

INTERVENTION

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AZ CORP COMMISSION
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Via Overnight Mail

December 13, 2001

Arizona Corporation Commission
Attn: Docket Filing Window
1200 Washington Street
Phoenix, AZ 85007

Re: *In the Matter of the Arizona Public Service Company's Request For A Variance of Certain Requirements of A.A.C. R14-2-1606, Docket No. E-01345A-01-0822*

Dear Sir or Madam:

Please find enclosed the original and ten (10) copies of the Application of Kroger Co. through its wholly owned subsidiary doing business in Arizona, Fry's Food & Drug for Leave to Intervene in the above-referenced matter.

Please place this document of file.

Very Truly Yours,

Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY

MLKkew
Attachments

Arizona Corporation Commission
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**BEFORE THE
ARIZONA CORPORATION COMMISSION**

In the Matter of the Arizona Public Service Company's Request) Docket No. E-01345A-01-0822
For A Variance of Certain Requirements of A.A.C. R14-2-1606)

APPLICATION OF KROGER COMPANY dba FRY'S FOOD & DRUG COMPANY
FOR LEAVE TO INTERVENE

Pursuant to Arizona Administrative Code ("A.A.C.") R14-3-105, the Kroger Co. through its wholly owned subsidiary doing business in Arizona, Fry's Food & Drug hereby moves the Commission for leave to intervene in the above-captioned proceeding.

1. Kroger is a corporation engaged in the business of selling groceries at retail throughout the United States. Kroger is one of the largest retail food companies in the United States. Fry's Food & Drug ("Fry's"), a subsidiary of Kroger, has approximately 113 stores in Arizona. Of that total, 34 are served by Arizona Public Service Company ("APS"). For the 12 months ended September, 2001, Fry's purchased approximately 110 million kWh from APS. The grocery stores operated by Fry's in Arizona are high load factor facilities as the stores typically operate 24 hours a day, seven days a week.

2. Fry's requests that all notices, correspondence and copies of orders and other materials should be addressed as follows, and the following should be placed upon the official service list in this proceeding.

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3. Fry's currently purchases substantial amounts of electricity from APS under multiple rate schedules. Other subsidiaries of Kroger are direct access customers of competitive electric services in many jurisdictions which have deregulation. Fry's costs for electricity will be affected by the Commission's actions in its docket. As a result, Fry's has substantial and vital interests in the outcome of this proceeding and desires to intervene in order to protect those interests.

4. Other intervenors will not adequately represent the diverse and unique interests of Fry's. If this application is granted, Fry's will contribute to the efficiency with which this case is conducted. Fry's intervention will not unduly delay the proceedings or prejudice the rights of other parties.

5. Fry's counsel and expert witness have both reviewed the APS proposal. It is our initial belief (subject to verification) that the APS proposal may be reasonable and in the best interests of consumers. There may be economic benefits to consumers from having a cost-based standard offer while at the same time having the option of direct market access at market-based prices. While the details of the APS proposal still need to be understood by us, it certainly looks favorable at this time.

WHEREFORE, for the reasons discussed above, Fry's respectfully requests that it be granted leave to intervene in this proceeding, and that Fry's be accorded full status of an intervenor under the Commission's rules and regulations.



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THE KROGER COMPANY
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CERTIFICATE OF SERVICE

I certify that I have this 13th day of December, 2001, served the foregoing Application of Fry's Food & Drug Company for Leave to Intervene by depositing same, postage prepaid, in the United States Mail to all parties of record at their addresses shown below:

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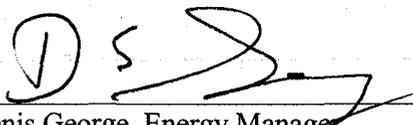
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