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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of The )  
Kroger Co. and Duke Energy Ohio, Inc. )  
For Energy Efficiency Projects. )

Case No. 10-3134-EL-EEC

PUCO

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**MOTION TO AMEND APPLICATION  
AND  
MOTION FOR PROTECTIVE ORDER**

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On December 30, 2010, Duke Energy Ohio, Inc. (Duke Energy Ohio) and The Kroger Co. (Kroger) jointly submitted an application for approval of an incentive arrangement for energy efficiency projects completed in 2007 pursuant to Ohio Revised Code 4928.66 and Ohio Administrative Code 4901:1-39-05. The projects included specified retrofits which enabled Kroger to opt-out of Duke Energy Ohio's 2007 energy efficiency rider. As noted in the application, Kroger has already received incentive payments for the same retrofits from other Ohio utilities.

At the time of the Application in this docket, the Parties did not have specific cost data to incorporate into the application and therefore the Parties sought a waiver of the Public Utilities Commission of Ohio (Commission) automatic approval procedure. The motion for that waiver was granted by an Entry dated February 18, 2011. The Entry ordered that the automatic approval process established under the pilot program in Case No. 10-834-EL-EEC be suspended for this application.

The data omitted from the original Application is now available and is submitted with this motion as an Amended Application. Accordingly, the Parties respectfully request that the suspension previously ordered, be lifted, and that this Application be approved within sixty days

of its filing with the Commission, per the automatic approval process established for this purpose.

Attached to the Amended Application, is Duke Energy Ohio's Self-Direct Rebate Offer Letter (the Agreement). This letter contains the terms of the Agreement between the Parties and is provided here under seal as it contains trade secret information as defined in Section 1333.61 (D), Ohio Revised Code. In particular, as this Agreement sets forth the terms between the Parties with respect to individual energy efficiency measures and the amount of rebate proposed by the Company, and it is therefore highly sensitive. This information is competitive in the electric utility arena, the disclosure of this information would give competitors access to competitively sensitive and confidential information. The information is kept confidential by the Company and is not shared with third parties. It derives independent economic value from being unique to Duke Energy Ohio and not known to or readily ascertainable by others who might obtain economic value from its disclosure or sale.

The document has been selectively redacted to protect only those portions of the Agreement that would be particularly sensitive if known outside of the relationship between the Parties. Ohio Administrative Code Section 4901-1-24(D) allows Duke Energy Ohio and Kroger to seek leave of the Commission to file information that Duke Energy Ohio and Kroger consider to be proprietary trade secret information, or otherwise confidential, in a redacted and non-redacted form under seal.<sup>1</sup> This rule also establishes a procedure for presenting to the Commission that information which is confidential, and therefore should be protected.<sup>2</sup>

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<sup>1</sup>OHIO ADMIN. CODE § 4901-1-24 (Anderson 2007)

<sup>2</sup>*Id.*

The definition of trade secret contained in R.C. 1333.61(D) is as follows:

“Trade secret” means information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement, or any business information or plans, financial information, or listing of names, addresses, or telephone numbers, that satisfies both of the following:

(1) It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

(2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.<sup>3</sup>

In analyzing a trade secret claim, the Ohio Supreme Court has adopted the following factors as relevant to determining whether a document constitutes a trade secret:

(1) The extent to which the information is known outside the business; (2) the extent to which it is known to those inside the business, i.e., by the employees; (3) the precautions taken by the holder of the trade secret to guard the secrecy of the information; (4) the savings effected and the value to the holder in having the information as against competitors; (5) the amount of effort or money expended in obtaining and developing the information; and (6) the amount of time and expense it would take for others to acquire and duplicate the information.<sup>4</sup>

The confidential material described above, if disclosed, would enable other entities within the Duke Energy Ohio service area to ascertain the terms under which the Company negotiates for its energy efficiency. If this information were to be made public, Duke Energy Ohio would be placed at a competitive disadvantage. With the information contained in the document, a competitor could take actions that, in the absence of this information, it would not otherwise take.

The information for which Duke Energy Ohio is seeking confidential treatment is not

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<sup>3</sup> Ohio Rev. Code Ann. § 133361(D) (Baldwin 2007).

<sup>4</sup> *State ex rel. Besser v. Ohio State Univ.*, 89 Ohio St. 3d 396, 732 N.E.2d 373 (2000).

known outside of Duke Energy Ohio, and it is not disseminated within Duke Energy Ohio except to those employees with a legitimate business need to know and act upon the information.

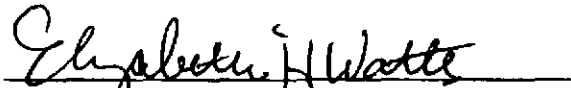
The public interest will be served by granting this motion. By protecting the confidentiality of the agreement, the Commission will prevent undue harm to Duke Energy Ohio and its ratepayers, as well as ensuring a sound competitive marketplace.

