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Anita M. Schafer  
Sr. Paralegal

VIA OVERNIGHT MAIL DELIVERY

January 7, 2008

Docketing Division  
Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, Ohio 43215

Re: Case No. 07-845-AU-CSS

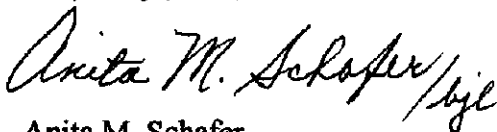
Dear Docketing Division:

Enclosed please find an original and twelve copies of the Motion of Duke Energy Ohio for Protective Order to Protect the Confidentiality of Information Contained in Attachments to the Direct Testimony of Cynthia M. Givens in the above captioned case. Please date-stamp the two extra copies and return in the envelope provided.

Additionally, please find four "Confidential" copies of the Testimony in the enclosed sealed envelope.

Should you have any questions, please contact me at (513) 419-1847.

Very truly yours,



Anita M. Schafer  
Senior Paralegal

Enclosures

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
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[www.duke-energy.com](http://www.duke-energy.com)

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint  
of Kathy Schmits

Complainant

v.

Duke Energy Ohio, Inc.

Respondent

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Case No. 07-845-AU -CSS

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**DUKE ENERGY OHIO, INC.'S MOTION FOR PROTECTIVE ORDER TO PROTECT  
THE CONFIDENTIALITY OF INFORMATION CONTAINED IN ATTACHMENTS TO  
THE DIRECT TESTIMONY OF CYNTHIA M. GIVENS**

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Duke Energy Ohio, Inc., (DE-Ohio) hereby moves this honorable Commission for leave to file under seal certain information contained in Attachments to the Direct Testimony of its Witness Cynthia M. Givens in the above styled proceeding. This confidential information contains account numbers of the Complainant, Kathy Schmits, for electric and natural gas service at two of her residences. Ohio Admin Code 4901:1-13-12(D) requires DE-Ohio to keep this information confidential.

In order to present its case, DE-Ohio must discuss Complainant's accounts, including billing and payment histories, which are the subject of Ms. Schmits's complaint. Attachments CMG-1, CMG-2, and CMG-3 (the Attachments) to Witness Given's testimony include bills for utility service at Complainant's addresses and DE-Ohio's account notes, which are relevant to this proceeding. This information is discussed in Ms. Givens's Direct Testimony. The bills and account notes contained in the Attachments include Complainant's account numbers. For the

foregoing reasons and as more fully set forth in the accompanying memorandum in support, DE-Ohio respectfully requests this information be protected and under seal.

Respectfully submitted,



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Paul A. Colbert (0058582)

Associate General Counsel

Rocco O. D'Ascenzo (0077651)

Counsel

DUKE ENERGY OHIO, INC

139 East Fourth Street, 25 Atrium II

Cincinnati, Ohio 45202

513-419-1827

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**DUKE ENERGY OHIO'S MEMORANDUM IN SUPPORT OF ITS MOTION FOR  
PROTECTIVE ORDER TO PROTECT THE CONFIDENTIALITY OF CONTAINED IN  
ATTACHMENTS TO THE DIRECT TESTIMONY OF CYNTHIA M. GIVENS**

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Duke Energy Ohio, Inc (DE-Ohio) respectfully requests that the Public Utilities Commission of Ohio (Commission) grant its Motion for Protective Order to Protect the Confidentiality of Information Contained in Attachments CMG-1, CMG-2 and CMG-3 (the Attachments) to the Direct Testimony of Cynthia M. Givens, in the above styled proceeding.

DE-Ohio is an Ohio corporation with its principal office in Cincinnati, Ohio. DE-Ohio has the corporate power and authority, among others, to engage, and it is engaged, in the business of supplying electric distribution and natural gas distribution services to the public in the State of Ohio. Accordingly, DE-Ohio is a public utility within the meaning of that term as used in R. C. 4905.02 and 4905.03. As such, DE-Ohio is subject to the jurisdiction of the Commission in the manner and to the extent provided by the laws of the State of Ohio.

On July 25, 2007, Complainant Kathy Schmits filed the above-styled proceeding alleging, among other things, that DE-Ohio has improperly billed her for natural gas consumption.<sup>1</sup> In her Complaint, Ms. Schmits alleges, among other things, that she requested disconnection of the utility service for one of her DE-Ohio accounts.<sup>2</sup> DE-Ohio, disputes this allegation, among others.<sup>3</sup> In order to respond to Complainant's allegations, it is necessary for DE-Ohio to submit copies of bills sent to Complainant's addresses, DE-Ohio's account information for Complainant, and to discuss the submitted information in Direct Testimony so to demonstrate consumption levels and account

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<sup>1</sup> *In re Complaint of Kathy Schmits*, Case No 07-845-AU-CSS, (Complaint at 1)(July 25, 2005).

