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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO
PUCO

In the Matter of the Application for)
Establishment of a Reasonable)
Arrangement between Marathon)
Petroleum Company LP and)
Ohio Power Company.)

Case No. 10-2111 EL-AEC

MOTION FOR PROTECTIVE ORDER

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November 22, 2010

Attorney for Marathon Petroleum
Company LP

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MOTION FOR PROTECTIVE ORDER

Pursuant to Rule 4901-1-24(D), Ohio Administrative Code ("O.A.C."), Marathon Petroleum Company LP ("Marathon") respectfully moves the Public Utilities Commission of Ohio ("Commission") to issue a protective order to protect the confidentiality of and prohibit the disclosure of certain information regarding Marathon's potential prospective energy efficiency and advanced energy projects filed simultaneously with this Motion in the above-captioned docket. The information at issue is competitively sensitive and highly proprietary business financial information comprising of trade secrets. The confidential version of this information has been clearly marked as confidential and is hereby filed under seal, separate from the public version of the information that was filed simultaneously with this Motion.

The grounds for this Motion are set forth in the attached Memorandum in Support.

Respectfully submitted,



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MEMORANDUM IN SUPPORT

Contemporaneously with this Motion for Protective Order and Memorandum in Support, Marathon filed an Application for Establishment of a Reasonable Arrangement with Ohio Power Company ("OP") pursuant to Section 4905.31, Revised Code ("Application"). As part of the Application, Marathon included two separate lists of projects: 1) energy efficiency projects (both existing and potential) as Attachment 1; and, 2) advanced energy projects (both existing and potential) as Attachment 3. Marathon has submitted a portion of the project information under seal because the requested information contains competitively sensitive and highly proprietary business financial information which requires confidential treatment. Consequently, Marathon requests that the Commission maintain the confidential nature of this information and protect this information from public disclosure.

Rule 4901-1-24(D), O.A.C., provides for the issuance of an order that is necessary to protect the confidentiality of information contained in documents filed at the Commission to the extent that state and federal law prohibit the release of such information and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code. State law recognizes the need to protect information that is confidential in nature, as is the information submitted under seal by

Marathon. Sections 4901.12 and 4905.07, Revised Code, facilitate the protection of trade secrets in the Commission's possession.¹ Sections 4901.12 and 4905.07, Revised Code, reference Section 149.43, Revised Code, and therefore incorporate the provision that excepts from the public record information and records of which the release is prohibited by law.² State law prohibits the release of information meeting the definition of a trade secret. Additionally, non-disclosure of the information will not impair the purposes of Title 49 as the Commission and its Staff will have full access to the requested information in order to complete their review process.

The information submitted under seal is competitively sensitive and highly proprietary information falling within the statutory characterization of a trade secret as defined by Section 1333.61(D), Revised Code. The definition of trade secret contained in Section 1333.61(D), Revised Code, is as follows:

"Trade secret" means information, including the whole or any portion or phase of any scientific or **technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement, or any business information or plans, financial information, or listing of names, addresses, or telephone numbers, that satisfies both of the following:**

- (1) It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

¹ Section 4901.12, Revised Code, provides: "Except as provided in section 149.43 of the Revised Code and as consistent with the purposes of Title XLIX [49] of the Revised Code, all proceedings of the public utilities commission and all documents and records in its possession are public records."

Section 4905.07, Revised Code, provides: "Except as provided in section 149.43 of the Revised Code and as consistent with the purposes of Title XLIX [49] of the Revised Code, all facts and information in the possession of the public utilities commission shall be public, and all reports, records, files, books, accounts, papers, and memorandums of every nature in its possession shall be open to inspection by interested parties or their attorneys."

² Section 149.43(A)(1)(v), Revised Code, provides in part: "'Public record' does not mean records the release of which is prohibited by state or federal law."

- (2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Section 1333.61(D), Revised Code (emphasis added).

The information submitted under seal identifies energy efficiency and advanced energy projects that Marathon anticipates pursuing in the future. Marathon has redacted only information that is essential to prevent disclosure of the confidential trade secrets contained in Marathon's Application. The information redacted identifies estimates of the total megawatt hour per year ("MWH/yr") savings, the total demand reduction, the peak demand reduction, project costs, and the schedule for completion of each individual project. This information is highly sensitive and proprietary because it reveals information regarding Marathon's plans for refinery operations, processes and capital spending that, if made public, could give Marathon's competitors a competitive advantage. Marathon's Canton refinery is particularly sensitive to releasing information regarding its processes and operations given its susceptibility to market impacts. Specifically, in a supply and demand market, the highest cost producer of a given product or commodity is forced out of the market during tough times. Small refineries, like the Canton refinery, have the highest operating costs (dollars per barrel of crude processed) since they have similar numbers of units and people, yet process less volume.³ Thus, potential, achievable efficiencies are and must continue to be protected.

This information includes technical and cost information as well as describes the design and process of Marathon's potential energy efficiency and advanced energy

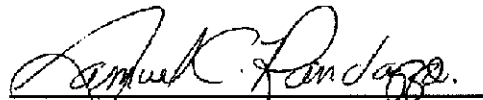
³ World oil demand has declined by over 3%, and in 2009 refining capacity was down by nearly 1.1 million barrels/day; roughly the equivalent of Marathon's seven-plant refining capacity. Some energy experts estimate that an additional 4.3 million barrels/day will need to be cut in the next three years in order to bring refinery utilization back to normal levels. The refining sector has been hit hard by global economic crisis. Since November 2008, there have been several announcements of US refinery closures, slowdowns, and bankruptcies.

projects. This information further constitutes business information or plans that meet both prongs of the trade secret definition. Public disclosure of this information would jeopardize Marathon's business position and its ability to compete. This information derives independent economic value, actual or potential, from not being generally known to Marathon's competitors. Marathon verifies that this information is not generally known by the public and is held in confidence in the normal course of business. Further, this information is not readily ascertainable by proper means by Marathon's competitors who could obtain economic value from its disclosure or use.

Accordingly, Marathon requests that the Commission confirm that the information submitted under seal is trade secret and, thus, treat it as confidential and afford it protective treatment.

WHEREFORE, Marathon respectfully requests that this Motion for Protective Order be granted for the reasons set forth herein.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion for Protective Order* was served upon the following this 22nd day of November 2010, *via* electronic transmission, hand-delivery or first class U.S. mail, postage prepaid.



Samuel C. Randazzo

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ON BEHALF OF THE STAFF OF THE PUBLIC UTILITIES COMMISSION OF OHIO