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**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

**The Kroger Company,
a corporation, and**

**Albertsons Companies Inc.,
a corporation,**

Respondents,

DOCKET NO. 9428

**AGREED MOTION OF NON-PARTY WINCO HOLDINGS, INC. FOR EXTENSION OF
TIME TO LIMIT OR QUASH OR OTHERWISE RESPOND TO SUBPOENA**

Non-party WinCo Holdings, Inc. (“WinCo”) hereby moves for an extension of time to April 16, 2024, to move to limit, quash, or otherwise respond to the subpoena served on WinCo by the United States of America Federal Trade Commission (“Complaint Counsel”) on April 1, 2024 (the “Subpoena”).¹ Complaint Counsel does not object to this motion and agrees with the relief requested.

Complaint Counsel served WinCo with the Subpoena on April 1, 2024, with a production date of April 19, 2024. As a result, under Rule 3.34(c), the deadline for WinCo to move to limit, quash, or otherwise respond to the Subpoena is April 11, 2024.

WinCo continues to negotiate productively with Complaint Counsel and prepare its response to the Subpoena. WinCo requests an extension of its deadline to move to limit, quash, or otherwise respond to the Subpoena under 16 C.F.R. § 3.34(c) so that WinCo can continue to

¹ Although the Subpoena states that it was served on March 27, 2024, Complaint Counsel inadvertently sent the Subpoena to the wrong address. Complaint Counsel then emailed the Subpoena to WinCo’s counsel on April 1, 2024. WinCo’s position, to which Complaint Counsel does not object, is that service was effective April 1, 2024.

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negotiate with Complaint Counsel and thereby eliminate or narrow any issues that need to be presented to the Court for resolution.

Pursuant to the Court's March 20, 2024 scheduling order, discovery does not close until June 11, 2024. Accordingly, WinCo does not believe that the requested extension will delay progress of these proceedings.

Counsel for WinCo has conferred with Complaint Counsel regarding this request and represents that Complaint Counsel agrees with the relief requested in this motion.

For the foregoing reasons, WinCo respectfully requests that the Court grant the relief requested pursuant to 16 C.F.R. § 4.3(b)

DATED this 11th day of April, 2024.

Respectfully submitted,

MILLER NASH LLP



Edward T. Decker, OSB No. 196413
edward.decker@millernash.com
Christopher J. Riley, OSB No. 211614
christopher.riley@millernash.com
Phone: 503.224.5858
Fax: 503.224.0155
Attorneys for WinCo Foods, LLC

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BEFORE THE FEDERAL TRADE COMMISSION
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In the Matter of

**The Kroger Company,
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a corporation,**

Respondents,

DOCKET NO. 9428

**[PROPOSED] ORDER GRANTING AGREED MOTION OF NON-PARTY WINCO
HOLDINGS, INC. FOR EXTENSION OF TIME TO LIMIT OR QUASH OR
OTHERWISE RESPOND TO SUBPOENA**

On April 11, 2024, non-party WinCo Holdings, Inc. (“WinCo”) filed an Agreed Motion for Extension of Time to Move to Limit or Quash or Otherwise Respond to a subpoena (“Motion”) served by the United States of America Federal Trade Commission (“Complaint Counsel”) on April 1, 2024.

Under FTC Rule of Practice 3.34(c), any motion to limit or quash a subpoena must be filed within the earlier of ten days of service of the subpoena or the time for compliance therewith. WinCo states that it seeks an extension of time in order to continue its negotiations with Complaint Counsel regarding the subpoena, thereby narrowing potential discovery disputes.

FTC Rule 4.3(b) authorizes the Administrative Law Judge, except in circumstances not here presented, to extend any time limit prescribed by the rules “[f]or good cause shown.” 16 C.F.R. § 4.3(b). Based on the representation in the Motion, WinCo has demonstrated good cause for the requested extension. Accordingly, the Motion is GRANTED and it is hereby

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ORDERED that WinCo's deadline for filing any motion to limit or quash or otherwise respond to the subpoena pursuant to Rule 3.34(c) is extended to April 16, 2024.

