

THE PUBLIC UTILITIES COMMISSION OF OHIO

ENTRY

- (1) On May 29, 2009, Duke Energy Ohio, Inc., (Duke) filed its 2009 gas long-term forecast report (LTFR), pursuant to Section 4935.04, Revised Code, and Chapters 4901:5-1 and 4901:5-7, Ohio Administrative Code (O.A.C.).
- (2) On May 29, 2009, as amended on October 1, 2009, Duke filed a motion for protective order seeking protection of certain information contained in the application, specifically, appendix II, existing transmission systems, and appendix III, ten-year resource plan. In support of its motion for protective order, Duke explains that the information contained in these appendices consists of maps of Duke's gas transmission system, as well as a ten-year resource plan for this system. Duke asserts that this information constitutes critical energy infrastructure information (CEII). According to Duke, if this information is released, Duke's gas transmission system would be placed in an unsafe and unreliable situation and such release could present security issues. In addition, Duke submits that this information should be protected, in accordance with Section 1333.61, Revised Code, because it is trade secret information that is not generally known outside of Duke. Therefore, Duke submits that the information should be treated as confidential.
- (3) The attorney examiner has examined the information covered by Duke's motion for protective order, as well as the assertions set forth in the supportive memorandum. Applying the requirements that the information have independent economic value and be the subject of reasonable efforts to maintain its secrecy pursuant to Section 1333.61(D), Revised Code, as well as the six-factor test set forth by the Ohio Supreme Court,¹ the attorney examiner finds that the information contained in

¹ See *State ex rel. The Plain Dealer v. Ohio Dept. of Ins.*, 80 Ohio St.3d 513, 524-525 (1997).

appendices II and III of the 2009 gas LTFR constitutes CEII and trade secret information. Release of these documents is, therefore, prohibited under state law. The attorney examiner also finds that nondisclosure of this information is not inconsistent with the purposes of Title 49 of the Revised Code. Finally, the attorney examiner concludes that these documents could not be reasonably redacted to remove the confidential information contained therein. Therefore, the attorney examiner finds that Duke's motion for protective order is reasonable with regard to appendices II and III of the 2009 gas LTFR and should be granted.

- (4) Rule 4901-1-24(F), O.A.C., provides that, unless otherwise ordered, protective orders under Rule 4901-1-24(D), O.A.C., automatically expire after 18 months. Therefore, confidential treatment shall be afforded for a period ending 18 months from the date of this entry or until April 2, 2011. Until that date, the docketing division should maintain, under seal, appendices II and III of the 2009 gas LTFR.
- (5) Rule 4901-1-24(F), O.A.C., requires a party wishing to extend a protective order to file an appropriate motion at least 45 days in advance of the expiration date. If Duke wishes to extend this confidential treatment, it should file an appropriate motion at least 45 days in advance of the expiration date. If no such motion to extend confidential treatment is filed, the Commission may release this information without prior notice to Duke.

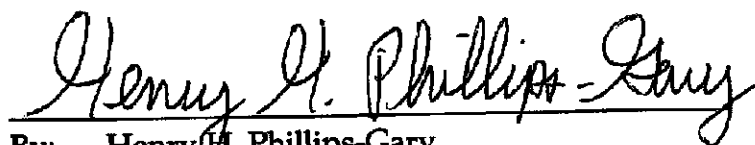
It is, therefore,

ORDERED, That Duke's motion for protective order be granted with regard to the information contained in appendices II and III of the 2009 gas LTFR. It is, further,

ORDERED, That the Commission's docketing division shall maintain, under seal, the unredacted appendices II and III of the 2009 Gas LTFR, for a period of 18 months, ending on April 2, 2011. It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



By: Henry H. Phillips-Gary
Attorney Examiner

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Entered in the Journal

OCT 02 2009



Renee J. Jenkins
Secretary