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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of Duke
Energy Ohio, Inc. to Establish its Fuel and
Economy Purchased Power Component of its
Market-Based Standard Service Office for
2009.)

Case No. 09-974-EL-FAC PUCO

In the Matter of the Application of Duke
Energy Ohio, Inc. to Establish its System
Reliability Tracker of its Market-Based
Standard Service Offer for 2009.)

Case No. 09-975-EL-RDR

DUKE ENERGY OHIO, INC.'S
MOTION FOR CONTINUATION OF PROTECTIVE ORDER

On March 2, 2010, Duke Energy Ohio, Inc. (Duke Energy Ohio or the Company) filed an Application to approve the Fuel and Economy Purchased Power Component (FPP) of its Market-Based Standard Service Offer (SSO), in Case No. 09-974-EL-FAC, and its System Reliability Tracker (SRT) in Case No. 09-975-EL-RDR (Application). Also on March 2, 2010, a motion for confidential treatment was filed to protect the confidentiality of information filed in the Application. The Motion for protective treatment was granted, for a period of 18 months, in the Entry of June 14, 2010. On October 27, 2011, Duke Energy Ohio filed a Motion for Continuation of the Protective Order, covering the same information, which was granted by Entry dated January 30, 2012.

By the present Motion, Duke Energy Ohio seeks to continue the confidential treatment of some, but not all, of the information previously determined to be confidential. Duke Energy Ohio requests that this Commission continue the Order issued

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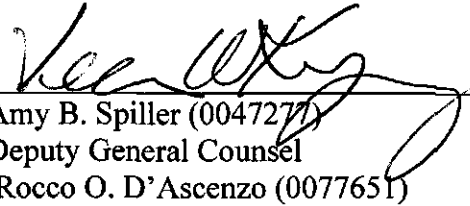
on January 30, 2012, with respect to four items contained in the “Management/Performance and Financial Audit of the Fuel and Purchased Power as Well as the System Reliability Tracker Riders of Duke Energy Ohio, Inc.” (Report). Specifically in this Motion, the Company requests to continue confidential treatment of the following information contained in the Report:

- Exhibit III-8, Page 16;
- Exhibit III-10, Page 18;
- Exhibit III-12, page 21; and
- Exhibit IX-7, page 82.

This data, filed under seal, should be maintained at the Commission in a separate file which has restricted access. The remainder of the information in the Report, as well as that contained in the attachments to the Direct Testimony of Salil Pradhan and William Don Wathen Jr., SP-1 and WDW-1, respectively, currently filed under seal, no longer requires confidential protection.¹ As a matter of convenience to the Commission, Duke Energy Ohio respectfully submits herewith a new Public version of the Report that only contains the redactions of the aforementioned information, releasing the remainder of the information into the public record of the case.

¹ This Motion relates solely to the information contained solely in the above-styled cases. Contemporaneously herewith, Duke Energy Ohio is also filing a separate Motion to Continue Protective Order with respect to the Multi-Year Boiler Recovery Plan submitted in Case Nos. 07-974-EL-FAC, 07-975-EL-UNC, 09-974-EL-FAC and 09-975-EL-UNC. The January 30, 2012, Entry granting the continuation of the protective order addressed that document separately, as it was filed in four cases.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Amy B. Spiller", is written over a horizontal line.

Amy B. Spiller (0047277)

Deputy General Counsel

Rocco O. D'Ascenzo (0077651)

Associate General Counsel

Jeanne W. Kingery (0012172)

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Elizabeth A. Watts (003192)

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MEMORANDUM IN SUPPORT

Duke Energy Ohio respectfully requests that the Public Utilities Commission of Ohio (Commission) grant its Motion for Continuation of Protective Order.

