant Shutdown Rider	)	

**MEMORANDUM OF SUPPORT OF WAL-MART STORES EAST, LP  
AND SAM'S EAST, INC.**

Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code, establish the standard for intervention in the above-styled proceeding as a full party of record. In examining whether a party should be permitted to intervene in a proceeding, the Public Utilities Commission of Ohio ("the Commission") considers, among other factors, the direct interests of the party, whether the intervention by the prospective party will unduly prolong or delay the proceedings, whether the party will significantly contribute to the full development and equitable resolution of the factual issues. A review of these factors in light of the following facts supports granting Walmart's intervention.

Walmart is a national retailer of goods and services throughout the United States. Walmart's energy department has offices at 2001 SE 10<sup>th</sup> Street, Bentonville AR 72716-0550. Walmart has the privilege of providing its retail services in the State of Ohio. Walmart has approximately 177 facilities in Ohio. These facilities include Supercenters, Sam's Clubs, Discount Stores, distribution centers, and gas stations. Walmart is a large customer of several Ohio electric utilities, purchasing approximately 780 million kWh annually from Ohio utilities. Walmart has installed and continues to install demand side management technology in its

facilities. Currently Walmart participates in more than 17 demand response programs, through both utilities or RTO/ISOs, nationwide. Additionally, Walmart invests in solar and other renewable energy technologies. All of these efforts evidence that while Walmart is a large energy user, it is heavily focused on energy conservation and load reduction and has an interest in any Commission investigation into the examination of modifications to the rate design mechanisms approved by the Commission.

Wherefore, for the foregoing reasons, Walmart respectfully requests that the Commission grant this motion for leave to intervene and that the rights of a full party of record be conferred upon it. For purposes of receiving service in the proceeding, in addition to the undersigned, Walmart requests that the following persons be placed on the official service list:

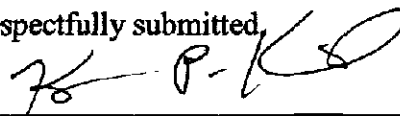
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Accordingly, Walmart has a real and substantial interest and is entitled to intervene in this action under Ohio Rev. Code §4903.22.1 and Ohio Admin Code §4901-1-11.

Date: February 10, 2011

Respectfully submitted,



Kenneth P. Kreider (#0042624)

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**COUNSEL FOR WAL-MART STORES EAST,  
LP AND SAM'S EAST, INC.**

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by mailing a true and correct copy via electronic mail (when available) and by first-class postage prepaid mail, to all parties on this 10<sup>th</sup> day of February, 2011.

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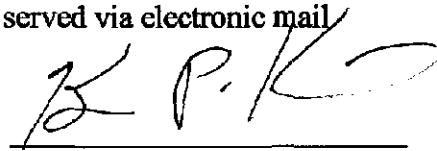
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\*Indicates that party has agreed to be automatically served via electronic mail



Kenneth P. Kreider, Esq.