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**BOEHM, KURTZ & LOWRY**

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

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2008 NOV -5 A 11: 55

AZ CORP COMMISSION  
DOCKET CONTROL

**Via Overnight Mail**

November 4, 2008

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

Arizona Corporation Commission  
**DOCKETED**

NOV -5 2008

**Re: Docket No. E-01345A-08-0172**



Dear Sir or Madam:

Please find enclosed the original and thirteen (13) copies of the MOTION AND CONSENT OF LOCAL COUNSEL FOR PRO HAC VICE ADMISSION OF OUT OF STATE COUNSEL FOR THE KROGER CO. and a draft PROCEDURAL ORDER RE: PRO HAC VICE ADMISSION OF OUT OF STATE COUNSEL filed in the above-referenced matter.

All parties of record have been served. Please place this document of file.

Very Truly Yours,

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

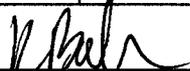
John William Moore, Jr.,  
Arizona Bar No. 021942

MLKkew  
Attachments

**CERTIFICATE OF SERVICE**

I hereby certify that true copy of the foregoing was served by regular U.S. mail (unless otherwise noted), this 4 day of November, 2008 on the parties listed on the attached service list.

<b>Company</b>	<b>Contact</b>	<b>Address</b>
	Nicholas Enoch	349 N. Fourth Ave. Phoenix, Arizona 85003
	Cynthia Zwick	1940 E. Luke Avenue Phoenix, Arizona 85016
	Scott Canty	The Hopi Tribe Kykotsmovi, Arizona 86039
	Jeffrey Woner	K.R. SALINE & ASSOC., PLC Mesa, Arizona 85201
	Daniel Pozefsky	1110 West Washington, Suite 220 Phoenix, Arizona 85007
	Jason Moyes	1405 W. 16th Street Yuma, Arizona 85364
	Arizona Reporting Service, Inc.	2200 N. Central Ave. -502 Phoenix, Arizona 85004-1481
	Janice Alward	1200 W. Washington Phoenix, Arizona 85007
	Timothy Hogan	202 E. McDowell Rd. - 153 Phoenix, Arizona 85004
	David Berry	P.O. Box 1064 Scottsdale, Arizona 85252-1064
	Jeff Schlegel	1167 W. Samalayuca Dr. Tucson, Arizona 85704-3224
	Michael Curtis	501 East Thomas Road Phoenix, Arizona 85012-3205
	Michael Grant	2575 E. Camelback Rd. Phoenix, Arizona 85016-9225
	Gary Yaquinto	Arizona Utilitiy Investors Association Phoenix, Arizona 85004
	Lawrence Robertson, Jr.	2247 E. Frontree Rd., Suite 1 Tubac, Arizona 85646
	C. Webb Crockett	3003 N. Central Ave. - 2600 Phoenix, Arizona 85012-2913
Arizona Corporation Commission	Lyn Farmer	1200 W. Washington Phoenix, Arizona 85007-2927
Arizona Corporation Commission	Ernest Johnson	1200 W. Washington Phoenix, Arizona 85007-2927
Arizona Public Service Company	Thomas Mumaw	PO Box 53999 Phoenix, Arizona 85072-3999

  
\_\_\_\_\_  
Michael L. Kurtz, Esq.  
Kurt J. Boehm, Esq.

BEFORE THE  
ARIZONA CORPORATION COMMISSION

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MIKE GLEASON, CHAIRMAN  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
KRISTIN K. MAYES  
GARY PIERCE

2008 NOV -5 A 11:55

AZ CORP COMMISSION  
DOCKET CONTROL

In The Matter Of The Application Of Arizona Public Service Company For 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	:	Docket No. E-01345A-08-0172
	:	<b>MOTION AND CONSENT OF LOCAL COUNSEL FOR PRO HAC VICE ADMISSION OF OUT OF STATE COUNSEL</b>

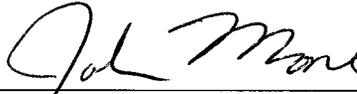
The above-named attorney, pursuant to Rule 38 (c) and(d) Rules of the Supreme Court, moves the court to admit Kurt J. Boehm, Esq. as counsel pro hac vice in this action.

