

**BOEHM, KURTZ & LOWRY**

ATTORNEYS AT LAW  
36 EAST SEVENTH STREET  
SUITE 1510  
CINCINNATI, OHIO 45202  
TELEPHONE (513) 421-2255  
TELECOPIER (513) 421-2764

RECEIVED

OCT 12 2009

PUBLIC SERVICE  
COMMISSION

**Via Overnight Mail**

October 9, 2009

Mr. Jeff Derouen, Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40602

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

Dear Mr. Derouen:

Please find enclosed the original and twelve (12) copies each of THE KROGER CO.'S MOTION TO MODIFY THE PROCEDURAL SCHEDULE 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**

MLKkew  
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 October, 2009.

---

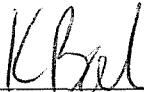
Paul D Adams  
Office of the Attorney General Utility & Rate  
1024 Capital Center Drive  
Suite 200  
Frankfort, KY 40601-8204

Rocco O D'Ascenzo  
Duke Energy Kentucky, Inc.  
P. O. Box 960  
139 East 4th Street  
Cincinnati, OH 45201

Mark David Goss  
Frost, Brown, Todd, LLC  
250 West Main Street  
Suite 2700  
Lexington, KY 40507

Catherine E Heigel  
Regulatory Counsel  
Duke Energy Business Shared Services  
526 South Church Street  
Charlotte, NC 28203

Amy B Spiller  
Associate General Counsel  
Duke Energy Kentucky, Inc.  
P. O. Box 960  
139 East 4th Street  
Cincinnati, OH 45201

  
\_\_\_\_\_  
Michael L. Kurtz, Esq.  
Kurt J. Boehm, Esq.

RECEIVED

OCT 12 2009

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

PUBLIC SERVICE  
COMMISSION

Application Of Duke Energy Kentucky, Inc. For Approval Of Energy Efficiency Plan Including An Energy Efficiency Rider And Portfolio Of Energy Efficiency Programs	:	Case No. 2008-00495
	:	
	:	

---

MOTION OF THE KROGER CO. TO  
MODIFY PROCEDURAL SCHEDULE

---

Comes now The Kroger Co., and moves the Kentucky Public Service Commission to modify the procedural schedule set forth in the Commission's Order of October 8, 2009. In that Order the Commission set the Hearing for December 15, 2009. Unfortunately, Kroger's expert witness Kevin Higgins has a conflict with another hearing and is unable to appear on that date.

Kroger proposes that the Hearing be moved to any day during the week of November 30 through December 4, 2009; or either December 10 or December 11, 2009.

Respectfully submitted,



---

Michael L. Kurtz, Esq.  
Kurt J. Boehm, Esq.  
**BOEHM, KURTZ & LOWRY**  
36 East Seventh Street, Suite 1510  
Cincinnati, Ohio 45202  
Ph: (513) 421-2255 Fax: (513) 421-2764  
E-Mail: [mkurtz@BKLawfirm.com](mailto:mkurtz@BKLawfirm.com)  
[kboehm@BKLawfirm.com](mailto:kboehm@BKLawfirm.com)

**COUNSEL FOR THE KROGER CO.**

October 9, 2009