Duke Energy Ohio is an Ohio corporation with its principal office in Cincinnati, Ohio. Duke Energy Ohio has the corporate power and authority, among others, to engage, and it is engaged, in the business of supplying electric distribution service to the public in the State of Ohio. Accordingly, Duke Energy Ohio is a public utility within the meaning of that term in R. C. 4905.02 and 4905.03. As such, Duke Energy Ohio is subject to the jurisdiction of the Commission in the manner and to the extent provided by the laws of the State of Ohio.

On January 7, 2010, an Entry was issued in these proceedings selecting Schumaker & Company as the auditor for the FPP and SRT audits for the period of January 1, 2009, through December 31, 2009. The auditor's Report was initially filed in these proceedings, in redacted form, on May 14, 2010. On May 17, 2010, Duke Energy Ohio filed its Motion for Protective Order, which motion was granted on May 19, 2010. On October 27, 2011, Duke Energy Ohio filed its Motion to Continue the Protective Order with respect to the Report, which was granted by Entry dated January 30, 2012.

Upon current review of the Report, Duke Energy Ohio has determined that most of the information that was previously deemed confidential no longer requires such protection. As such, Duke Energy Ohio is now only seeking continued protection for specific and limited information contained in the Report. The following pages in the Report contain information that still requires confidential treatment due to their inclusion of coal contract information and general business strategy:

- Exhibit III-8 , Page 16
- Exhibit III-10, Page 18,
- Exhibit III-12, Page 21
- Exhibit IX-7 , Page 82

For clarity of the record and convenience to the Commission, contemporaneously with this Motion, Duke Energy Ohio is submitting a revised “public version” of the Report containing redaction of only the above information. Similarly, attachments SP-1, TJT-1, and WDW-2 to the Direct Testimony of Salil Pradhan, Direct Testimony of Timothy J. Thiemann, and Direct Testimony of William Don Wathen Jr., respectively, no longer require confidential treatment. Duke Energy Ohio is therefore also filing this information in unredacted form.

Ohio Administrative Code Rule 4901-1-24(D) allows Duke Energy Ohio to seek leave of the Commission to file information that Duke Energy Ohio considers to be proprietary trade secret information, or otherwise confidential, in redacted and non-redacted form under seal.² This rule also establishes a procedure for presenting to the Commission that information which is confidential, and therefore should be protected.³

Duke Energy Ohio considers the aforementioned information in the Report to continue to be proprietary, confidential, and trade secret, as that term is used in R. C. 1333.61. In addition, this information should be treated as confidential pursuant to R. C. 4901.16. The redacted version of the Report includes the confidential material blacked out for the public.

The Report contains confidential trade secret information that describes Duke Energy Ohio’s coal contract information and general business strategy. The confidential trade secret information contained in the Report, if publicly disclosed, would give Duke

² OHIO ADMIN. CODE Rule 4901-1-24 (Anderson 2012).

³ *Id.*

Energy Ohio's competitors access to competitively sensitive, confidential information, which in turn could allow the competitors to make offers to sell coal at higher prices than the competitors might offer in the absence of such information and to the detriment of Duke Energy Ohio and its customers.

The redacted information contained in the Report constitutes trade secret information in accordance with Ohio's Uniform Trade Secret Act and relevant jurisprudence. The definition of trade secret contained in R.C. 1333.61(D) 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.

(2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.⁴

In analyzing a trade secret claim, the Ohio Supreme Court has adopted the following factors as relevant to determining whether a document constitutes a trade secret:

(1) The extent to which the information is known outside the business; (2) the extent to which it is known to those inside the business, i.e., by the employees; (3) the precautions taken by the holder of the trade secret to guard the secrecy of the information; (4) the savings effected and the value to the holder in having the information as against competitors; (5) the amount of effort or money expended in obtaining and developing the information; and (6) the amount of time and expense it would take for others to acquire and duplicate the information.⁵

The confidential material described above, if disclosed, would enable competitors in the wholesale power market to ascertain the manner in which Duke Energy Ohio plans,

⁴ Ohio Rev. Code Ann. § 1333.61(D) (Baldwin 2007).