Pursuant to Rule 38 (a)3 (c) Rules of the Supreme Court, the following exhibits are attached hereto:

1. the original Verified Application;
2. the original Certificate(s) of Good Standing; and
3. the State Bar of Arizona Notice of Receipt.

The filing fee as required by Rule 38(d) has been submitted to the State Bar of Arizona. John William Moore, Jr., hereby agrees to serve as designated local counsel for the subject case. A proposed order admitting Kurt J. Boehm, Esq. accompanies this motion.

DATED this 14 day of October, 2008.

  
\_\_\_\_\_  
John William Moore, Jr.  
721 North 16<sup>th</sup> Street  
Phoenix, AZ 85020  
702-743-5431  
Arizona Bar No. 021942

October 30, 2008

Arizona Corporation Commission

**RE: Pro Hac Vice Application: Kurt Boehm P168730**

Dear Sir or Madam:

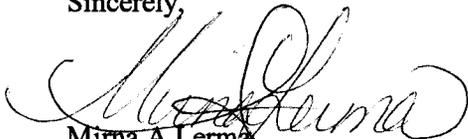
We, respectfully, request that you accept the attached copies of Mr. Boehm's pro hac application as originals.

Although our records indicate that we received Mr. Boehm's original application on October 14, 2008 and mailed it on October 22, 2008, as of the above date, local counsel has not received the Notice of Receipt or the original application. Our offices are currently awaiting a return to sender from the U.S. Postal Service.

Enclosed you will find a new Notice of Receipt and copies of Mr. Boehm's original application and Certificates of Good Standing from Kentucky Bar Association & Supreme Court of Ohio. The State Bar of Arizona confirms receipt of the originals but only maintain copies in our office.

If you have any questions or need further information, please contact me at (602) 340-7239.

Sincerely,



Mirna A Lerma  
Resource Center Agent

Enclosures

1 **Arizona Corporation Commission**

2  
3 In the matter of )  
4 )  
5 Application of APS, )  
6 to determine fair value )  
7 v. )  
8 )  
9 )

CASE # 01345A-08-0172

SBA App # 1004304

8 **NOTICE OF RECEIPT OF**  
9 **COMPLETE APPLICATION**

10 NOTICE IS HEREBY given by THE STATE BAR OF ARIZONA that it has  
11 received the verified application and fee from Kurt Boehm.

12 In addition to this application, applicant has made the following applications to appear  
13 pro hac vice, pursuant to Rule38 (a), within the previous three (3) years:

Title of Matter	Court/Agency	Date	Granted?	
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	Yes	No
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
			Yes	No

16 Exhibit A, the original verified application and Exhibit B, the original Certificate(s) of  
17 Good Standing are attached hereto.

18 DATED this 30<sup>th</sup> day of October 2008

19   
20 Mirna A Lerma  
21 Resource Center  
22 State Bar of Arizona

23 Original Mailed on this 30<sup>th</sup> day of October 2008 to:

24 Mr John Moore Jr  
25 7321 N 16<sup>th</sup> St  
Phoenix, AZ 85020

**TO PRINT**



For Official Use Only  
App# 10043021  
Pro Hac ID # P108730

**NONRESIDENT ATTORNEY  
PRO HAC VICE APPLICATION**

Name: Kurt J. Boehm

Residence Address: 6082 Crittenden Dr., Cincinnati, Ohio 45244

Office Address: 36 E. Seventh St., Suite 1510, Cincinnati, Ohio 45202

Telephone: 513.421.2255 Fax: 513.421.2764

Title of cause or case where applicant seeks to appear: App. of APS to determine fair value....

Docket Number: E-01345A-08-0172

Court, Board, or Administrative Agency: Arizona Corporation Commission

Party on whose behalf applicant seeks to appear: The Kroger Co.

