

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of Jeffrey	)	
Pitzer,	)	
	)	Case No.15-298-GE-CSS
Complainant,	)	
	)	
v.	)	
	)	
Duke Energy Ohio, Inc.,	)	
	)	
Respondent.	)	

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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"). The deposition of Mitchell A. Carmosino included information Duke to constitute 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 confidential portion of Mr. Carmosino's deposition.<sup>1</sup> Subject to OCC's rights under its protective agreement with Duke, OCC is filing the confidential portion of Mr. Carmosino's deposition transcript under seal. This motion does not apply to the public portion of Mr. Carmosino's

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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).

deposition transcript, which is being filed concurrently with the confidential portion of the transcript.

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 (0016973)  
OHIO CONSUMERS' COUNSEL

/s/ Terry L. Etter

Terry L. Etter (0067445), Counsel of Record  
Assistant Consumers' Counsel

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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 confidential portion of the deposition transcript of Mr. Carmosino. In filing this Motion, OCC does not concede that the information in the confidential portion of the deposition transcript of Mr. Carmosino 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 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 by Duke, at this time, confidential treatment of the confidential portion of Mr. Carmosino's deposition transcript 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.

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 (0016973)  
OHIO CONSUMERS' COUNSEL

/s/ Terry L. Etter

Terry L. Etter (0067445), Counsel of Record  
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Outside Counsel for the  
Office of the Ohio Consumers' Counsel

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

## **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 11<sup>th</sup> day of January 2016.

/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.