Duke Energy Ohio considers the redacted confidential material to be proprietary, confidential, and trade secret, as that term is used in R. C. 1333.61. In addition, this information should be treated as confidential pursuant to R. C. 4901.16. The redacted version of the document includes the confidential material blacked out for the public.

WHEREFORE, Duke Energy Ohio and Kroger respectfully request that the Commission, grant this motion for approval of the amended application and for a protective order to protect the confidential terms of the agreement.

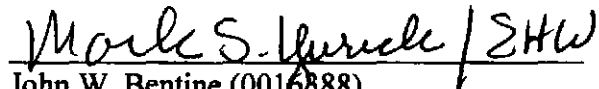
Respectfully submitted,

Duke Energy Ohio, Inc.



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The Kroger Company



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The following pertains to case number 10-3134-EL-EEC.

Revisions to Original Submission dated 12/30/2010.

1. Section 3(B)(a) – Annual Savings are 2,152,180 kWh at the meter. Calculations are provided in Table 1.
  - a. Information submitted to Duke Energy for the purposes of finalizing this mercantile cash rebate reasonable arrangement offer differs slightly from the original and basic information submitted to PUCO. Kroger is aware of the differences identified and has indicated their support of Duke Energy's calculation methods and use of the calculation inputs provided to Duke Energy.
  - b. Table 4 provides at the plant impacts (including line losses) that will be filed. "At the meter" values are provided for the sake of comparison to the original submission.
2. Section 4(A) – Demand reductions exist due to coincident peak-demand savings from the energy efficiency programs.
3. Section 4(B) – The date peak demand reduction programs were initiated are equivalent to those previously supplied via a facility listing with equipment replacement dates.
4. Section 4(C) – Demand reduction is 303 kW at the meter. Calculations/methods are provided in Table 1.
  - a. Calculations are based on information provided to Duke Energy, not on original information submitted.
  - b. Table 4 provides at the plant impacts (including line losses) that will be filed. "At the meter" values are provided for the sake of comparison to the original submission.
5. Section 5(B) – The calculated cash rebate is [REDACTED] Calculations/methods are provided in Table 2.
6. Section 6; Subsection 2 – Refer to Table 3 for UCT results and input information.

Table 1. Energy/Demand Savings Inputs and Calculation Results

ECM	Description	Original Equipment			New Equipment			Savings	
		Quantity	Wattage	Hours / Duty Cycle	Quantity	Wattage	Hours / Duty Cycle	kW	kWh
1	Retrofit 360W MH to 226W T8 (6500 hrs)	96	360	6,500	96	226	6,500	13	84,580
2	Retrofit 400W MH to 226W T8 (6935 hrs)	139	400	6,935	139	226	6,935	35	133,587
3	Retrofit 360W MH to 226W T8 (8760 to 6570 hrs)	102	360	8,760	102	226	6,570	14	170,343
4	Retrofit 350W MH to 226W T8 (8760 to 6570 hrs)	304	350	8,760	304	226	6,570	38	481,038
5	Replace Refrig Condenser PSC with ECM	1,152	449	0.62	1,152	244	0.62	203	1,282,632
Total								302	2,152,180

Table 1 Notes:

- Values, unless otherwise noted, are based applicant information.
- Energy savings totals may reflect very small percentage error realized in DSMore software analysis.
- Savings values listed are at the meter. Energy and demand impacts including line losses for each facility are itemized in Table 4.
- Bold measures are based on deemed Prescriptive savings, not applicant information.
- Duty cycle for refrigeration units is taken from Wisconsin Focus on Energy manual. No duty cycle value is listed in the Ohio TRM.
- Calculation of ECM motor demand savings incorporates duty cycle value.
- Calculation of ECM motor energy savings does not include additional savings realized at reduced ECM speeds during lower temperatures.

Table 2. Incentive Determination

ECM	Description	Incentive Basis	Notes Applicable	Standard Incentive	Limit Criteria	Self-Direct Factor	Self-Direct Incentive
1	Retrofit 360W MH to 226W T8 (6500 hrs)	Prescriptive	b		None	50%	
2	Retrofit 400W MH to 226W T8 (6935 hrs)	Prescriptive	a		None	50%	
3	Retrofit 360W MH to 226W T8 (8760 to 6570 hrs)	Prescriptive	b		None	50%	
4	Retrofit 350W MH to 226W T8 (8760 to 6570 hrs)	Prescriptive	b		None	50%	
5	Replace Refrig Condenser PSC with ECM	Custom	None			50%	

Table 2 Notes:

- Prescriptive Incentive amounts used where applicable.
- Prescriptive Incentives used as a guide for lighting measures that do not fit precise Prescriptive category, including use of occupancy sensor incentive amounts in lieu of EMS reductions.
- Incentives rounded to nearest dollar.
- Cost effectiveness validated using DSMore analysis.

