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April 1, 2004

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

In re: Case No. 03-93-EL-ATA, 03-2079-EL-AAM, 03-2081-EL-AAM, 03-2080-EL-ATA

Dear Sir/Madam:

Please find enclosed an original and twenty (10) copies of the Kroger Co.'s Responses to CG&E's First Set of Interrogatories and Request for Production of Documents 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,



Kurt J. Boehm, Esq.
BOEHM, KURTZ & LOWRY

MLKkev
Encl.

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CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by regular U.S. mail, unless otherwise noted, this 1st day of April, 2004 to the following:

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the Cincinnati Gas & Electric Company to Modify its Non- Residential Generation Rates to Provide for Market-Based Standard Service Offer Pricing and to Establish a Pilot Alternative Competitively-Bid Service Rate Option Subsequent to Market Development Period))
)	Case No. 03-93-EL-ATA

In the Matter of the Application of The Cincinnati Gas & Electric Company for Authority to Modify Current Accounting Procedures for Certain Costs Associated With The Midwest Independent Transmission System Operator))
)	Case No. 03-2079-EL-AAM

In the Matter of the Application of The Cincinnati Gas & Electric Company for Authority to Modify Current Accounting Procedures for Capital Investment in its Electric Transmission And Distribution System And to Establish a Capital Investment Reliability Rider to be Effective After the Market Development Period))
)	Case No. 03-2081-EL-AAM
)	Case No. 03-2080-EL-ATA

**KROGER CO.'S
RESPONSES TO CINCINNATI GAS & ELECTRIC COMPANY'S
FIRST SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS**

- 1. Identify each person who answered or furnished information or documents, or assisted in answering or in furnishing any information or documents, used in answering any of these discovery requests, and identify which discovery request for which such person participated in the response.**

RESPONSE: Kurt J. Boehm, Esq., Michael L. Kurtz, Esq., whose principal address is 36 E. Seventh Street, Suite 2110, Cincinnati, Ohio 45202 participated in the responses to each discovery request.

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2. Identify each person whom Kroger may call to testify in any capacity at the hearing and for each state: (1) the subject matter upon which the witness is expected to testify; (2) the substance of the facts to which each is expected to testify; (3) a summary of the person's qualifications to provide the testimony; (4) and a summary of the basis of each person's testimony.

RESPONSE: Kroger has not determined whether it will call a witness to testify in this matter.

3. For each person identified in response to Interrogatory No. 2 above, please identify any and all pre-filed testimony, sworn statements, or other testimony in any regulatory, judicial, or other proceeding (regardless of whether such testimony or statements were offered or admitted into the record of such proceeding) previously given or provided by the witness.

RESPONSE: See responses to Interrogatory No. 2.

4. For each of the prefiled testimony, sworn statement, or other testimony identified in response to Interrogatory No. 3 above, please state:
- a. the jurisdiction in which the testimony or statement was prefiled, offered, given, or admitted into the record;
 - b. the administrative agency and/or court in which the testimony or statement was prefiled, offered, admitted, or given;
 - c. the date(s) the testimony or statement was pre-filed, offered, admitted, or given;
 - d. the identifying number for the case or proceeding in which the testimony or statement was prefiled, offered, admitted, or given;
 - e. whether the witness was cross-examined; and
 - f. the custodian of the prefiled testimony or statement and the transcript of each proceeding.

RESPONSE: See responses to Interrogatory No. 2.

5. **Have any of the individuals identified in response to Interrogatory No. 2 above presented any speeches or written any articles, papers, treatises, books, memoranda or white papers relating to the restructuring of the electric industry; the pricing of electric services; independent transmission entities; economics; retail competition in the electric, gas, or telecommunications industries; the marketing of products or services; electric restructuring stranded cost recovery methodologies; or the ending of any market development period in any state (hereinafter referred to as "Article")?**

RESPONSE: See responses to Interrogatory No. 2.

6. If your response to Interrogatory No. 5 above is in the affirmative, please state for each:
- a. the title of each such Article;
 - b. the date of each such Article;
 - c. the publication of each such Article;
 - d. the name, volume, and number of the journal or other compendium where the Article appears.

RESPONSE: See responses to Interrogatory No. 2.

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7. For each witness identified in response to Interrogatory No. 2 above who may testify as an expert, please identify all documents relating to the anticipated expert testimony, including, without limitation, all expert reports, statements, and/or notes or other documents, and any correspondence, communications, or other documents exchanged between Kroger and the expert.

RESPONSE: See responses to Interrogatory No. 2.

8. Identify all documents or things that Kroger may seek to introduce as exhibits in any proceeding in the above-captioned matters.

RESPONSE: Kroger has not yet determined what, if any, exhibits it will introduce in this matter.

9. **Provide a list of all written offers for competitive retail electric service, and the price offered for that service, made to each Kroger store located in Ohio by a competitive retail electric service provider since January 1, 2000.**

RESPONSE: Kroger objects to Interrogatory No. 9 on the ground that the information sought is privileged and not relevant to the question of whether the company's RSP is reasonable.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. **Any and all documents identified or referenced in response to any of the foregoing interrogatories;**

RESPONSE: Kroger has not identified or referenced any documents in response to the foregoing interrogatories.

2. **Any and all documents which contain any information used, reviewed, or referenced in preparing Kroger's responses to any of the foregoing interrogatories;**

RESPONSE: Kroger has not used, reviewed or referenced any documents in preparing these responses.

3. **Any and all documents which Kroger may introduce as exhibits at any future hearing in the above-captioned matters.**

RESPONSE: Kroger has not determined what, if any documents it will introduce at future hearings.

4. **Any and all documents relating to the testimony of any of Kroger's witnesses and/or expert witnesses including, but not limited to, any and all curricula vitae, reports, papers, statements, notes, other documents, and any correspondence, communications, or other documents exchanged between Kroger and the expert.**

RESPONSE: See responses to Interrogatory No. 2.

5. **Any and all documents prepared by, for, or on behalf of Kroger relating to the ending of the market development period in Ohio.**

RESPONSE: Kroger objects to Request for Production No. 5 on the ground that the information sought is privileged.

6. Any and all documents prepared by, for, or on behalf of Kroger relating to *the current or projected future state of the competitive retail electric market in Ohio.*

RESPONSE: Kroger objects to Request for Production No. 6 on the ground that the information sought is privileged.

7. Any and all documents prepared by, for, or on behalf of Kroger relating to **CG&E's Electric Transition Plan.**

RESPONSE: Kroger objects to Request for Production No. 7 on the ground that the information sought is privileged.

8. Any and all documents prepared by, for, or on behalf of Kroger relating to **CG&E's request in its Electric Transition Plan to recover transition revenues.**

RESPONSE: Kroger objects to Request for Production No. 8 on the ground that the information sought is privileged.

9. **Provide a copy of all written offers for competitive retail electric service made to Kroger located in Ohio since January 1, 2000.**

RESPONSE: Kroger objects to Request for Production No. 9 on the ground that the information sought is privileged.