

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of DPL Energy Resources,)	Case No. 12-1205-EL-ACP
Inc.'s Annual Alternative Energy Portfolio)	
Status Report)	

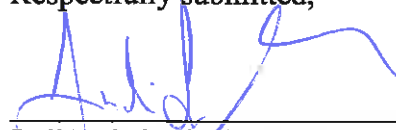
DPL ENERGY RESOURCES, INC.'S MOTION FOR PROTECTIVE ORDER

DPL Energy Resources, Inc. ("DPLER" or "the Company") moves pursuant to Ohio Administrative Code §4901-1-24(D), for the entry of a Protective Order to designate as confidential portions of Attachment 1 to DPLER's Annual Alternative Energy Portfolio Status report which specify the Facility Name, Certificate Serial Numbers, and Ohio Certificate Number of those counterparties from whom DPLER's utility affiliate, DP&L,¹ acquired Renewable Energy Credits ("RECs") to cover its, as well as DPLER's 2011 renewable energy benchmark requirements. ("Confidential Information")

The identity of DP&L's source of supply of REC's constitutes proprietary, trade secret material, the public disclosure of which would subject DP&L to an unfair competitive disadvantage. This information is maintained as confidential by the DP&L. The reasons in support of this motion are fully explained in the attached memorandum. Three unredacted copies of the Attachment 1 have been submitted under seal.

¹ The Commission approved a Stipulation reached in DP&L's Electric Security Plan (ESP) (Case No. 08-1094-EL-SSO), which approved, among other things, DP&L's initial renewable compliance plan, which provided that DP&L would procure renewable resources and/or RECs to meet the Benchmarks of both the utility and DPLER.

Respectfully submitted,



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MEMORANDUM IN SUPPORT

Section 4901:1-40-05(A) of the Ohio Administrative Code, provides as follows:

“Unless otherwise ordered by the commission, each electric utility and electric services company shall file by April fifteenth of each year, on such forms as may be published by the commission, an annual alternative energy portfolio status report analyzing all activities undertaken in the previous calendar year to demonstrate how the applicable alternative energy portfolio benchmarks and planning requirements have or will be met. Staff shall conduct annual compliance reviews with regard to the benchmarks under the alternative energy portfolio standard.”

DPLER is submitting, contemporaneously with this motion, its annual Alternative Energy Portfolio Status Report for calendar year 2011 (“Annual Report”). Attachment 1 to DPLER’s Annual Report is a “REC Details Sheet,” which contains a detailed analysis and breakdown of the specific sourcing for each of the RECs acquired by DP&L to satisfy DPLER’s statutory renewable energy requirements. This level of detail contains proprietary, trade secret materials. Specifically, the Facility Names, Certificate Serial

Numbers and Ohio Certificate Numbers provide a detailed roadmap to DP&L's sources and contract counterparties for RECs. It was through DP&L's extensive efforts that these supply sources were identified and relationships were fostered. Maintaining the confidentiality of its REC sourcing is critical to DP&L realizing the value of its efforts and its ability to maintain its REC supply moving forward. Moreover, making such information publically available would subject DP&L and DPLER to a substantial competitive disadvantage.

O.A.C. §4901-1-24(D) provides that the Commission or certain designated employees may issue an order which is necessary to protect the confidentiality of information contained in documents filed with the Commission's Docketing Division to the extent that state or federal law prohibits the release of the 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 certain types of information which are the subject of this motion. The non-disclosure of the specific identity and location of DP&L's REC supply will not impair the purposes of Title 49. The Commission and its Staff have full access to the information in order to fulfill its statutory obligations. Further, only that information as is essential to prevent disclosure of Confidential Information was redacted from the publically filed document. No purpose of Title 49 would be served by the public disclosure of this highly proprietary, confidential information.

The definition of a "trade secret" is set forth in the Uniform Trade Secrets Act:

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

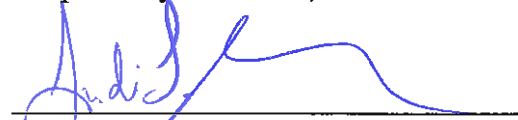
This definition clearly reflects the state policy favoring the protection of trade secrets such as the REC supply information which is the subject of this motion. The information being redacted is DP&L's supply chain and is tantamount to a "customer list." Making it publically available in list format to DP&L and DPLER's competitors also seeking to acquire RECs would severely diminish the value of the list to DP&L and DPLER while providing substantial value to DP&L and DPLER's competitors, which expended no efforts to locate, develop, and maintain the relationships associated with these REC resources.

DP&L considers this Confidential Information to be proprietary, confidential and a trade secret as defined by O.R.C. § 1333.61(D). The Confidential Information is not known outside of DP&L, and is not disseminated to internal employees unless those employees have a legitimate business need to know the information. Maintaining the confidentiality of this information will allow DP&L to realize the value of its considerable efforts in developing this supply chain, while preventing an undue competitive disadvantage to DP&L and DPLER, as well as assisting in fostering the interests of maintaining a fair and robust competitive REC marketplace within Ohio.

² O.R.C. § 1333.61(D).

WHEREFORE, for the foregoing reasons, DPLER respectfully request that the Commission grant this Motion for Protective Order and allow the unredacted Attachment 1 to DPLER's Alternative Energy Portfolio Status Report for calendar year 2011, designated as Confidential Information, to remain under seal.

Respectfully submitted,



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Summary: Motion for protective order and memorandum on behalf of J. Sobecki electronically filed by Eric R Brown on behalf of DPL Energy Resources, Inc.