Table 3. Cost Effectiveness

ECM	Description	Quantity	Avoided Supply Costs	Administrative Costs	Self-Direct Incentive	UCT
1	Retrofit 360W MH to 226W T8 (6500 hrs)	96				15.4
2	Retrofit 400W MH to 226W T8 (6935 hrs)	139				16.8
3	Retrofit 360W MH to 226W T8 (8760 to 6570 hrs)	102				13.6
4	Retrofit 350W MH to 226W T8 (8760 to 6570 hrs)	304				12.7
5	Replace Refrig Condenser PSC with ECM	1,152				9.3
	Total/Aggregate					10.4

Table 4. Energy &amp; Demand Impacts with Line Losses (At Plant Impacts)

Account Number	Store Number	ECM1			ECM2			ECM3			ECM4			ECM5			All ECMs	
		Quantity	Total kW	Total kWh	Quantity	Total kW	Total kWh	Quantity	Total kW	Total kWh	Quantity	Total kW	Total kWh	Quantity	Total kW	Total kWh	Total kW	Total kWh
85600709	0402	96	14	90,866													14	90,866
32602197	0445				139	38	143,516										38	143,516
52003508	0448							102	15	183,003							15	183,003
48103542	0915																40	545,420
06443527	0310																12	77,749
10694193	0376																11	77,749
10600897	0379																12	77,749
00064560	0396																14	74,161
10696748	0400																14	89,711
01135257	0405																14	88,515
01155251	0413																11	69,376
54202078	0426																13	82,534
72020890	0428																19	117,222
10696772	0430																14	86,122
26801074	0431																15	93,299
10801106	0432																15	95,691
56700842	0902																17	110,045
55502129	0908																14	89,711
01079666	0921																14	88,515
00000492	0943																16	101,672
	TOTAL	96	14	90,866	139	38	143,516	102	15	183,003	304	40	545,420	152	218	137,957	328	2,980,781





DUKE ENERGY CORPORATION  
Smart Saver Custom Incentives  
526 South Church St.  
Charlotte, NC 28202

**PRIVELEGED & CONFIDENTIAL**

June 1, 2011

Ms. Tracy D MacDonald  
The Kroger Company  
1014 Vine St  
Cincinnati, OH 45202

Mailing Address:  
Mail Code EC22A / P.O. Box 1006  
Charlotte, NC 28201-1006

980-373-9755 fax

Subject: Your Application for a Duke Energy Self-Direct Rebate

Dear Ms. MacDonald:

Thank you for your application for a Duke Energy Self Direct Rebate for the lighting and refrigeration projects completed in 2007 calendar year. Please refer to the Energy Conservation Measure (ECM) chart on Page 2. As noted, a total rebate of \$[REDACTED] has been preapproved for this project. Self-Direct Rebates are contingent upon PUCO approval.

Upon your confirmation of acceptance, Duke Energy will submit the necessary documentation to PUCO to obtain approval for this rebate amount. Upon approval, rebate payments will be made to you.

At your earliest convenience, please indicate if you accept this rebate by providing your signature on page 2. Please return it to my attention via fax, e-mail or mail. We look forward to working with you on this and future energy efficiency projects and hope you will consider our Smart Saver incentives, where applicable, on both new and upgrade projects. Please contact me if you have any questions. At Duke Energy, we value you and your business.

Sincerely,

Cory C. Gordon  
Product Manager, Custom Incentives

Carol M. Burwick  
Product Manager, Prescriptive Incentives

cc: Ms. Deanna Bowden, Duke Energy Corporation  
Ms. Elizabeth Watts, Duke Energy Corporation  
Mr. Greg Tieman, Duke Energy Corporation  
Mr. Kevin Bright, Duke Energy Corporation

Please indicate your response to this rebate offer within 30 days of receipt.

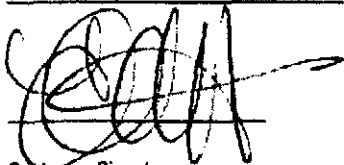
☒ Rebate is accepted. By accepting this rebate, the Kroger affirms its intention to commit and integrate the energy efficiency projects listed on the following pages into Duke Energy's peak demand reduction, demand response and/or energy efficiency programs. Additionally, Kroger also agrees to serve as joint applicant in any future filings necessary to secure approval of this arrangement by PUCO and to comply with any information and reporting requirements imposed by rule or as part of that approval.

☐ Rebate is declined.

If rebate is accepted, will you use the monies to fund future energy efficiency and/or demand reduction projects?

