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FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Consolidated Duke Energy Ohio, Inc.)	Case Nos.	03-93-EL-ATA
Rate Stabilization Plan Remand and)		03-2079-EL-AAM
Rider Adjustment Cases)		03-2081-EL-AAM
)		03-2080-EL-ATA
)		05-724-EL-UNC
)		05-725-EL-UNC
)		06-1068-EL-UNC
)		06-1069-EL-UNC
)		06-1085-EL-UNC

**INDUSTRIAL ENERGY USERS-OHIO'S MEMORANDUM CONTRA THE APPLICATION FOR
REHEARING OF THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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Samuel C. Randazzo, Trial Attorney
Daniel J. Neilsen
Lisa G. McAlister
Joseph M. Clark
McNEES WALLACE & NURICK LLC
21 East State Street, 17th Floor
Columbus, Ohio 43215
(614) 469-8000 (T)
(614) 469-4653 (F)
sam@mwncmh.com
dneilsen@mwncmh.com
lmcAlister@mwncmh.com
jclark@mwncmh.com

July 17, 2008

Attorneys for Industrial Energy Users-Ohio

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I. INTRODUCTION

On May 28, 2008, the Public Utilities Commission of Ohio ("Commission") issued an Entry attempting to settle a dispute between the parties to these cases regarding the redaction of confidential documents filed in these proceedings.¹ In addition to resolving the dispute, the Commission also noted its staff had compiled a version of the redactions that was consistent with the Commission's resolution of the dispute. The Commission explained that its version of the redactions would be provided in an electronic format and announced that its version of the redactions would be released into the public domain unless an application for rehearing was filed.² Specific instructions for how to identify documents and information in the applications for rehearing were also provided. A technology-related delay in providing the Commission's version of the redacted confidential documents led the Commission to

¹ Entry (May 28, 2008)

² *Id.* at 5.

release a subsequent Entry readopting the findings in its May 28, 2008 Entry while also amending the date on which it would publicly release the documents.³

On July 7, 2008, Applications for Rehearing were filed by Industrial Energy Users-Ohio ("IEU-Ohio") and the Ohio Consumers' Counsel ("OCC"). Additionally, a Joint Application for Rehearing was filed by Duke Energy Ohio ("DE-Ohio"), Duke Energy Retail Sales ("DERS"), and Cinergy Corp. IEU-Ohio hereby files its Memorandum Contra OCC's Application for Rehearing.

II. ARGUMENT

In its Application for Rehearing, OCC asks the Commission not to redact certain information contained within a chart on Bate Stamp page 215 that describes contracts between DERS (formerly called Cinergy Retail Sales, LLC) and customers.⁴ OCC claims "The first set of agreements involve multiple entities, and no customer is named."⁵ OCC asserts this information has already been made public and therefore is undeserving of Commission protection.⁶

While IEU-Ohio believes OCC does not object to the redaction of the individual customer names contained within the chart, IEU-Ohio files this Memorandum Contra out of concern that OCC's description might be misinterpreted. IEU-Ohio interprets OCC's language to mean that only the customer identity description in the first row of the chart should not be protected. An interpretation of OCC's request in the manner suggested by IEU-Ohio would be consistent with the Commission's previous determinations that

³ Entry (June 4, 2008).

⁴ Application for Rehearing of the Ohio Consumers' Counsel at Attachment (July 7, 2008).

⁵ *Id.*

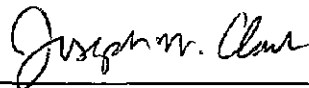
⁶ *Id.* at 7.

individual customer names are trade secrets and should be protected from public disclosure.⁷

III. CONCLUSION

For the reasons described above, IEU-Ohio urges the Commission to interpret OCC's assertions in the manner suggested by IEU-Ohio in order continue to protect customer names in all public versions of redacted confidential documents filed in this proceeding.

Respectfully submitted,



Samuel C. Randazzo, Trial Attorney
Daniel J. Neilsen
Lisa G. McAlister
Joseph M. Clark
MCNEES WALLACE & NURICK LLC
21 East State Street, 17th Floor
Columbus, Ohio 43215
(614) 469-8000 (T)
(614) 469-4653 (F)
sam@mwncmh.com
dneilsen@mwncmh.com
lmcalister@mwncmh.com
jclark@mwncmh.com

Attorneys for Industrial Energy Users-Ohio

⁷ Order on Remand at 15 (October 24, 2007). See also Entry at 2 (May 28, 2008).

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *INDUSTRIAL ENERGY USERS-OHIO'S MEMORANDUM CONTRA THE APPLICATION FOR REHEARING OF THE OHIO CONSUMERS' COUNSEL* was served upon the following individuals this 17th day of July 2008 via electronic transmission.



Joseph M. Clark

Jeanne.Kingery@puc.state.oh.us
paul.colbert@duke-energy.com
rocco.d'ascenzo@duke-energy.com
anita.schafer@duke-energy.com
small@occ.state.oh.us
hotz@occ.state.oh.us
sauer@occ.state.oh.us
cmooney2@columbus.rr.com
dboehm@bklawfirm.com
mkurtz@bklawfirm.com
Thomas.mcnamee@puc.state.oh.us
werner.margard@puc.state.oh.us
Stephen.Reilly@puc.state.oh.us
scott.farkas@puc.state.oh.us
drinebolt@aol.com
WTTPMLC@aol.com
schwartz@evanic.com
rsmithla@aol.com
barthroyer@aol.com
sbloomfield@bricker.com
tobrien@bricker.com
dane.stinson@baileycavalieri.com
JKubacki@strategicenergy.com

korkosza@firstenergycorp.com
mchristensen@columbuslaw.org
tschneider@mgsglaw.com
shawn.leyden@pseg.com
ricks@ohanet.org
cgoodman@energymarketers.com
nmorgan@lascinti.org
eagleenergy@fuse.net
Michael.Pahutski@Cinergy.com
ariane.johnson@duke-energy.com
mdortch@kravitzllc.com
mhpetricoff@vssp.com
smhoward@vssp.com
Terry.Harvill@constellation.com
jfinnigan@Cinergy.com