

Class Benefit Fund Blueprint [Subject to Court Approval]

Background

Funds from the settlement of a class action lawsuit (*Williams, et al vs. Duke Energy International, et al*) will be used to benefit residential and non-residential class members¹ in two ways: (1) make direct financial payments to class members (if they apply) in fixed amounts according to a formula approved by the U.S. District Court for Ohio's Southern District, and (2) through a Class Benefit Fund (CBF), make grants and/or fund loans for energy-related programs and services that either directly or indirectly benefit class members.

A settlement amount of \$8 million will establish the CBF during 2016-17. Any remainder of the direct financial payment pool after all claims are processed and paid will be added to the CBF. Five board members have been appointed by the Court, attorneys for the plaintiff, and Duke Energy. (See list below.) It is anticipated that the CBF board will conduct its work over a period of no less than two years (2016-17), and possibly as long as five years (2016-2020).

A complete description of the class action lawsuit and outcome is available at www.dukeclassaction.com.

Settlement Agreement: Parameters of the Class Benefit Fund

1. A nonprofit organization applying for funding from the CBF must certify that it has taken reasonable efforts to ensure that funding will benefit Class Members within Duke Energy Ohio's service area for the initial five years of a program.²
2. Where possible, the Board will endeavor to extend, augment, supplement and/or complement existing energy-related programs in the Duke Energy Ohio service area.
3. So long as all other parameters are consistent with the purpose of class benefits, the Board may consider grant applications from class members who no longer reside in the service area.
4. Over the life of the CBF, the Board must use some reasonable portion of the funds to benefit each of the different types of class members.

¹ Class members are defined as "All ratepayers who received retail electric generation service from Duke Energy Corp. and/or Cinergy Corp. or their subsidiaries or affiliates at any time between January 1, 2005, and December 31, 2008, in the CG&E/Duke Energy Ohio electric service territory and who did not receive rebates under the side agreements." Residential class members are home owners and renters who were customers of CG&E/Duke during the relevant time period. Non-residential class members include commercial, industrial, business, governmental and nonprofit organization customers of CG&E/Duke during the relevant time period.

² Duke Energy Ohio's service territory encompasses the following counties: Adams, Brown, Butler, Clermont, Clinton, Hamilton, Highland and Warren as well as the southern portions of Montgomery and Preble Counties. There were approximately 1.1 million residential customer accounts, and 77,000 non-residential customer accounts, in the Ohio service area during the Class Period.

Settlement Agreement: Restrictions of the Class Benefit Fund

1. Avoid funding any program that duplicates, or prevents Duke Energy Ohio from carrying out, any current regulatory requirement related to energy efficiency.
2. No municipal or other aggregation of electricity purchases.
3. No solar energy program or project.
4. No program intended to impact competition in the retail electric market or otherwise alter the supply of electricity generation.
5. Regarding capital improvements, only 15% of the approved amount may be paid at the start of a project. The balance may be paid upon proof of completion.

Guiding Principles

To maximize the impact of the Class Benefit Fund throughout the Southwestern Ohio region, the Board will target funding and programs to members of the class who are least able, or least likely, to file a class compensation claim, and those who are in the highest need of energy efficiency assistance. While the Board places a high priority on this targeted group of class members, the Board is also mindful of its mandate to benefit the entire class. It is also the Board's desire to emphasize support for programs that will leverage additional resources and make a lasting impact on the region's energy efficiency.

Examples of Program Funding Opportunities

It is important to note that the following descriptions are intended solely as examples of programs that could be considered by the Class Benefit Fund. These descriptions do not preclude other approaches from consideration.

For Residential Class Members:

- Expand the availability of "whole house" energy efficiency repairs and renovations for low income home owners up to 200% of the federal poverty level. This best practice approach is intended to leverage additional proven ancillary benefits in health status and educational achievement.
- Increase the availability of low-interest loan funds for home owners and multi-family unit landlords to fund energy efficiency improvements. Structure as a revolving loan fund so that there is a lasting legacy of support for energy efficiency in the region.
- Increase the uptake of existing and new energy efficiency programs and funding opportunities by setting up outreach and education initiatives with "validators," e.g., existing community and nonprofit organizations and/or contractors that have trusted relationships with targeted class members, including landlords of low-income rental units.

- Offer incentives to home owners and multi-family unit landlords to upgrade equipment to higher energy efficiency standards.

For Non-Residential Class Members (industrial, commercial, governmental, nonprofit)

- Train contractors via educational institutions and trade associations to increase the uptake of energy efficiency improvements in new and renovated commercial and industrial buildings. (This could also be designed to benefit residential customers.)
- Increase the availability of low-interest loan funds for small and medium sized businesses to fund energy efficiency improvements. Structure as a revolving loan fund so that there is a lasting legacy of support for energy efficiency in the region.
- Increase the uptake of existing and new energy efficiency programs and funding opportunities by setting up outreach and education initiatives with “validators,” e.g., contractors and trade associations that have trusted relationships with class members.
- Offer incentives to small businesses and nonprofit organizations to upgrade equipment to higher energy efficiency standards.

