

PUBLIC

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

In the Matter of	§	
	§	
	§	Docket No. 9428
The Kroger Company and	§	
Albertsons Companies, Inc.	§	
	§	

**UNOPPOSED MOTION OF NON-PARTY PETE’S FRESH MARKET 4700
CORPORATION D/B/A PETE’S MARKET TO FURTHER EXTEND
THE TIME TO MOVE TO QUASH OR LIMIT SUBPOENA**

Non-party Pete’s Fresh Market 4700 Corporation d/b/a Pete’s Market (“Pete’s Market”), by and through its undersigned counsel, hereby moves pursuant to Rules 3.22, 3.34, and 4.3 of the Federal Trade Commission’s (“FTC”) Rules of Practice for Adjudicative Proceedings, to further extend its time to move to quash or limit the Subpoena for Production of Documentary material (the “Subpoena”) served on it by Complaint Counsel for the FTC in the above-captioned proceeding on April 17, 2024.

By order dated April 30, 2024, the time for Pete’s Market to file a motion to quash or limit the Subpoena was extended to May 13, 2024. Pete’s Market now respectfully requests that the deadline to file a motion to quash or limit the Subpoena under Rule 3.34(c), and to submit written objections to the subpoena under Subpoena instruction numbers 13 and 14, be further extended by fourteen (14) days from May 13, 2024 to May 27, 2024.

Counsel for Pete’s Market met and conferred with Complaint Counsel by phone on numerous occasions, including on May 8, 2024. They also corresponded via email. In an email sent on May 10, 2024, Complaint Counsel informed counsel for Pete’s Market that they do not oppose this motion for a fourteen (14) day extension of Pete Market’s deadline to object or otherwise move to limit or quash the subpoena.

Granting this extension will allow Pete’s Market to preserve its rights to object and/or seek adjudicative relief while Pete’s Market evaluates and investigates the Subpoena. It will also permit Pete’s Market to continue its meet and confer process with Complaint Counsel, and thus to

PUBLIC

negotiate reasonable limitations and modifications of the Subpoena, thereby potentially avoiding the necessity of filing a motion to quash or limit the Subpoena.¹

Accordingly, Pete's Market respectfully requests that this unopposed motion to extend the time to object or file a motion to quash or limit the Subpoena to May 27, 2024 be granted.

A proposed order granting the requested relief is attached.

Dated: May 13, 2024

Respectfully submitted,

By: /s/ Hal J. Wood

Hal J. Wood
**KILPATRICK TOWNSEND &
STOCKTON LLP**
500 West Madison Street, Suite 3700
Chicago, Illinois 60661
(312) 606-3200
hwood@ktslaw.com

*Counsel for Non-Party Pete's Fresh Market
4700 Corporation d/b/a Pete's Market*

¹ Pete's Market recognizes that additional time beyond the requested extension may be required to resolve the meet and confer process and respond to the Subpoena, or otherwise move for relief from the Subpoena as necessary. Therefore, Pete's Market reserves its rights to request additional extensions of time to seek relief from or respond to the Subpoena.

PUBLIC

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

In the Matter of

**The Kroger Company and
Albertsons Companies, Inc.**

§
§
§
§
§
§

Docket No. 9428

**[PROPOSED] ORDER GRANTING UNOPPOSED MOTION
OF NON-PARTY PETE’S FRESH MARKET 4700 CORPORATION
D/B/A PETE’S MARKET FOR EXTENSION OF TIME TO
MOVE TO QUASH OR LIMIT SUBPOENA**

On May 13, 2024, non-party Pete’s Fresh Market 4700 Corporation d/b/a Pete’s Market (“Pete’s Market”) filed a motion to further extend its time to move to limit or quash or otherwise respond to the subpoena (the “Subpoena”) issued by Complaint Counsel on April 17, 2024 (the “Motion”). Complaint Counsel does not oppose the relief requested in the Motion.

Under Federal Trade Commission (“FTC”) Rule of Practice 3.34(c), any motion to limit or quash a subpoena must be filed within 10 days of receipt of the subpoena. 16 C.F.R. § 3.34(c). Pursuant to FTC Rule of Practice 4.3(b), the Administrative Law Judge, except in circumstances not here presented, may extend any time limit prescribed by the rules “[f]or good cause shown.” 16 C.F.R. § 4.3(b).

Based on the representations in the Motion, non-party Pete’s Market has demonstrated good cause for the requested extension. Accordingly, the Motion is GRANTED and it is hereby ORDERED that Pete’s Market’s deadline for filing any motion to limit or quash or otherwise respond to the Subpoena is extended to May 27, 2024.

ORDERED:

D. Michael Chappell
Chief Administrative Law Judge

Date: May 13, 2024

PUBLIC

CERTIFICATE OF SERVICE

I hereby certify that on May 13, 2024, I filed the foregoing document electronically using the Federal Trade Commission's e-filing system, which will send notification of such filing to:

April Tabor
Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, D.C. 20580
ElectronicFilings@ftc.gov

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-110
Washington, D.C. 20580
OALJ@ftc.gov

I further certify that on May 13, 2024, I caused the foregoing document to be served via 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, D.C. 20580
cdickinson@ftc.gov
jweingarten@ftc.gov
eblackburn@ftc.gov

PUBLIC

pfrangie@ftc.gov
lhall1@ftc.gov
jkim3@ftc.gov
klibby@ftc.gov
eolson@ftc.gov
rpai@ftc.gov
hrothman@ftc.gov
ateng@ftc.gov
earens@ftc.gov
jhamburger1@ftc.gov
jsmith3@ftc.gov
kbies@ftc.gov
lthough@ftc.gov
kdrummonds@ftc.gov

Counsel for Albertsons Companies, Inc.

Michael B. Bernstein
Matthew Wolf
Sonia Pfaffenroth
Joshua Davis
Michael Kientzle
Jason Ewart
Yasmine Harik
Christina Cleveland
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Avenue, NW
Washington, D.C. 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) 839-7739 W
Washington, D.C. 20036
(202) 847-4010
john.holler@arnoldporter.com

PUBLIC

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

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
201 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, D.C. 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

PUBLIC

srselden@debevoise.com
jrabraham@debevoise.com
nborn@debevoise.com
jmfried@debevoise.com
mcardenas@debevoise.com
tebuckley@debevoise.com
htmehler@debevoise.com
msventim@debevoise.com

Mike Cowie
James Fishkin
Dechert LLP
1900 K Street, NW
Washington, D.C. 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, D.C. 20005
Telephone: (202) 626-3656
gpaul@whitecase.com

Dated: May 13, 2024

Respectfully submitted,

/s/ Hal J. Wood

Hal J. Wood
**KILPATRICK TOWNSEND &
STOCKTON LLP**
500 W Madison Street, Suite 3700
Chicago, IL 60661
Telephone: (312) 606-3200
hwood@ktslaw.com

*Counsel for Non-Party Pete's Fresh Market
4700 Corporation d/b/a Pete's Market*