**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Fuel Adjustment Clause of Columbus Southern Power Company and Ohio Power Company and Related Matters for 2010. In the Matter of the Fuel Adjustment Clauses for Columbus Southern Power Company and Ohio Power Company and Related Matters. | )))))))) | Case No. 10-268-EL-FACCase No. 10-269-EL-FACCase No. 11-281-EL-FAC |

**MOTION FOR PROTECTIVE ORDER**

**BY**

**THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

 The Office of the Ohio Consumers’ Counsel (“OCC”) hereby moves the Public Utilities Commission of Ohio (“PUCO”) for a protective order regarding information asserted to be confidential by Ohio Power Company.[[1]](#footnote-1) As part of discovery in this proceeding, Ohio Power provided information to OCC, subject to a protective agreement, and Ohio Power asserts that this information constitutes trade secret information under Ohio law.

 OCC hereby requests that, in accordance with Ohio Adm. Code. 4901-1-02(E), the PUCO issue such order as is necessary to protect the undisclosed (redacted) portions of OCC’s Initial Post-Hearing Brief that Ohio Power asserts to be confidential.[[2]](#footnote-2) Subject to OCC’s rights under the protective agreement, OCC is filing its Initial Post-Hearing Brief under seal, and is also filing a public version that shows all information Ohio Power does not claim to be confidential.

 By filing the instant Motion, OCC does not concede that the information constitutes trade secret information. However, OCC acknowledges that it has obtained this information pursuant to a protective agreement with Ohio Power that provides for such information to be treated as confidential and protected (subject to OCC’s right under the protective agreement to initiate a process for the PUCO to rule whether the information deserves confidential treatment under Ohio law).

 The grounds for this Motion are more fully described in the accompanying Memorandum in Support.

 Respectfully submitted,

 BRUCE J. WESTON

 OHIO CONSUMERS’ COUNSEL

*/s/ Terry L. Etter*

Terry L. Etter, Counsel of Record

Assistant Consumers’ Counsel

# Office of the Ohio Consumers’ Counsel

# 10 West Broad Street, Suite 1800

# Columbus, Ohio 43215-3485

Telephone: (614) 466-7964 (Etter direct)

terry.etter@occ.ohio.gov

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**MEMORANDUM IN SUPPORT**

 OCC files this Motion for Protective Order (“Motion”) contemporaneously with the filing of OCC’s Initial Post-Hearing Brief. In filing this Motion, OCC does not concede that the information in its Initial Post-Hearing Brief is trade secret information pursuant to R.C. 1333.61(D) and does not concede that the information is deserving of protection from public revelation under Ohio Adm. Code 4901-1-24(D).

 OCC understands that Ohio Power considers the undisclosed (redacted) information to be confidential and deserving of the protection of trade secret information as defined in R.C. 1333.61(D). OCC’s understanding is based on claims by Ohio Power that the information (1) derives economic value, actual or potential, from not being known to, and not being readily ascertainable by proper means by others, and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.[[3]](#footnote-3) Under the assertions made by Ohio Power, at this time, confidential treatment of the redacted information in OCC’s Initial Post-Hearing Brief would be appropriate, subject to OCC’s rights under its protective agreement with Ohio Power to initiate a process to determine whether the information should be protected.

 In addition, OCC is filing a public version of its Initial Post-Hearing Briefso that all information Ohio Power does not claim to be confidential is accessible for the public’s review. The public version does not contain information that was asserted by Ohio Power to be confidential.

 For the foregoing reasons and subject to the foregoing reservations of rights, this Motion should be granted at this time.

 Respectfully submitted,

 BRUCE J. WESTON

 OHIO CONSUMERS’ COUNSEL

*/s/ Terry L. Etter*

Terry L. Etter, Counsel of Record

Assistant Consumers’ Counsel

# Office of the Ohio Consumers’ Counsel

# 10 West Broad Street, Suite 1800

# Columbus, Ohio 43215-3485

Telephone: (614) 466-7964 (Etter direct)

terry.etter@occ.ohio.gov

**CERTIFICATE OF SERVICE**

 I hereby certify that a copy of the foregoing *Motion for Protective Order* by the Office of the Ohio Consumers’ Counsel has been served upon those persons listed below via electronic mail this 8th day of January 2014.

 */s/ Terry L. Etter*

Terry L. Etter

 Assistant Consumers’ Counsel

**SERVICE LIST**

|  |  |
| --- | --- |
| Thomas McNameeSteven BeelerAssistant Attorneys GeneralPublic Utilities Section180 East Broad Street, 6th FloorColumbus, Ohio 43215Thomas.mcnamee@puc.state.oh.usSteven.beeler@puc.state.oh.us | Stephen T. NourseMatthew J. SatterwhiteYazen AlamiAmerican Electric Power Company1 Riverside Plaza 29th FloorColumbus, OH 43215stnourse@aep.commjsatterwhite@aep.comyalami@aep.com |
| Samuel C. RandazzoFrank P. DarrJoseph E. OlikerMcNees Wallace & Nurick LLC21 East State Street, 17th FloorColumbus, Ohio 43215sam@mwncmh.comfdarr@mwncmh.comjoliker@mwncmh.com | Amy B. SpillerRocco O. D’AscenzoJeanne W. KingeryDuke Energy Ohio Inc.139 East Fourth Street 1303-MainP.O. Box 961Cincinnati, OH 45201-0960amy.spiller@duke-energy.comRocco.DAscenzo@duke-energy.comJeanne.kingery@duke-energy.com |
| Philip B. SinenengThompson Hine LLPDuke Energy Commercial Asset Management Inc.41 S. High Street, Suite 1700Columbus, OH 43215Tel: (614) 469-3200Fax: (614) 469-3361Philip.Sineneng@ThompsonHine.com | John J. Kulewicz M. Howard Petricoff Stephen M. Howard Vorys, Sater, Seymour and Pease LLP52 East Gay StreetP.O. Box 1008Columbus, Ohio 43216-1008jjkulewicz@vorys.commhpetricoff@vorys.comsmhoward@vorys.comAttorneys for Buckingham Coal Company |
| Attorney Examiners:Sarah.parrot@puc.state.oh.usGreta.see@puc.state.oh.us | Colleen Mooney231 West Lima StreetFindlay, Oh 45840cmooney2@columbus.rr.com |

1. Effective at the end of 2011, Columbus Southern Power Company and Ohio Power Company merged, with Ohio Power becoming the successor in interest to Columbus Southern Power. See *In the Matter of the Application of Ohio Power Company and Columbus Southern Power Company for Authority to Merge and Related Approvals*, Case No. 10-2376- EL-UNC, Entry (March 7, 2012) at 11. [↑](#footnote-ref-1)
2. This Motion is filed pursuant to Ohio Adm. Code 4901-1-02(E), 4901-1-12 and 4901-1-24(D). [↑](#footnote-ref-2)
3. SeeR.C. 1333.61(D). [↑](#footnote-ref-3)