

**BOEHM, KURTZ & LOWRY**  
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Via Electronic Mail

June 24, 2011

Mary Jo Kunkle, Executive Secretary  
Michigan Public Service Commission  
6545 Mercantile Way  
Lansing, MI 48911

**Re: Case No. U-16794**

Dear Ms. Kunkle:

Please find enclosed the following: 1) PETITION TO INTERVENE OF THE KROGER CO., 2) MOTION FOR ADMISSION PRO HAC VICE, 3) AFFIDAVIT OF KURT J. BOEHM IN SUPPORT OF MOTION FOR ADMISSION PRO HAC VICE and 4) PROOF OF SERVICE filed in the above captioned matter.

Please place this document of file. Thank you for your assistance in this matter.

Very truly yours,

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

MLKkew  
Enclosure

**STATE OF MICHIGAN  
BEFORE THE PUBLIC UTILITIES COMMISSION**

<b>In the Matter of the application of Consumer Energy Company for authority to increase its rates for the generation and distribution of electricity and for other relief</b>	: : : :	<b>Case No. U-16794</b>
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**PROOF OF SERVICE**

Kurt J. Boehm, Esq., duly sworn, deposes and says that on the 24<sup>th</sup> day of June, 2011 he served via (e-mail) when available, and a paper copy by regular mail of: 1) PETITION TO INTERVENE OF THE KROGER CO., 2) MOTION FOR ADMISSION PRO HAC VICE OF KURT J. BOEHM, ESQ., 3) AFFIDAVIT OF KURT J. BOEHM IN SUPPORT OF MOTION PRO HAC VICE and a copy of this proof of service upon those individuals listed on the attached service list.

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Kurt J. Boehm, Esq.  
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Ph: 517-487-7000 Fax: 517-487-1100  
Email: [szilagylaw@sbcglobal.net](mailto:szilagylaw@sbcglobal.net)

**COUNSEL FOR THE KROGER CO.**

Subscribed to and sworn before me  
this 24<sup>th</sup> day of June, 2011.

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Notary Public

**SERVICE LIST**  
**MPSC Case No. U-16794**

Case Coordinators:

Brian Welke

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**Counsel for Consumers Energy Company**

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**Consultants:**

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**STATE OF MICHIGAN  
BEFORE THE PUBLIC UTILITIES COMMISSION**

<b>In the Matter of the application of Consumer Energy Company for authority to increase its rates for the generation and distribution of electricity and for other relief</b>	: : : :	<b>Case No. U-16794</b>
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**PETITION TO INTERVENE OF KROGER CO.**

Pursuant to the Michigan Public Service Commission (“Commission”) Rules of Practice and Procedure and the Michigan Administrative Procedures Act MCL §24.101 et. seq., the Kroger Co. (“Kroger”) petitions to intervene in this proceeding. In support, Petitioner states as follows:

**1. Name and Addresses of Petitioner:**

The Kroger Co.  
1014 Vine Street  
Cincinnati, Ohio 45202

**2. Name and Address of Attorneys/Consultants Representing Petitioner:**

Kurt J. Boehm, Esq.  
**BOEHM, KURTZ & LOWRY**  
36 East Seventh Street, Suite 1510  
Cincinnati, Ohio 45202  
Ph: 513-421-2255 Fax: 513-421-2764  
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Salt Lake City, Utah 84111  
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E-mail: [khiggins@energystrat.com](mailto:khiggins@energystrat.com)

Petitioner is a retail electric customer of Consumers Energy Company (“Company”). Petitioner has approximately 26 grocery stores and other facilities that purchase their electric supply from the Company.

**3. 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 112 grocery stores in the state of Michigan. Of that total, approximately 26 purchase their electric supply from the Company. These stores purchase more than 80 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.

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

DATED this 24<sup>th</sup> day of June, 2011.

