

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
Duke Energy Ohio, Inc., for an Increase	)	Case No. 12-1682-EL-AIR
in Electric Distribution Rates.	)	

In the Matter of the Application of	)	
Duke Energy Ohio, Inc., for Tariff	)	Case No. 12-1683-EL-ATA
Approval.	)	

In the Matter of the Application of	)	
Duke Energy Ohio, Inc., for Approval	)	Case No. 12-1684-EL-AAM
to Change Accounting Methods.	)	

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**MOTION FOR PROTECTIVE ORDER  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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The Office of the Ohio Consumers' Counsel ("OCC") hereby moves the Public Utilities Commission of Ohio ("PUCO") for a protective order regarding information asserted to be confidential by Duke Energy Ohio, Inc. ("Duke").<sup>1</sup> As part of discovery in this proceeding, Duke provided information to OCC, subject to a protective agreement, and Duke asserts that this information constitutes trade secret information under Ohio law.

OCC hereby requests that, in accordance with Ohio Adm. Code. 4901-1-02(E), the PUCO issue such order as is necessary to protect the undisclosed (redacted) portions of the Direct Testimony of James E. Gould that Duke asserts to be confidential. Subject to OCC's rights under the protective agreement, OCC is filing the Direct Testimony of

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<sup>1</sup> This Motion is filed pursuant to Ohio Adm. Code 4901-1-02(E), 4901-1-12 and 4901-1-24(D).

James E. Gould under seal, and is also filing a public version that shows all information Duke does not claim to be confidential.

By filing the instant Motion, OCC does not concede that the information constitutes trade secret information. However, OCC acknowledges that it has obtained this information pursuant to a protective agreement with Duke that provides for such information to be treated as confidential and protected (subject to OCC's right under the protective agreement to initiate a process for the PUCO to rule whether the information deserves confidential treatment under Ohio law).

The grounds for this Motion are more fully described in the accompanying Memorandum in Support.

Respectfully submitted,

BRUCE J. WESTON  
OHIO CONSUMERS' COUNSEL

/s/ Terry L. Etter

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**MEMORANDUM IN SUPPORT**

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OCC files this Motion for Protective Order (“Motion”) contemporaneously with the filing of the Direct Testimony of James E. Gould. In filing this Motion, OCC does not concede that the information in the Direct Testimony of James E. Gould is trade secret information pursuant to R.C. 1333.61(D) and does not concede that the information is deserving of protection from public revelation under Ohio Adm. Code 4901-1-24(D).

OCC understands that Duke considers the undisclosed (redacted) information to be confidential and deserving of the protection of trade secret information as defined in R.C. 1333.61(D). OCC’s understanding is based on claims by Duke that the information (1) derives economic value, actual or potential, from not being known to, and not being readily ascertainable by proper means by others, and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.<sup>2</sup> Under the assertions made

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<sup>2</sup> See R.C. 1333.61(D).

by Duke, at this time, confidential treatment of the redacted information in the Direct Testimony of James E. Gould would be appropriate, subject to OCC's rights under its protective agreement with Duke to initiate a process to determine whether the information should be protected.

In addition, OCC is filing a public version of the Direct Testimony of James E. Gould so that all information Duke does not claim to be confidential is accessible for the public's review. The public version does not contain information that was asserted by Duke to be confidential.

For the foregoing reasons and subject to the foregoing reservations of rights, this Motion should be granted at this time.

Respectfully submitted,

BRUCE J. WESTON  
OHIO CONSUMERS' COUNSEL

/s/ Terry L. Etter

Terry L. Etter, Counsel of Record

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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Motion for Protective Order* by the Office of the Ohio Consumers' Counsel has been served upon those persons listed below via electronic mail this 19th day of February 2013.

/s/ Terry L. Etter

Terry L. Etter

Assistant Consumers' Counsel

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Summary: Motion Motion for Protective Order by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Etter, Terry L.