

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy)
Ohio, Inc. to Establish its Fuel and) Case No. 11-974-EL-FAC
Economy Purchased Power Component of its)
Market-Based Standard Service Office for)
2011.)

In the Matter of the Application of Duke Energy)
Ohio, Inc. to Establish its System Reliability) Case No. 11-975-EL-RDR
Tracker of its Market-Based Standard Service)
Offer for 2011.)

**DUKE ENERGY OHIO, INC.'S MOTION TO EXTEND PROTECTIVE ORDER
TO PROTECT THE CONFIDENTIALITY OF INFORMATION CONTAINED IN
THE DOCUMENT TITLED "MANAGEMENT/PERFORMANCE AND
FINANCIAL AUDIT OF THE FUEL AND PURCHASED POWER AND SYSTEM
RELIABILITY TRACKER RIDERS OF
DUKE ENERGY OHIO, INC."**

Comes now Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) and pursuant to O.A.C. 4901-1-24(F), hereby respectfully requests an order extending the confidential treatment afforded certain pages of information submitted to the Public Utilities Commission of Ohio (Commission) contained in the document entitled "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). Said information was afforded confidential treatment by Entry in this case dated June 12, 2012.¹ The initial eighteen-month period for which confidential protection was afforded

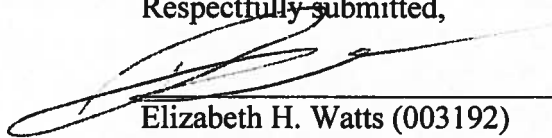
¹ *In the Matter of the Application of Duke Energy Ohio for Authority to for Authority to Establish its Fuel and Economy Purchased Power Component of its Market-Based Standard Service Offer, et al.* Case No.11-974-EL-FAC, et al., (June 12, 2012).

expires on April 28, 2015.² As explained further in the accompanying memorandum in support, while some of the information that was subject to the protection afforded under the prior Entry can now be released, there remains some information which continues to warrant confidential protection. Duke Energy Ohio hereby moves to extend the protective orders issued on June 12, 2012 (Protective Order) to continue the confidential treatment of specific information included in the Report.

Duke Energy Ohio has now reviewed the Report and in the attached Memorandum in Support, sets forth its reasons why confidential treatment of certain information contained in this Report remains necessary.

² *Id.*

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Elizabeth H. Watts", is written over a horizontal line.

Elizabeth H. Watts (003192)

Assistant General Counsel

Rocco O. D'Ascenzo (0077651)

Assistant General Counsel

Amy B. Spiller (0047277)

Deputy General Counsel

DUKE ENERGY OHIO, INC

139 East Fourth Street, 1303 Main

Cincinnati, Ohio 45202

**DUKE ENERGY OHIO'S MEMORANDUM IN SUPPORT OF ITS MOTION
FOR PROTECTIVE ORDER TO PROTECT THE CONFIDENTIALITY OF
INFORMATION CONTAINED IN THE DOCUMENT TITLED
"MANAGEMENT/PERFORMANCE AND FINANCIAL AUDIT OF THE FUEL
AND PURCHASED POWER AND SYSTEM RELIABILITY TRACKER RIDERS
OF
DUKE ENERGY OHIO, INC."**

Duke Energy Ohio respectfully requests that the Public Utilities Commission of Ohio (Commission) grant its Motion for Protective Order to Protect the Confidentiality of Information Contained in the "Management/Performance and Financial Audit of the Fuel and Purchased Power and System Reliability Tracker Riders of Duke Energy Ohio, Inc." (Report) filed in this case.

Duke Energy Ohio is an Ohio corporation with its principal office in Cincinnati, Ohio. Duke Energy Ohio 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 as used 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.

R.C. 1333.61(D) provides, in pertinent part:

"Trade secret" means information, including . . . 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. [Emphasis added.]

Further, the Supreme Court of Ohio adopted six factors to be used in determining whether a trade secret claim meets the statutory definition:³

- (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 affected 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.

