

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Consolidated Duke Energy Ohio, Inc. Rate)	Case No. 03-93-EL-ATA
Stabilization Plan Remand and Rider)	03-2079-EL-AAM
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

**DUKE ENERGY OHIO, INC.'S, CINERGY CORP.'S AND
DUKE ENERGY RETAIL SALES, LLC'S
MOTION TO EXTEND THE PROTECTIVE ORDER REGARDING MATERIALS
FILED JUNE 22, 2009 AND AUGUST 17, 2009**

Duke Energy Ohio, Inc., Cinergy Corp., and Duke Energy Retail Sales, LLC (together, the “Duke Entities”) hereby respectfully request that the Public Utilities Commission of Ohio (the “Commission”) extend its protective order issued on January 31, 2011, in this case, thereby continuing the protections afforded to customer account numbers and a vendor’s federal tax identification number redacted from the pages filed June 22, 2009 and August 17, 2009 in these cases. Specifically, the Duke Entities request that the Commission’s protective order be extended as to Page Nos. 100, 135, 162, 318, 319, 320, 321, 336, 352, 353, 369, 370, 371, 386, 400, 413, 426, 440, 454, 467, 480, 496, 497, 512, 525, 541, 558, 572, 586, 600, 613, 627, 643, 645, 646, 648, 796, 797, 1022, 1230, 1594, 1595, 1596, 1597, 1598, and 1599, which contain customer account numbers, and Page No. 317, which contains a vendor’s tax identification number. Further, because this information is unlikely to change in the future, the Duke Entities respectfully request that the Commission protect this information for a period of at least four years beginning on July 21, 2012, the date which the current Protective Order expires. The reasons supporting this Motion are provided in the attached Memorandum in Support.

MEMORANDUM IN SUPPORT

I. INTRODUCTION

The Public Utilities Commission of Ohio (the “Commission”) permitted Duke Energy Ohio, Inc., Cinergy Corp., and Duke Energy Retail Sales, LLC (together, the “Duke Entities”) to submit certain information in these cases under seal, ordering certain documents to be redacted before they were filed in the public record of these cases. Due to the disclosure of some of the documents in un-redacted form during litigation in other forums and the mere passage of time, this Commission Ordered that the majority of the previously redacted information be made public. By its January 31, 2011 Entry, however, the Commission ordered that the customer account numbers contained on Page Nos. 100, 135, 162, 318, 319, 320, 321, 336, 352, 353, 369, 370, 371, 386, 400, 413, 426, 440, 454, 467, 480, 496, 497, 512, 525, 541, 558, 572, 586, 600, 613, 627, 643, 645, 646, 648, 796, 797, 1022, 1230, 1594, 1595, 1596, 1597, 1598, and 1599, and a vendor’s tax identification number contained on Page No. 317, remain protected. The Protective Order the Commission extended in its January 31, 2011 Entry will expire on July 21, 2012. The Duke Entities therefore respectfully request that this Commission further extend its Protective Order as to the above-identified pages containing customer account numbers and a tax identification number because this information remains confidential.

II. LAW AND ARGUMENT

Pursuant to Ohio Admin. Code §4901-1-24(F):

A party wishing to extend a protective order beyond eighteen months shall file an appropriate motion at least forty-five days in advance of the expiration date of the existing order. The motion shall include a detailed discussion of the need for continued protection from disclosure.

The information that remains protected in this case consists entirely of customer account numbers and a tax identification number. Such information is entitled to continued protection

under this Commission's own rules, Ohio Admin. Code §§4901:1-10-12(F)(1) (electric) and 4901:1-13-12(D)(1) (gas), which recognize a continuing obligation to protect customer account numbers from public disclosure. As a result, this information is also protected from disclosure under Ohio's public records law, which exempts from disclosure "[r]ecords the release of which is prohibited by state or federal law." Ohio Rev. Code §149.43(A)(1)(v).

This Commission has previously recognized that the information at issue is protected against disclosure and has already granted the information protective treatment in this case. Thus, there is no need to review the initial process by which the Duke Entities were granted protective treatment as to this information. Even so, the protected information also constitutes a trade secret under Ohio law. Ohio Rev. Code §1333.61(D) defines "trade secret" as follows:

[I]nformation including the whole or any portion of 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.

The account numbers at issue in this case have independent economic value from not being generally known or readily ascertainable, and they have been and remain the subject of efforts that are reasonable to preserve their secrecy. Thus, those numbers satisfy the mandates of Ohio Rev. Code §1333.61(D) and must be protected from disclosure. The Commission also found in its January 31, 2011 Entry that the vendor's tax identification number redacted from Page No. 317 warrants similar protective status as given to the customer account numbers.

The Duke Entities respectfully submit to the Commission that the customer account numbers and the vendor tax identification number presently sealed in this case remain confidential and that this information will remain confidential for an indefinite period into the future. As a result, the Duke Entities respectfully ask that the Commission order this information be maintained under seal for a minimum of forty-eight (48) months, if not longer. This Commission has previously recognized that it is appropriate to extend a protective order for a period greater than 18 months when the information at issue does not change over time. *See, e.g., In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Recover Costs Associated with the Ultimate Construction and Operation of an Integrated Gasification Combined Cycle Electric Generation Facility*, Entry, Case No. 05-376-EL-UNC (March 2, 2011) (extending a protective order for a period of 36 months because the protected “critical energy infrastructure information” in that case was not considered dynamic, just as the customer numbers in this case are not dynamic). Therefore, an extension of 48 months is appropriate because customer account numbers and tax identification numbers are static in nature and do not change over time.

III. CONCLUSION

Pursuant to Ohio Admin. Code §4901-1-24(F), the Duke Entities respectfully request the Commission extend the protective order issued in its January 2011 Entry for an additional forty-eight (48) months.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served electronically upon parties, their counsel, and others through use of the following email addresses this June 4, 2012.

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Summary: Motion Motion to Extend the Protective Order Regarding Materials Filed June 22, 2009 and August 17, 2009 electronically filed by Mr. Michael D. Dortch on behalf of Duke Energy Ohio, Inc. and Cinergy Corp. and Duke Energy Retail Sales, LLC