⁵ *State ex rel. Besser v. Ohio State Univ.*, 89 Ohio St.3d 396 (2000).

manages and operates its generating facilities, the fuel purchasing strategy, the cost associated therewith, and would enable competitors to ascertain Duke Energy Ohio's positions (long and short) with respect to electric generation capabilities.

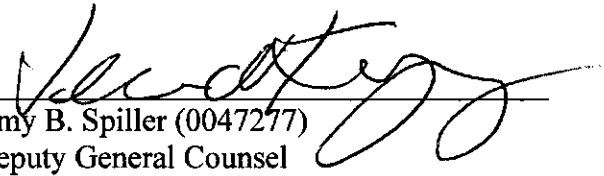
If this information becomes public, Duke Energy Ohio will be placed at a competitive disadvantage in, among other things, reducing its ability to negotiate contracts for fuel. With the information contained in the Report, a competitor could take actions that, in the absence of this information, it would not otherwise take. Such actions might include adjusting its prices, either to win contracts on which Duke Energy Ohio may also be bidding – business the competitors otherwise would not be in a position to win, or to set its prices artificially high to take advantage of an overall short market, the latter action obviously forcing consumers to pay higher prices for power.

The information for which Duke Energy Ohio is seeking confidential treatment is not known outside of Duke Energy Ohio, and it is not disseminated within Duke Energy Ohio except to those employees with a legitimate business need to know and act upon the information.

The public interest will be served by granting this motion. By protecting the confidentiality of the Report and its existing business plans regarding fuel purchases, and contract information, the Commission will prevent undue harm to Duke Energy Ohio and its ratepayers, as well as ensuring a sound competitive marketplace.

WHEREFORE, Duke Energy Ohio respectfully requests that the Commission, pursuant to Ohio Admin. Code Rule 4901-1-24(D), grant its Motion for Continuation of Protective Order by making a determination that the information still redacted is confidential, proprietary, and a trade secret under R. C. 1333.61.

Respectfully submitted,



A handwritten signature in black ink, appearing to read 'Amy B. Spiller', is written over a horizontal line.

Amy B. Spiller (0047277)

Deputy General Counsel

Rocco O. D'Ascenzo (0077651)

Associate General Counsel

Jeanne W. Kingery (0012172)

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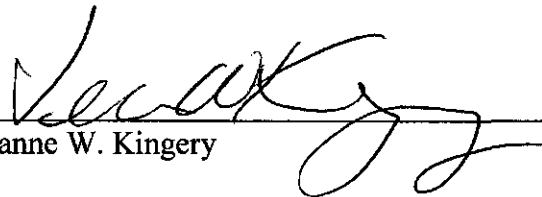
Elizabeth A. Watts (003192)

Associate General Counsel

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139 East Fourth Street, 1301 Main
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion for Protective Order was delivered by electronic means or first class US Mail to all parties of record listed below, this 6th day of June, 2013.



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DUKE ENERGY OHIO
Summary of Rider SRA-SRT Transactions January 1, 2009 through December 31, 2009
Inured to SRA-SRT Customers

Description	Total Capacity Costs and Jurisdictional Allocation												Total
	January	February	March	April	May	June	July	August	September	October	November	December	
Regulatory Capacity Purchase	\$ 1,243,936	\$ 1,230,250	\$ 1,298,438	\$ 1,201,875	\$ 1,513,938	\$ 2,805,286	\$ (282,844)	\$ 2,684,411	\$ 1,605,903	\$ 1,687,694	\$ 1,617,302	\$ 1,603,722	\$ 16,528,103
Total Applicable to Retail Customers	\$ 1,243,936	\$ 1,230,250	\$ 1,298,438	\$ 1,201,875	\$ 1,513,938	\$ 2,805,286	\$ (282,844)	\$ 2,684,411	\$ 1,605,903	\$ 1,687,694	\$ 1,617,302	\$ 1,603,722	\$ 16,528,103