The redacted information contained in the Report constitutes trade secret information in accordance with Ohio's Uniform Trade Secret Act and relevant jurisprudence. While some of the information previously afforded confidential protection may now be released due to the passage of time easing the sensitivity of the information, some of the information must still remain confidential. The chart below summarizes the subject matter of the information and specific pages that should remain protected.

³ *State ex rel. The Plain Dealer v. Ohio Dept. of Ins.* (1997), 80 Ohio St.3d 513, 524-25, 1997-Ohio-75.

Report Pages- Extend Confidential Treatment	Subject matter
pp. 23, 24,28, 29	Fuel Forecasting & Procurement

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, manages and operates their generating facilities, the fuel purchasing strategy, the purchase power strategy, the emission allowance 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. Maintaining the confidentiality of this information is all the more important given that Duke Energy Ohio is obligated to transfer its ownership in legacy-owned generating assets to an unregulated affiliate by December 31, 2014.⁴ Further, the competitively sensitive information will provide power marketing competitors with knowledge that will allow them to potentially manipulate the marketplace so as to unnecessarily cause consumers to pay more for electricity than they otherwise would.

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

⁴ *In the Matter of Application of Duke Energy Ohio, Inc. for Authority to Establish a Standard Service Offer Pursuant to Sections 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service*, Case No. 11-3549-EL-SSO, et al. (November 22, 2011)

win, or to set its prices artificially high to take advantage of an overall short market, the latter action obviously resulting in higher power prices and commodity.

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, purchased power, emission allowance information and contract information, the Commission will prevent undue harm to Duke Energy Ohio, consumers, as well as ensuring a sound competitive marketplace.

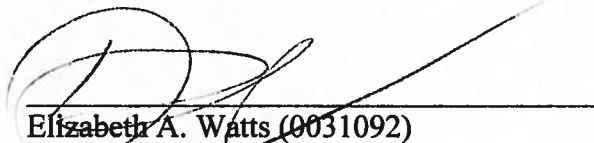
Duke Energy Ohio considers the Report's confidential material to be proprietary, confidential, and trade secrets, as that term is used in R. C. 1333.61. In addition, this information should be treated as confidential pursuant to R. C. 4901.16. The redacted version of the Report filed March 14, 2012 in Ohio proceedings includes the confidential material blacked out for the public.

For ease of reference, the information that the Company no longer considers confidential and that may now be made public includes pages 22, 26,30-32, 53-55, 66-67, 96, 140 of the Report filed in these proceedings.

WHEREFORE, Duke Energy Ohio respectfully requests that the Commission, pursuant to Ohio Administrative Code Section 4901-1-24(D) continue the protection by its Entry of June 12, 2012 and that the following Confidential Material in the Report remain confidential, proprietary and a trade secret under R. C. 4901.16 and 1333.61:

Report Pages- Extend Confidential Treatment	Subject matter
pp. 23, 24,28, 29	Fuel Forecasting & Procurement

Respectfully submitted,

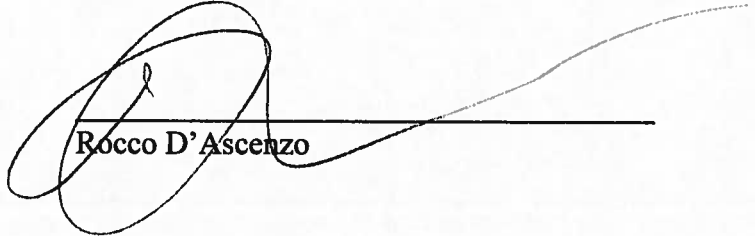


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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion to Extend Protective Order was sent by electronic mail or first class US Mail to all parties of record and listed below this 13th day of March, 2015.



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in

Case No(s). 11-0974-EL-FAC, 11-0975-EL-RDR

Summary: Motion Duke Energy Ohio, Inc.'s Motion to Extend Protective Order to Protect the Confidentiality of Information Contained in the Document Titled "Management/Performance and Financial Audit of the Fuel and Purchased Power and System Reliability Tracker Riders of Duke Energy Ohio, Inc." electronically filed by Dianne Kuhnell on behalf of Duke Energy Ohio, Inc. and Spiller, Amy B. and Rocco D'Ascenzo