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**PUBLIC SERVICE  
COMMISSION**

**Via Overnight Mail**

December 9, 2008

Stephanie Stumbo Executive Director,  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40602

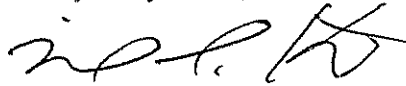
**Re: Case No. 2008-00495**

Dear Ms. Stumbo:

Please find enclosed the original and twelve (12) copies each of the PETITION TO INTERVENE OF THE KROGER CO. in the above-referenced matter. By copy of this letter, all parties listed on the Certificate of Service have been served.

Please place this document of file.

Very Truly Yours,



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

MLK:kew  
Attachment

cc: Certificate of Service

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served by mailing a true and correct copy, by first-class postage prepaid mail, (unless otherwise noted) to all parties on the 9<sup>th</sup> day of December, 2008.

Rocco O D'Ascenzo  
Duke Energy Kentucky, Inc.  
139 East Fourth Street, EX 400  
Cincinnati, OH 45202

Amy B Spiller  
Associate General Counsel  
Duke Energy Kentucky, Inc.  
139 East Fourth Street, EX 400  
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Michael L. Kurtz, Esq.  
Kurt J. Boehm, Esq.

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

<b>Application Of Duke Energy Kentucky, Inc. For Approval Of Energy Efficiency Plan Including An Energy Efficiency Rider And Portfolio Of Energy Efficiency Programs</b>	: : :	<b>Case No. 2008-00495</b>
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**PETITION TO INTERVENE OF  
THE KROGER CO.**

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Pursuant to K.R.S. §278.310 and 807 KAR 5:001 Section 3(8), The Kroger Co. ("Kroger") requests that it be granted full intervenor status in the above-captioned proceeding and states in support thereof as follows:

1. Kroger is one of the 20 largest electric customers of Union Light Heat & Power Company dba Duke Energy Kentucky ("Duke"). Kroger operates approximately 11 grocery stores and one computer center in the service territory of Duke, has an aggregate load of approximately 6-7 MW, and operates at a 70-75% load factor.
2. The matters being decided by the Commission in this case may have a significant impact on the rates paid by Kroger for electricity. Electricity represents a significant cost of doing business for Kroger. The attorneys and consultants for Kroger authorized to represent them in this proceeding and to take service of all documents are:

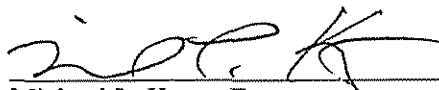
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3. The position of Kroger cannot be adequately represented by any existing party. Kroger intends to play a constructive role in the Commission's decision making process herein and Kroger's participation will not unduly prejudice any party.

**WHEREFORE**, Kroger requests that it be granted full intervenor status in the above captioned proceeding.

Respectfully submitted,



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

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**COUNSEL FOR THE KROGER CO.**

December 9, 2008