



Steven L. Beshear  
Governor

Leonard K. Peters  
Secretary  
Energy and Environment Cabinet

Commonwealth of Kentucky  
**Public Service Commission**  
211 Sower Blvd.  
P.O. Box 615  
Frankfort, Kentucky 40602-0615  
Telephone: (502) 564-3940  
Fax: (502) 564-3460  
psc.ky.gov

David L. Armstrong  
Chairman

James W. Gardner  
Vice Chairman

Charles R. Borders  
Commissioner

October 23, 2009

Boehm, Kurtz & Lowry  
Attention: Michael L. Kurtz  
36 East Seventh St., Suite 1510  
Cincinnati, Ohio 45202

Re: The Kroger Company - Petition for Confidential Treatment received 6/08/09  
PSC Reference – Case No. 2008-00495

Dear Mr. Kurtz:

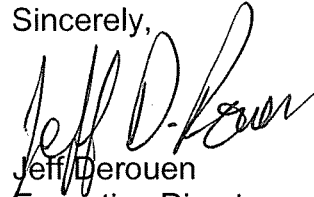
The Public Service Commission has received the Petition for Confidential Treatment you filed on June 8, 2009 on behalf of The Kroger Company to protect certain information filed with the Commission as confidential pursuant to Section 7 of 807 KAR 5:001 and KRS 61.870. The information you seek to have treated as confidential is identified as information contained in The Kroger Company's Response to Dukes 1<sup>st</sup> set of Data Requests, Item 5(k) and Responses to the Commission's 1<sup>st</sup> set of Data Requests 1(a) and 2(b), containing energy usage analysis and strategies, as well as other important methods under which Kroger operates its business. Your justification for having the Commission handle this material as confidential is that the public disclosure of the information would compromise The Kroger Company's competitive position in the industry and result in an unfair commercial advantage to its competitors.

Based on a review of the information and pursuant to KRS 61.878 and 807 KAR 5:001, Section 7, the Commission has determined that the information you seek to keep confidential is of a proprietary nature, which if publicly disclosed would permit an unfair commercial advantage to The Kroger Company's competitors. Therefore, the information requested to be treated as confidential **meets the criteria for confidential protection** and will be maintained as a nonpublic part of the Commission's file in this case. The procedure for usage of confidential materials during formal proceedings may be found at Section 7(8) of 807 KAR 5:001.

Mr. Kurtz  
October 23, 2009  
Page 2

If the information becomes publicly available or no longer warrants confidential treatment, The Kroger Company is required by Section 8(9)(a) of 807 KAR 5:001 to inform the Commission so that the information may be placed in the public record.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff D. Derouen". The signature is fluid and cursive, with the first name "Jeff" and last name "Derouen" clearly distinguishable.

Jeff Derouen  
Executive Director

kg/

cc: Parties of Record