☒ YES ☐ NO

If rebate is declined, please indicate reason (optional):



Customer Signature

6/2/11

Date

### Proposed Rebate Amounts

ECM-1	Retrofit (96) 360W Metal Halide to 6-Lamp T8	\$18 each; \$1,728
ECM-2	Retrofit (139) 400W Metal Halide to 6-Lamp T8	\$25 each; \$3,475
ECM-3	Retrofit (102) 360W Metal Halide to 6-Lamp T8 with EMS Control	\$28 each; \$2,856
ECM-4	Retrofit (304) 350W Metal Halide to 6-Lamp T8 with EMS Control	\$28 each; \$8,512
ECM-5	Replace (1152) Refrig Condenser PSC Motor with 3-Speed EC Motor	\$50 each; \$57,600
Total		\$74,121

### Self Direct Project Overview & Commitment

Customer Name	The Kroger Company
Project Number	PUCO Docket Number 10-3141-EL-EEC
Customer Facility Address	Varies
Customer Mailing Address	1014 Vine St, Cincinnati, OH 45202
Project Installation Date	Varies
Annual kWh Reduction <sup>1</sup>	2,150,722
Peak Demand Reduction <sup>1</sup>	303
Rebate Amount	

### Impact Calculations

#### ECM-1 – Retrofit 360W Metal Halide to 6-Lamp T8

##### Application Information:

	Original	Retrofit
Fixture Quantity	96	96
Fixture Wattage	360	226
Annual Hours of Operation	6,500	6,500
	Per Fixture Impacts	Total Impacts
kWh	871	83,616
kW	0.134	12.8

##### Final Filing Information:

Equivalent to Application Information

#### ECM-2 – Retrofit 400W Metal Halide to 6-Lamp T8

##### Application Information:

	Original	Retrofit
Fixture Quantity	139	139
Fixture Wattage	400	226
Annual Hours of Operation	6,935	6,935
	Per Fixture Impacts	Total Impacts
kWh	1,207	167,730
kW	0.174	24.2

##### Final Filing Information<sup>2</sup>:

	Per Fixture Impacts	Total Impacts
kWh	961	133,579
kW	0.254	35.3

<sup>1</sup> All impacts shown are at the meter and do not include line losses.

<sup>2</sup> ECM-2 Impacts are based on savings for Duke Energy standard Prescriptive measure "T8 HB 4ft 6L replacing 400-999W HID (retrofit only)"

**ECM-3 – Retrofit 360W Metal Halide to 6-Lamp T8 with EMS Control**

*Application Information:*

	Original	Retrofit
Fixture Quantity	102	102
Fixture Wattage	360	226
Annual Hours of Operation	8,760	6,570
	Per Fixture Impacts	Total Impacts
kWh	1,669	170,216
kW	0.134	13.7

*Final Filing Information:*

Equivalent to Application Information

**ECM-4 – Retrofit 350W Metal Halide to 6-Lamp T8 with EMS Control**

*Application Information:*

	Original	Retrofit
Fixture Quantity	304	304
Fixture Wattage	350	226
Annual Hours of Operation	8,760	6,750
	Per Fixture Impacts	Total Impacts
kWh	1,581	480,679
kW	0.124	37.7

*Final Filing Information:*

Equivalent to Application Information

**ECM-5 – Replace Refrigeration Condenser PSC Motor with 3-Speed Electronically Commutated Motor**

**Application Information:**

	Original	Retrofit
Motor Quantity <sup>3</sup>	1,150	1,150
Motor Wattage	450	244 <sup>4</sup>
Annual Hours of Operation <sup>5</sup>	4,380	4,380
	Per Motor Impacts	Total Impacts
kWh	902	1,037,622 <sup>6</sup>
kW	0.208	237

**Final Filing Information:**

	Original	Retrofit
Motor Quantity <sup>7</sup>	1,152	1,152
Motor Wattage	449 <sup>8</sup>	244 <sup>4</sup>
Annual Hours of Operation <sup>9</sup>	5,431	5,431
	Per Motor Impacts	Total Impacts
kWh <sup>10</sup>	1,113	1,282,632
kW <sup>11</sup>	0.176	203

<sup>3</sup> Quantity totaled from supplied invoices.

<sup>4</sup> Taken from supplied motor test report.

<sup>5</sup> Observed hours of operation listed in original application.

<sup>6</sup> Number revised from original application value of 1,007,400 based on revised EC Motor input wattage.

<sup>7</sup> Implied quantity based on total savings, per motor demand reduction and hours of operation.

<sup>8</sup> Calculated from supplied PSC motor specifications.

<sup>9</sup> Annual duty cycle of 0.62 applied.

<sup>10</sup> Annual energy savings do not reflect reduced consumption at lower motor rotating speeds.

<sup>11</sup> Demand reduction calculation reflects application of duty cycle in above footnote and weather sensitivity.