Courts to Which Applicant Has Been Admitted:	Date of Admission:	Bar Number:
<u>Kentucky</u>	<u>2002</u>	<u>89327</u>
<u>Ohio</u>	<u>2003</u>	<u>0076047</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Applicant is a member in good standing in such courts.

Applicant is not currently disbarred or suspended in any court.

Applicant  is  is not (**select one**) currently subject to any pending disciplinary proceeding or investigation by any court, agency or organization authorized to discipline attorneys at law.

Jurisdiction(s) Where Discipline Matter Pending:	Nature of Matter Under Investigation:	Name / Address of Disciplinary Authority:
_____	_____	_____
_____	_____	_____
_____	_____	_____

Applicant  has  has not (**select one**) been disciplined by any court, agency or organization authorized to discipline attorneys at law.

In the preceding three (3) years, applicant has filed applications to appear as counsel under Rule 38(a), Arizona Rules of Supreme Court in the following:

Title of Matter:	Docket #:	Court or Agency:	Application Granted? (Y/N)
_____	_____	_____	<u>N/A</u>
_____	_____	_____	<u>N/A</u>
_____	_____	_____	<u>N/A</u>
_____	_____	_____	<u>N/A</u>

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OCT 14 2008

Name of local counsel: John William Moore, Jr.

State Bar of Arizona Number: 021942

Address: 7321 North 16th St., Phoenix, Arizona 85020

Telephone: 702.743.5431 Fax: \_\_\_\_\_

Name(s) of each party in this cause and name and address of all counsel of record:

Party:	Counsel of Record:	Address:
<u>See attached.</u>	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Applicant is including with this application a nonrefundable application fee, payable to the State Bar of Arizona, in the amount of \$391.00.

This case or cause  is  is not (select one) a related or consolidated matter for which applicant has previously applied to appear pro hac vice in Arizona. If this matter is a related or consolidated with any previous application, applicant certifies the following:

Applicant certifies the following:

1. Applicant shall be subject to the jurisdiction of the courts and agencies of the State of Arizona and to the State Bar of Arizona with respect to the law of this state governing the conduct of attorneys to the same extent as an active member of the State Bar of Arizona, as provided in Rule 46(b) Rules of the Supreme Court.
2. Applicant will review and comply with appropriate rules of procedure as required in the underlying cause.
3. Applicant understands and shall comply with the standards of conduct required of members of the State Bar of Arizona.

Verification

STATE OF Ohio )  
County of Hamilton ) ss.

I, the Applicant, swear that all statements in the application are true, correct and complete to the best of my knowledge and belief.

Dated: 10/14/08 Applicant's signature KBoehm

SUBSCRIBED AND SWORN TO before me this 14 day of Oct, 2008, by  
KURT J. BOEHM  
Name of Applicant



KIMBERLY WALTON  
Notary Public, State of Ohio  
My commission expires 08/26/2009

**NOTE – As the application requires original signatures of the applicant and notary, this application cannot be filed electronically. Please submit all documents and fees by mail to:**

State Bar of Arizona  
Pro Hac Vice  
4201 N. 24th Street, Suite 200  
Phoenix, AZ 85016

For further information, please contact our Membership Records Department at 602-340-7239.

Copies of the foregoing were mailed to the  
 this \_\_\_\_ day of \_\_\_\_\_, 2008

