

PUBLIC

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

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

ORDER GRANTING JOINT MOTION TO CLARIFY THE RECESS OF THE EVIDENTIARY PORTION OF THE PART 3 ADMINISTRATIVE HEARING

By Order issued September 25, 2024, the parties’ joint motion to extend the recess in the Part 3 administrative hearing until 21 days after the final resolution of the related federal preliminary injunction case captioned *FTC, et al. v. Kroger Co. and Albertsons Cos.*, No 3:24-cv-00347-AN (D. Or.) (“federal proceeding”) was granted. On September 27, 2024, Federal Trade Commission (“FTC”) Complaint Counsel and Respondents The Kroger Company and Albertsons Companies, Inc. (“Respondents,” together with Complaint Counsel, “the Parties”) filed a joint motion to clarify the current recess in this case (“Joint Motion”). The Parties now ask that the recess in this hearing, including all related pre-hearing deadlines, shall continue until 21 days after the final resolution of the federal proceeding, and shall extend at least until December 18, 2024.

The Parties jointly request that the evidentiary hearing not resume any earlier than December 18, 2024 because of time-sensitive implications for a different related proceeding. Specifically, the Parties state that the Southern District of Ohio has requested certainty about how early the administrative proceeding could resume. Minute Entry, *The Kroger Co. v. FTC*, No. 1:24-cv-00438-DRC (S.D. Ohio) (Sept. 27, 2024). The Parties assert that providing clarification of the term for this short continuance will offer that district court certainty that it need not rule on Kroger’s motion for preliminary injunction urgently.

FTC Rule 3.41(b) permits the Administrative Law Judge to recess a Part 3 hearing “for brief intervals of the sort normally involved in judicial proceedings[.]” For the reasons advanced by the Parties and the reasons set forth in the September 25, 2024 Order, the Joint Motion is **GRANTED**. The recess in the Part 3 administrative hearing, as well as all related pre-hearing

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deadlines, are **HEREBY CONTINUED** until 21 days after the final resolution of the federal proceeding, and shall extend at least until December 18, 2024.

ORDERED:

Dm Chappell

D. Michael Chappell
Chief Administrative Law Judge

Date: September 30, 2024