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Kurt J. Boehm, Esq.  
**BOEHM, KURTZ & LOWRY**  
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**COUNSEL FOR THE KROGER CO.**

**STATE OF MICHIGAN  
BEFORE THE PUBLIC UTILITIES COMMISSION**

<b>In The Matter Of The Application Of Consumer Energy Company For Authority To Increase Its Rates For The Generation And Distribution Of Electricity And For Other Relief</b>	: : : : :	<b>Case No. U-16794 (E-file)</b>
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**MOTION FOR ADMISSION *PRO HAC VICE***

Anthony J. Szilagyi, a Michigan attorney, hereby moves that Kurt J. Boehm, Esq. be granted permission to participate in this case as counsel for The Kroger Co. In support of this Motion, the movant states as follows:

1. Rule 309(2) of the rules of practice and procedure for the Michigan Public Service Commission (“MPSC” or “Commission”) states:

An attorney who is duly licensed to practice law in another state or in the courts of the United States may be permitted to practice before the Commission on the same basis as in the circuit courts in this State.

2. Rule 15, Section 2 of the rules concerning the State Bar of Michigan states:

Any person who is duly licensed to practice law in another state or territory, or in the District of Columbia, of the United States of America, or in any foreign country, may be permitted to engage in the trial of a specific case in a court or before an administrative tribunal in this state when associated with and on motion of an active member of the State Bar of Michigan who appears of record in the case. Such temporary permission may be revoked by the court summarily at any time for misconduct.

3. Kurt J. Boehm is a partner in the law firm of Boehm, Kurtz & Lowry with their primary offices in Cincinnati, Ohio at:

Boehm, Kurtz & Lowry  
36 E. Seventh St., Suite 1510  
Cincinnati, Ohio 45202

Kurt J. Boehm represents The Kroger Co. in this proceeding and their address is:

The Kroger Co.  
1014 Vine Street  
Cincinnati, Ohio 45202

4. Kurt J. Boehm is duly licensed and admitted to practice law in the State of Ohio and the State of Kentucky.
5. Anthony J. Szilagyi is an active member, in good standing, of the State Bar of Michigan.

WHEREFORE, I, Anthony J. Szilagyi do here attest that I have read the affidavit of Kurt J. Boehm. I have made a reasonable inquiry concerning the averments made therein and believe the out-of-state attorneys' representations to be true. I hereby agree to ensure that the procedures of Michigan Court Rule 8.126 are followed and respectively request that Kurt J. Boehm be admitted in Case Number U-16794.

DATED this 24<sup>th</sup> day of June, 2011.

Respectfully Submitted,

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Anthony J. Szilagyi, Esq. (Michigan #P-56473)  
Law Offices of Anthony J. Szilagyi, PLLC  
110 South Clemens Avenue  
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**AFFIDAVIT OF KURT J. BOEHM IN SUPPORT  
OF MOTION PRO HAC VICE**

COMES NOW Kurt J. Boehm respectfully requesting that the Michigan Public Service Commission permit him to appear as counsel for The Kroger Co. in the above captioned case. Pursuant to Public Service Commission Rule 309(2) and Michigan Court Rule 8.126, Mr. Boehm states as follows:

1. Mr. Boehm is a partner in the law firm of Boehm, Kurtz & Lowry. He was admitted to the Kentucky bar in 2002, the Ohio bar in 2003.
2. Mr. Boehm has not been denied pro hac vice status in the state of Michigan.
3. Mr. Boehm has not had pro hac vice status revoked in the state of Michigan.
4. Mr. Boehm has not been denied admission in any jurisdiction.
5. Mr. Boehm has not been formally disciplined or sanctioned by any court in the state of Michigan, or anywhere else.
6. Mr. Boehm has not been the subject of any injunction, cease-and-desist letter, or other action arising from a finding he engaged in the unauthorized practice of law in Michigan or elsewhere.
7. No formal disciplinary proceeding has ever been brought against Mr. Boehm by a disciplinary authority or unauthorized practice of law commission in any jurisdiction.
8. Mr. Boehm has not been placed on probation by a disciplinary authority in any jurisdiction.

9. Mr. Boehm has not been held formally in contempt or otherwise sanctioned by any court in a written order for disobedience to its rules or orders.

10. Mr. Boehm has reviewed the Michigan Rules of Professional Conduct, Michigan Court Rules, and the Michigan Rules of Evidence.

I hereby verify that the foregoing statements are true and correct to the best of my knowledge, information belief.

Respectfully submitted,

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Kurt J. Boehm, Esq.  
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June 24, 2011

**COUNSEL FOR THE KROGER CO.**