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

<sup>3</sup> *In re Complaint of Kathy Schmits*, Case No 07-845-AU-CSS, (Answer at 2)(August 10, 2007).

activity. The bills and DE-Ohio account records included in the Attachments contain Complainant's account numbers.

Pursuant to rules promulgated by this Commission as set forth in the Ohio Administrative Code, DE-Ohio as a public utility providing both natural gas and electric service to customers is obligated to keep customer account numbers confidential.<sup>4</sup> Specifically, OAC 4901:1-12-13(D) provides: "[e]xcept as otherwise provided in rule 4901:1-29-09 of the Administrative Code, a gas or natural gas company shall only disclose a customer's account number without the customer's written consent for gas or natural gas company credit evaluation, collections and/or credit reporting or pursuant to court order or subpoena."<sup>5</sup> To date, DE-Ohio has not received permission to disclose Complainant's account number. Complainant has not made this information public. There has not been a Court Order or subpoena requiring disclosure of this information.

Ohio Administrative Code Section 4901-1-24(D) allows DE-Ohio to seek leave of the Commission to file proprietary trade secret information, or otherwise confidential information, in a redacted and non-redacted form under seal as part of proceedings before the Commission.<sup>6</sup> This rule also establishes a procedure for presenting to the Commission that information which is confidential, and therefore should be protected.<sup>7</sup>

Contemporaneously with this Motion for Protective Order and as required by OAC 4901-1-24(D), DE-Ohio has filed a redacted version of the confidential material contained in the Attachments. DE-Ohio has minimized the redactions to only the account numbers stated on Complainant's bills because this information is confidential under OAC 4901:1-13-12(D). DE-

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<sup>4</sup> OHIO ADMIN. CODE § 4901:1-12-13(D) (Anderson 2007)

<sup>5</sup> *Id.*

<sup>6</sup> OHIO ADMIN. CODE § 4901-1-24 (Anderson 2007)

<sup>7</sup> *Id.*

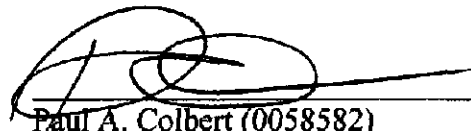
Ohio has also filed the requisite number of unredacted versions of the confidential material contained in the Attachments under seal.

The Attachments include Complainant's bills for utility service from 2005 through the present, which is the subject of her complaint in these proceedings. The redacted material contains account numbers for two properties in which Complainant maintained utility service from DE-Ohio, and which are the subject of her complaint. The remainder of the information contained in the Attachments is not predetermined confidential by an Administrative Rule. Although at the hearing of this matter, it may become necessary to discuss the account histories, including billing and payment history, at this time, it is not necessary to disclose Complainant's DE-Ohio account numbers in order for DE-Ohio to defend itself in this case. The public interest will be served by granting this Motion. Customers should be permitted to file complaints against the utility and the utility should be able to defend itself without sacrificing the confidential nature of proprietary account numbers.

In the interest of protecting Complainant's confidential account numbers, DE-Ohio requests that the redacted bills and account notes submitted in the Attachments be kept confidential.

WHEREFORE, DE-Ohio respectfully requests that the Commission, pursuant to Ohio Admin. Code § 4901-1-24(D), under the guide of Ohio Admin. Code § 4901:1-13-12(D) grant its Motion for Protective Order to Protect the Confidentiality of Information Contained in Attachments CMG-1, CMG-2, and CMG-3.

Respectfully submitted,

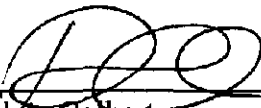


Paul A. Colbert (0058582)  
Associate General Counsel  
Rocco O. D'Ascenzo (0077651)  
Counsel  
DUKE ENERGY OHIO  
139 Fourth Street, 25 Atrium II  
Cincinnati, Ohio 45202  
(513) 419-1827

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing Motion for Protective Order was sent by first class US Mail to the following this 7th day of January, 2008:

Kathy Schmits  
9251 Deercross Parkway #2  
Cincinnati, OH 45238

  
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Paul A. Colbert  
Rocco O. D'Ascenzo