

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

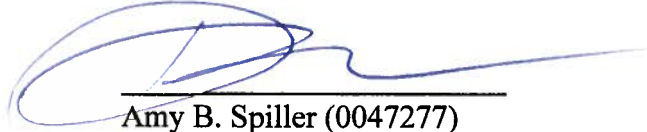
In the Matter of the Application of Duke)	
Energy Ohio, Inc., for Approval of the)	Case No. 14-00081-EL-RDR
Annual Audit Report of Rider SCR, Rider)	
RE, Rider LFA, Rider ESSC, and Rider ECF.)	

**MOTION OF DUKE ENERGY OHIO, INC., FOR
CONTINUATION OF THE PROTECTIVE ORDER
TO PROTECT ATTACHMENT A TO THE AUDIT REPORT**

On January 29, 2014 Duke Energy Ohio, Inc., (Duke Energy Ohio), filed its Request for Audit Report of Rider SCR, Rider RE, Rider RC, Rider LFA, and Rider ESSC (Request) . Also on January 29, 2014, Duke Energy Ohio submitted a motion for confidential treatment to protect and keep confidential the designated information in the Attachment A to the Request. The motion for protective treatment was granted in the Entry of April 16, 2014. By this motion, Duke Energy Ohio seeks to continue the protected treatment of these documents granted in the Commission's Order issued on April 16, 2014, determining that the information contained in the is proprietary and should be treated as confidential. Duke Energy Ohio requests that the Commission continue the Order issued on April 16, 2014 to indicate that this data, filed under seal, should be maintained at the Commission in a separate file which has restricted access.

Duke Energy Ohio, Inc. respectfully requests that the Commission continue to protect the confidentiality of extremely sensitive information contained in the Attachment A. Reasons for this motion are set forth more fully in the attached Memorandum in Support.

Respectfully submitted,



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MEMORANDUM IN SUPPORT

In its Opinion and Order (Order) dated November 22, 2011 in Case No 11-3549-EL-SSO, *et al*, the Commission approved and adopted a Stipulation and Recommendation (Stipulation) that established Duke Energy Ohio's Standard Service Offer (SSO) for the period beginning January 1, 2012, through May 31, 2015.¹ The SSO is in the form of an electric security plan (ESP) in which the supply for competitive retail electric service for Duke Energy Ohio's SSO is procured through a competitive bidding process.² The Company's SSO, as approved by the Commission, is implemented through several formulaic yet discrete pricing components that are established as separate riders.³

The Commission's Order provided an appropriate level of review of the Company's various pricing terms during the term of Duke Energy Ohio's ESP, including audits and true-ups of Duke Energy Ohio's riders.⁴ Several of these riders are subject to an annual review and audit conducted by the Staff of the Public Utilities Commission of Ohio (Staff) consisting of the following: 1) Supplier Cost Reconciliation Rider (Rider SCR); 2) Retail Energy Rider (Rider RE); 3) Retail Capacity Rider (Rider RC); 4) Load Factor Adjustment Rider (Rider LFA); 5) Economic Competitiveness Fund (Rider ECF) and 6) Electric Security Stabilization (Rider

¹ *In re: Application of Duke Energy Ohio, Inc., for Authority to Establish a Standard Service Offer Pursuant to Section 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.*, (Stipulation at 28)(October 24, 2011); (Opinion and Order at 32)(November 22, 2011); and (Entry at 3)(December 14, 2011). The Commission's December Entry directed the Company to file the various rider pricing components in a new rider docket using the case code RDR.

² *Id.*

³ *In re: Application of Duke Energy Ohio, Inc., for Authority to Establish a Standard Service Offer Pursuant to Section 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.*, (Opinion and Order at 12,13 and 17)(November 22, 2011)

⁴ *Id.* at 43

ESSC) (collectively the Riders). The documentation supporting the calculations and adjustments to these Riders include some information that is considered to be confidential, proprietary trade secret information. Specifically, the information considered confidential is included in Attachment A to this filing and contains third-party vendor information regarding auction fees that are charged by the vendor and which are subject to a confidentiality agreement.

This confidential trade secret information, if publicly disclosed, would give the vendor's competitors access to competitively sensitive and confidential information pricing, which in turn could allow the competitors to offer auction services at different prices than the competitors would offer in the absence of such information thus being able to significantly undermine that vendor's ability to compete.

Duke Energy Ohio respectfully requests that the Commission extend the protection of the Confidential Information included in the Report in the proceeding hereunder. The information for which protection was granted on April 16, 2014, and for which the Company seeks an extension of that protection, constitutes trade secret information and, therefore, requires continued protection from disclosure.

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:⁵

- (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.

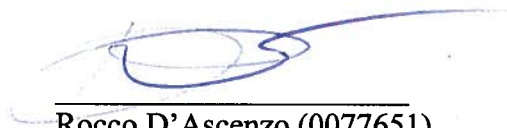
The protection of trade secret information from public disclosure is consistent with the purposes of R.C. Title 49. In the event that the Commission or its Staff requires access to the information, it will continue to be available to them. Given the nature of the information, however, it is rather unlikely that any other party would need to access the confidential portions of Attachment A. As such, granting continued protection of the Confidential Information will not impair the regulatory responsibilities incumbent upon the Commission or Staff.

In view of these circumstances, continued confidential treatment of the Confidential Information contained in the Attachment A report to the Report referenced above is appropriate, and is required by Ohio law and the Commission's regulations. For the foregoing reasons, Duke Energy Ohio respectfully requests that the Commission grant its Motion to Extend the Protective Order pursuant to O.A.C. 4901-1-24(F).

⁵ *State ex rel. The Plain Dealer v. Ohio Dept. of Ins.* (1997), 80 Ohio St.3d 513, 524-25, 1997-Ohio-75.

WHEREFORE, Duke Energy Ohio respectfully requests that the Commission, pursuant to Ohio Admin. Code Rule 4901-1-24(D), grant its motion for a protective order by making a determination that the confidential material contained in Attachment A to the filed Report be designated as confidential.

Respectfully submitted,



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Certificate of Service

I hereby certify that a true and accurate copy of the foregoing has been served upon the following parties via electronic mail, regular mail or by hand delivery this 25th day of February, 2016.



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in

Case No(s). 14-0081-EL-RDR

Summary: Motion Motion of Duke Energy Ohio, Inc., For Continuation of the Protective Order to Protect Attachment A to the Audit Report electronically filed by Dianne Kuhnell on behalf of Duke Energy Ohio, Inc. and Spiller, Amy B. and Rocco D'Ascenzo