

**INTERVENTION
ORIGINAL**
BOEHM, KURTZ & LOWRY

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



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Via Overnight Mail

December 22, 2005

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

Re: Docket No. E-01345A-05-0816

Dear Sir or Madam:

Please find enclosed the original and thirteen (13) copies of the Petition to Intervene of the Kroger Co. to be filed in the above-referenced matter.

Please place this document of file.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "K. Kurtz".

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

MLKkew
Attachments

AZ CORP COMMISSION
DOCUMENT CONTROL

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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 22nd day of December, 2005.

Company	Contact	Address
	C. Webb Crockett	3003 N. Central Ave., Suite 2600 Phoenix, Arizona 85012-2913
Arizona Public Service Company	Thomas Mumaw	PO Box 53999 Phoenix, Arizona 85072-3999
Arizona Corporation Commission	Ernest Johnson	1200 W. Washington Phoenix, Arizona 85007-2927
Arizona Corporation Commission	Chris Kempley	1200 W. Washington Phoenix, Arizona 85007-2927
Arizona Corporation Commission	Lyn Farmer	1200 W. Washington Phoenix, Arizona 85007-2927
	Barbara Klemstine	P.O. Box 53999 Phoenix, Arizona 85072-3999
	Deborah Scott	One Arizona Center Phoenix, Arizona 85004-0000



Michael L. Kurtz, Esq.

BEFORE THE ARIZONA CORPORATION COMMISSION

**IN THE MATTER OF THE APPLICATION OF :
ARIZONA PUBLIC SERVICE COMPANY FOR : DOCKET NO. E-0134A-05-0816
A HEARING TO DETERMINE THE FAIR :
VALUE OF THE UTILITY PROPERTY OF THE :
COMPANY FOR RATEMAKING PURPOSES, :
TO FIX A JUST AND REASONABLE RATE OF :
RETURN THEREON, TO APPROVE RATE :
SCHEDULES DESIGNED TO DEVELOP SUCH :
RETURN, AND TO AMEND DECISION NO. 67744 :**

PETITION TO INTERVENE OF KROGER CO.

The Kroger Co. ("Petitioner") hereby petitions the Arizona Corporation Commission ("Commission") for leave to intervene and participate in the proceeding concerning the application of the Arizona Public Service Company ("Applicant"). In support of its Petition it states as follows:

1. Name and Addresses of Petitioner:

The Kroger Co.
1014 Vine Street, G-07
Cincinnati, Ohio 45202
Telephone: 513-762-4538 Facsimile: 513-762-4012
E-mail: dgeorge@kroger.com

2. Name and Address of Attorneys Representing Petitioner:

Michael L. Kurtz, Esq.
Kurt J. Boehm, Esq.
BOEHM, KURTZ & LOWRY
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
Telephone: 513-421-2255 Facsimile: 513-421-2764
E-mail: mkurtz@BKLawfirm.com
kboehm@BKLawfirm.com

Mr. Kurtz is an out-of-state attorney licensed in Ohio, Pennsylvania, Michigan and Kentucky; and Mr. Boehm is an out-of-state attorney licensed to practice in Ohio and Kentucky. Kroger is in the process of retaining local counsel and will file a pro hac vice motion shortly.

3. Identify the Petitioner:

Petitioner is a retail electric customer of the Arizona Public Service Company (the "Company"). Petitioner has approximately 36 grocery stores and other facilities that purchase their electric supply from the Company.

4. Petitioner's Interest 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 36 grocery stores in the state of Arizona that purchase their electric supply from the Company. These stores purchase more than 100 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. If the Company's application is granted, then the cost for electric power service to Petitioner could be substantially impacted. Accordingly, Petitioner has a substantial and vital interest in the outcome of this proceeding which cannot be adequately represented by any other party.

3. **Issues To Be Raised:**

The primary issue the Petitioner intends to address in this case will be whether the rate increase sought by the Applicant is reasonable and cost justified. We also intend to address whether the proposed allocation of the rate increase and the design of the new rates are just and reasonable.

WHEREFORE, for the reasons set forth above, Petitioner requests that this Petition to Intervene be granted.

DATED this 22nd day of December, 2005.



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
kboehm@BKLawfirm.com