<u>Company</u>	<u>Contact</u>	<u>Address</u>
	Cynthia Zwick	1940 E. Luke Avenue Phoenix, Arizona 85016
	Scott Canty	The Hopi Tribe Kykotsmovi, Arizona 86039
	Jeffrey Woner	K.R. SALINE & ASSOC., PLC Mesa, Arizona 85201
	Daniel Pozefsky	1110 West Washington, Suite 220 Phoenix, Arizona 85007
	Jason Moyes	1405 W. 16th Street Yuma, Arizona 85364
	Arizona Reporting Service, Inc.	2200 N. Central Ave. -502 Phoenix, Arizona 85004-1481
	Janice Alward	1200 W. Washington Phoenix, Arizona 85007
	Timothy Hogan	202 E. McDowell Rd. - 153 Phoenix, Arizona 85004
	David Berry	P.O. Box 1064 Scottsdale, Arizona 85252-1064
	Jeff Schlegel	1167 W. Samalayuca Dr. Tucson, Arizona 85704-3224
	Michael Curtis	501 East Thomas Road Phoenix, Arizona 85012-3205
	Michael Grant	2575 E. Camelback Rd. Phoenix, Arizona 85016-9225
	Gary Yaquinto	Arizona Utiltiy Investors Association Phoenix, Arizona 85004
	Lawrence Robertson, Jr.	2247 E. Frontree Rd., Suite 1 Tubac, Arizona 85646
	Michael Kurtz	36 E. Seventh St. - 2110 Cincinnati, Ohio 45202
	C. Webb Crockett	3003 N. Central Ave. - 2600 Phoenix, Arizona 85012-2913
Arizona Corporation Commission	Lyn Farmer	1200 W. Washington Phoenix, Arizona 85007-2927
Arizona Corporation Commission	Ernest Johnson	1200 W. Washington Phoenix, Arizona 85007-2927
Arizona Public Service Company	Thomas Mumaw	PO Box 53999 Phoenix, Arizona 85072-3999

# KENTUCKY BAR ASSOCIATION

514 WEST MAIN STREET  
FRANKFORT, KENTUCKY 40601-1812

(502) 564-3795

FAX (502) 564-3225

[www.kybar.org](http://www.kybar.org)



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R. Michael Sullivan

Daniel J. Venters

William H. Wilhoit

## *THIS IS TO CERTIFY THAT*

**KURT JOSEPH BOEHM**

*6082 Crittenden Drive*

*Cincinnati, Ohio 45244*

**Membership No. 89327**

*is an active member in good standing with the Kentucky Bar Association as required by the Rules of the Supreme Court of Kentucky. Dated this 29<sup>th</sup> day of September, 2008.*

**JAMES L. DECKARD**

**REGISTRAR**



By: \_\_\_\_\_

*Nicole A. Key*

*Nicole A. Key, Deputy Registrar*

# The Supreme Court of Ohio

## C E R T I F I C A T E

I, SUSAN B. CHRISTOFF, Director of the Attorney Services Division of the Supreme Court of Ohio, do hereby certify that I am the custodian of the records of the Office of Attorney Services of the Supreme Court and that the Attorney Services Division is responsible for reviewing Court records to determine the status of Ohio attorneys. I further certify that, having fulfilled all of the requirements for admission to the practice of law in Ohio,

Kurt Joseph Boehm

was admitted to the practice of law in Ohio on May 09, 2003; has registered as an active attorney pursuant to the Supreme Court Rules for the Government of the Bar of Ohio; is in good standing with the Supreme Court of Ohio; and is entitled to practice law in this state.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court, this 30th day of September, 2008.

SUSAN B. CHRISTOFF  
*Director, Attorney Services Division*

  
Barbara J. White  
*Attorney Services Specialist*

**BEFORE THE  
ARIZONA CORPORATION COMMISSION**

**COMMISSIONERS**

MIKE GLEASON, CHAIRMAN  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
KRISTIN K. MAYES  
GARY PIERCE

In The Matter Of The Application Of Arizona Public Service :  
Company For 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 :

Docket No. E-01345A-08-0172

**PROCEDURAL ORDER RE: PRO HAC  
VICE ADMISSION OF OUT OF STATE  
COUNSEL**

Based upon the Motion for Admission Pro Hac Vice of Kurt J. Boehm and the consent to appear as local counsel by John William Moore, Jr., it is hereby ordered that Kurt J. Boehm be admitted pro hac vice as counsel for The Kroger Co. in the above-entitled matter.

DATED this \_\_\_ day of November, 2008.

Judge \_\_\_\_\_