ORDERED:

Date: April [], 2024

D. Michael Chappell
Chief Administrative Law Judge

PUBLIC**CERTIFICATE OF SERVICE AND ELECTRONIC FILING**

I hereby certify that on April 12, 2024, a true and correct copy of the foregoing document was filed electronically with the Federal Trade Commission using the Commission's E-Filing System, and a notification of such filing with a courtesy copy of the foregoing document was sent by email to:

April Tabor
Office of the Secretary Federal Trade Commission
600 Pennsylvania Avenue, NW, Rm. H-113 Washington, DC 20580
ElectronicFilings@ftc.gov

The Honorable D. Michael Chappell
Chief Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, N. W., Rm. H-110 Washington, D.C. 20580

I also hereby certify that on April 11, 2024, I caused a true and correct PDF copy of the foregoing document to be served by email to:

Charles Dickinson
James H. Weingarten
Emily Blackburn
Paul Frangie
Laura Hall
Janet Kim
Kenneth A. Libby
Eric Olson
Rohan Pai
Harris Rothman
Albert Teng
Elizabeth Arens
Jacob Hamburger
Joshua Smith
Katherine Bies
Lily E. Hough
Katharine Drummonds
Federal Trade Commission Bureau of Competition
600 Pennsylvania Avenue, NW Washington, DC 20580
cdickinson@ftc.gov
jweingarten@ftc.gov
eblackburn@ftc.gov
pfrangie@ftc.gov
lhall1@ftc.gov
jkim3@ftc.gov
klibby@ftc.gov
eolson@ftc.gov
rpai@ftc.gov

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hrothman@ftc.gov
ateng@ftc.gov
earens@ftc.gov
jhamburger1@ftc.gov
jsmith3@ftc.gov
kbies@ftc.gov
lthough@ftc.gov
kdrummonds@ftc.gov

Complaint Counsel

Michael B. Bernstein
Matthew Wolf
Sonia Pfaffenroth
Joshua Davis
Michael Kientzle
Jason Ewart
Yasmine Harik
Christina Cleveland
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave, NW
Washington, DC 20001
Telephone: (202) 942-5227
michael.b.bernstein@arnoldporter.com
matthew.wolf@arnoldporter.com
sonia.pfaffenroth@arnoldporter.com
joshua.davis@arnoldporter.com
michael.kientzle@arnoldporter.com
jason.ewart@arnoldporter.com
yasmine.harik@arnoldporter.com

John Holler
Arnold & Porter Kaye Scholer LLP
250 West 55th Street
New York, NY 10019
Telephone: (212) 836-7739
john.holler@arnoldporter.com

Mark Perry
Luke Sullivan
Weil, Gotshal & Manges LLP
2001 M Street, NW, Suite 600
Washington, DC 20036
Telephone: (202) 682-7511
mark.perry@weil.com
luke.sullivan@weil.com

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Luna Barrington
Weil, Gotshal & Manges LLP 767 Fifth Avenue
New York, NY 10153
Telephone: (212) 310-8421
luna.barrington@weil.com

Bambo Obaro
Weil, Gotshal & Manges LLP
200 Redwood Shores Parkway
Redwood Shores, CA 94065
Telephone: (650) 802-3083
bambo.obaro@weil.com

Counsel for The Kroger Company

Edward Hassi
Debevoise & Plimpton LLP
801 Pennsylvania Avenue, NW
Washington, DC 20004
Telephone: (202) 383-8135
thassi@debevoise.com

Michael Schaper
Shannon R. Selden
J. Robert Abraham
Natascha Born
Jaime Freilich-Fried
Marieugenia Cardenas
Tom E. Buckley
Heather T. Mehler
Marie Ventimiglia
Debevoise & Plimpton LLP
66 Hudson Boulevard
New York, NY 10001
Telephone: (212) 909-6737
mschaper@debevoise.com
srselden@debevoise.com
jrabraham@debevoise.com
nborn@debevoise.com
jmfried@debevoise.com
mcardena@debevoise.com
tebuckley@debevoise.com
htmehler@debevoise.com
msventim@debevoise.com

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Mike Cowie
James Fishkin
Dechert LLP
1900 K Street, NW
Washington, DC 20006
Telephone: (202) 261-3339
mike.cowie@dechert.com
james.fishkin@dechert.com

Thomas Miller
Dechert LLP
Cira Centre
2929 Arch Street
Philadelphia, PA 19104
Telephone: (215) 994-2906
thomas.miller@dechert.com

George L. Paul
White & Case LLP
701 13th Street, NW
Washington, DC 20005
Telephone: (202) 626-3656
gpaul@whitecase.com

Counsel for Albertsons Companies, Inc.

DATED this 11th day of April, 2024.

Respectfully submitted,



Christopher J. Riley, OSB No. 211614
christopher.riley@millernash.com
MILLER NASH LLP
1140 SW Washington St., Ste. 700
Portland, OR 97205
Phone: 503.224.5858
Fax: 503.224.0155
Attorney for WinCo Holdings, Inc.