DUKE ENERGY OHIO
Capacity Position for 2009

	2009											
	January	February	March	April	May	June	July	August	September	October	November	December
Total Generation	4,055	4,055	3,983	3,983	3,934	3,908	3,542	3,583	3,534	3,221	3,221	3,221
Purchases	650	650	800	800	1300	628.5	824.50	585	780.5	730.5	655.2	372.2
Total Supply	4,705	4,705	4,783	4,783	5,234	4,537	4,366	4,168	4,315	3,952	3,876	3,593
Native and Switched Peak Demand	(3,737)	(3,543)	(3,312)	(2,988)	(3,572)	(3,940)	(3,959)	(3,959)	(4,045)	(3,708)	(3,468)	(3,001)
Call Option & RTP	11	1	1	1	1	14	37	50	45	0	0	0
Reserve Margin	(559)	(531)	(497)	(448)	(536)	(210)	(210)	(209)	(214)	(198)	(185)	(161)
Total Load	(4,285)	(4,073)	(3,808)	(3,433)	(4,107)	(4,136)	(4,132)	(4,115)	(4,215)	(3,906)	(3,651)	(3,162)
Capacity Position	420	632	975	1,350	1,127	1	34	53	100	45	225	432
Margin	26.3%	32.8%	44.5%	60.2%	46.6%	5.37%	6.32%	6.7%	7.8%	6.8%	11.1%	19.7%

	Physical Inventory	Fuel Ledger	Variance	Adjustment	Expected Difference Due to only adjusting a portion of the variance	Variance from 100% Adjustment
1995	465,630.00	470,064.00	-4,434.00	0.00	0.00	-4,434.00
1996	323,567.00	383,021.00	-59,454.00	-22,981.00	-4,434.00	-55,020.00
1997	196,715.00	241,255.00	-44,540.00	-14,475.00	-36,473.00	-8,067.00
1998	174,235.00	209,871.00	-35,636.00	-12,592.00	-30,065.00	-5,571.00
1999	239,543.00	244,150.00	-4,607.00	0.00	-23,044.00	18,437.00
2000	178,732.00	200,613.00	-21,881.00	-10,941.00	-4,607.00	-17,274.00
2001	178,678.00	195,608.00	-16,930.00	-7,824.00	-10,940.00	-5,990.00
2002	255,248.00	298,671.00	-43,423.00	-17,920.00	-9,106.00	-34,317.00
2003	227,414.00	238,726.00	-11,312.00	-5,656.00	-25,503.00	14,191.00
2004	240,684.00	259,870.00	-19,186.00	-9,593.00	-5,656.00	-13,530.00
2005	272,224.00	308,182.00	-35,958.00	-17,979.00	-9,593.00	-26,365.00
2006	303,977.00	311,729.00	-7,752.00	0.00	-17,979.00	10,227.00
2007	423,131.00	442,701.00	-19,570.00	-19,570.00	-7,752.00	-11,818.00
2008	335,364.00	330,000.00	5,364.00	-7,425.00	0.00	5,364.00
2009	389,035.73	379,196.16	9,839.57	0.00	12,789.00	-2,949.43

DETERMINATION OF SYSTEM RELIABILITY TRACKER - NOISE TAX - BY RETAIL RATE GROUP
REFLECTING RECOVERY OF ESTIMATED 2008 CAPACITY AND PURCHASED POWER COSTS (EXCLUDING ENERGY COSTS)
FOR THE PERIOD JANUARY THROUGH DECEMBER 2009 TO BE APPLIED TO CUSTOMER BILLS OVER A THREE-MONTH PERIOD

14. Risk Group 2B based on significant peak decrease from the Company's cost of service study in Case No. 12-144-03-A0. Non-relied-on based on Case No. 05-0050-03-A0. Based on actual sales in 2017 customers for 3 years ended December 31, 2016.