

**FILE**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In The Matter of the Application of Duke Energy Ohio for Approval of an Electric Security Plan	) ) )	Case No. 08-920-EL-SSO
In the Matter of the Application of Duke Energy Ohio for Approval to Amend Accounting Methods	) ) )	Case No. 08-921-EL-AAM
In the Matter of the Application of Duke Energy Ohio for Approval of a Certificate of Public Convenience and Necessity to Establish an Unavoidable Capacity Charge	) ) ) ) )	Case No. 08-922-EL-UNC
In the Matter of the Application of Duke Energy Ohio for Approval to Amend its Tariffs	) ) )	Case No. 08-923-EL-ATA

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**DUKE ENERGY OHIO'S MOTION FOR PROTECTIVE ORDER  
TO PROTECT THE CONFIDENTIALITY OF INFORMATION  
CONTAINED IN THE DIRECT TESTIMONY AND ATTACHMENTS  
TO THE DIRECT TESTIMONY OF CHRISTOPHER D. KIERGAN,  
THE DIRECT TESTIMONY AND WORK PAPERS OF JUDAH ROSE,  
THE DIRECT TESTIMONY OF JAMES NORTHRUP, AND THE INTEGRATED  
RESOURCE PLAN CONTAINED IN PART C OF DUKE ENERGY OHIO'S  
APPLICATION FOR APPROVAL OF AN ELECTRIC SECURITY PLAN**

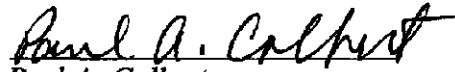
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Duke Energy Ohio (DE-Ohio) hereby moves this honorable Public Utilities Commission of Ohio (Commission) for leave to file under seal certain information contained in the Direct Testimony and Attachments to the Direct Testimony of Christopher D. Kiergan, the Direct Testimony and work papers of Judah Rose, the Direct Testimony of James Northrup, and the Integrated Resource Plan (IRP) contained in Part C of DE-Ohio's Application for Approval of an Electric Security Plan (Application).

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DE-Ohio sets forth in the attached Memorandum in Support its reasons why confidential treatment of this information is necessary.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Paul A. Colbert".

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## MEMORANDUM IN SUPPORT

DE-Ohio respectfully requests that the Commission grant its Motion for Protective Order to Protect the Confidentiality of the Direct Testimony and the Attachments to the Direct Testimony of DE-Ohio witness Christopher D. Kiergan, the Direct Testimony and work papers of DE-Ohio witness Judah Rose, the Direct Testimony of James Northrup, and the IRP contained in Part C of DE-Ohio's Application.

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 power 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.

DE-Ohio owns, operates, manages and controls plants, properties and equipment used and useful in supplying electricity to over 650,000 customers in southwestern Ohio. DE-Ohio is filing today its Application for Approval of an Electric Security Plan. It contains information, the public disclosure of which could damage DE-Ohio's competitive position and business interests. This confidential trade secret information contains proprietary cost benefit and pricing information from vendors for equipment for DE-Ohio's SmartGrid program. Additionally, this testimony and its attachments comprise an overall approach and analysis of market conditions, costs, benefits, and their relative weightings unique to DE-Ohio's overall strategic plan for its SmartGrid implementation and for other business applications. The testimonies and work papers at issue also reflect pricing

information and other confidential data integral to DE-Ohio's operations. This information is proprietary to DE-Ohio and is the culmination of a significant amount of research and development on the part of the Company. This information is relevant to ongoing business strategy and negotiation as DE-Ohio moves forward to deploy SmartGrid in its certified territory.

Ohio Administrative Code Section 4901-1-24(D) allows DE-Ohio to seek leave of the Commission to file information DE-Ohio considers to be proprietary trade secret information, or otherwise confidential, in a redacted and non-redacted form under seal.<sup>1</sup> This rule also establishes a procedure for presenting to the Commission that information which is confidential, and therefore should be protected.<sup>2</sup> DE-Ohio is filing the testimony and related attachment in unredacted form, under seal, as an exhibit to this Motion.

DE-Ohio is filing the confidential material under seal with each page marked as confidential, trade secret, or proprietary pursuant to O.A.C. 4901-1-24(D)(2). The information for which DE-Ohio is seeking confidential treatment is not known outside of DE-Ohio and the vendors, and it is not disseminated within DE-Ohio except to those employees with a legitimate business need to know and act upon the information.

DE-Ohio considers the Confidential Material to be proprietary, confidential, and trade secret, as that term is used in R. C. 1333.61. In addition, this information should be treated as confidential pursuant to R. C. 4901.16.

WHEREFORE, DE-Ohio respectfully requests that the Commission, pursuant to O.A.C. 4901-1-24(D), grant its Motion for Protective Order to Protect the Confidentiality of the Testimony and of the Attachments to the Direct Testimony of Christopher D.

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<sup>1</sup> OHIO ADMIN. CODE § 4901-1-24 (Anderson 2003)

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

Kiergan, the Direct Testimony and work papers of Judah Rose, the Direct Testimony of James Northrup, and the IRP contained in Part C of DE-Ohio's application by making a determination that the Confidential Material is confidential, proprietary and a trade secret under R. C. 4901.16 and 1333.61.

Respectfully submitted,

A handwritten signature in cursive script, reading "Paul A. Colbert", written over a horizontal line.

Paul A. Colbert

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion of Duke Energy Ohio for Protective Order was served on the following parties this 31<sup>st</sup> day of July, 2008 by regular U. S. Mail, overnight delivery or electronic delivery.

  
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