Funding Strategy

In addition to the parameters and restrictions set forth in the Settlement Agreement, the Board has adopted the following clarifying parameters for the operation of the Class Benefit Fund:

1. Grants will not be made to individual (residential) class members. That is the purpose of the direct payment formula administered by the Settlement Administrator. Individual class members are intended, however, to directly benefit from grants made to programs.
2. The Board strongly prefers to fund programs and projects that build upon resources that already exist in the Duke Energy Ohio service area. However, based on evidence of best practices, the Class Benefit Fund (CBF) may decide to fund new programs.
3. Only existing nonprofit organizations, businesses or government entities proven to benefit residential and/or non-residential members of the class may apply for grants. The CBF will not support the creation of new organizations to offer energy-related assistance.
4. The majority of the funding will be used to directly benefit class members with specific energy efficiency measures. (Examples of indirect benefits may include: promotion of energy assistance opportunities, outreach and education to encourage class members to take advantage of existing programs.)
5. Priority will be given to programs or projects that provide the most benefit for the least amount of money, and that maximize leverage to attract additional funding and/or influence achievement of related health, environmental and economic outcomes.

6. The Board will endeavor to distribute program and project benefits across all class members and the entire Duke Energy Ohio service area.
7. Requests for grants and funding for loan programs will be considered in two stages. First, the Board will broadly solicit brief “Letters of Interest” to understand the scope of ideas that may provide the greatest benefit to class members and the region as a whole. Second, the Board will request full proposals from the best Letters of Interest, and then make funding recommendations to the Court on that basis.
8. To extend the scale and impact of the Class Benefit Fund, the Board will give preference to multi-year initiatives that leverage funding from other sources and maximize the level of energy efficiency impact that can be generated during the funding period. Priority will be given to programs where it is anticipated that a lasting impact can be achieved during the funding period, or where other future funding sources may be identified to continue a successful program beyond the CBF support.

Monitoring & Public Reporting

Monitoring: Program and financial reports will be due periodically, on a schedule approved by the Court

Reporting: The Board will submit all monitoring reports to the U.S. District Court for Ohio’s Southern District. Once the reports are approved, the Board will post the reports on the website (www.dukeclassaction.com).

2016 Proposed Timeline

**Note: The Board’s recommended actions must be reviewed and approved by the Judge of the U.S. District Court, Southern District of Ohio, before implementation. The final timetable is subject to the actual date of Court approval.*

January – March	Board designs and drafts a plan for making grants and funding loan programs from the Class Benefit Fund, and solicits input on regional needs and best practices from providers and contractors
March	Class members invited to share input to plan design and implementation with the Board
April 13	Date by which all resident and non-resident class claims are due to the Settlement Administrator
April 18	Date on which the U.S. District Court, Southern District of Ohio, will hold a final hearing to consider approval of the settlement and Class Benefit Fund preliminary plan. The Board will share class member input (to date).
Approval + 30 days	If the settlement is approved, and when appeals if any have been resolved, the Board finalizes and presents to the Court a detailed plan for making grants and loans to benefit class members
Approval + 45 days	Board will issue Requests for “Letters of Interest” in program funding
Approval + 75 days	Letters of Interest will be due to the Class Benefit Fund Board
Approval + 90 days	Board-approved submissions will be invited to submit a full funding proposal

Approval + 120 days	Full funding proposals will be due to the Class Benefit Fund Board
Approval + 150 days	The Board will present program funding recommendations to the Court
Approval + 180 days	Court approval of funding recommendations
Approval + 195 days	Program agreements will be negotiated and finalized
January 3, 2017	Grant and loan funding payments will commence (based on fully executed funding agreements)
Approval + reporting	First reporting period (then continuing a reporting pattern throughout the life of the funding agreements based upon a court-approved schedule)

Final Settlement Agreement Hearing Details

April 18, 2016
10:00 am
Potter Stewart U.S. Courthouse
100 E. Fifth St.
Cincinnati, OH 45202

Board of Trustees

Debbie Brooks, Executive Vice President, YWCA of Greater Cincinnati
Kathy Merchant, Kathy Merchant LLC (former president/CEO, The Greater Cincinnati Foundation)
Brewster Rhoads, Brewster Rhoads & Associates (former executive director, The Green Umbrella)
Mark Shanahan, New Morning Energy LLC
Kevin Bright, Managing Director, Customer Efficiency Programs, Duke Energy