

FILE

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke )  
Energy Ohio, Inc., for an Increase in ) Case No. 17-32-EL-AIR  
Electric Distribution Rates. )  
  
In the Matter of the Application of Duke )  
Energy Ohio, Inc., for Tariff Approval. ) Case No. 17-33-EL-ATA  
)  
  
In the Matter of the Application of Duke )  
Energy Ohio, Inc., for Approval to )  
Change Accounting Methods. ) Case No. 17-34-EL-AAM  
)

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DUKE ENERGY OHIO'S MOTION FOR A PROTECTIVE ORDER

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Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) hereby moves this honorable Public Utilities Commission of Ohio (Commission) for a protective order, pursuant to O.A.C. Rule 4901-1-24(D), covering certain confidential information that is included as a part of the testimony supporting its Application in the above-captioned proceeding. Specifically, the proprietary, trade-secret information that Duke Energy Ohio seeks to have protected is contained in an Attachment to the testimony of James A. Riddle, labeled Attachment JAR- 2.

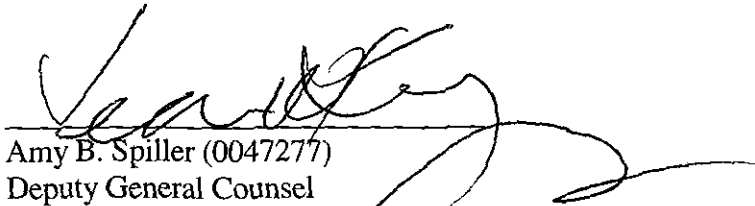
Duke Energy Ohio sets forth, in the attached Memorandum in Support, its reasons why confidential treatment of this information is necessary. In compliance with the governing rule, Duke Energy Ohio is filing, under seal, three unredacted copies of the confidential information.

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Respectfully submitted,

DUKE ENERGY OHIO, INC.

A handwritten signature in black ink, appearing to read 'Jeanne W. Kingery', is written over a horizontal line.

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## MEMORANDUM IN SUPPORT

Duke Energy Ohio respectfully requests that the Commission grant its Motion for a Protective Order. Duke Energy Ohio is an Ohio corporation with its principal office in Cincinnati, Ohio, and is engaged in the business of supplying electric power to the public in the state of Ohio. Accordingly, Duke Energy Ohio is a public utility within the meaning of R. C. 4905.02 and 4905.03. As such, the Company is subject to the jurisdiction of the Commission in the manner and to the extent provided by the laws of the state of Ohio.

Duke Energy Ohio is filing, simultaneously with this motion, testimony in support of its Application for an Increase in Electric Distribution Rates and related authority (Application). Certain of this testimony contains information, the public disclosure of which could damage Duke Energy Ohio's competitive position and business interests.

O.A.C. 4901-1-24(D) provides that the Commission or its attorney examiners may issue a protective order to assure the confidentiality of information contained in filed documents, to the extent that state or federal law prohibits the release of the information, and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code.

The Commission, therefore, generally refers to the requirements of R.C. 1333.61 for a determination of whether specific information should be released or treated confidentially. Subsection (D) of that section defines "trade secret" 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.<sup>1</sup>

Thus, business information or plans and financial information are trade secrets if they derive independent economic value from not being generally known to or ascertainable by others who can obtain their own value from use of the information and they are the subject of reasonable efforts to maintain their secrecy.

Attachment JAR-2 to the Direct Testimony of Company witness James A. Riddle includes information that, if disclosed, would prejudice Duke Energy Ohio in its participation in the competitive market and would enable competitors to take actions that, in the absence of this information, they would not otherwise take. Furthermore, public disclosure of certain of the information in Attachment JAR-2 of Mr. Riddle's testimony would violate existing agreements with vendors, thus compromising Duke Energy Ohio's position vis-à-vis current and prospective counterparties. Such public disclosure, therefore, would undermine the Company's current and future negotiations and competitive position, to the detriment of customers. Information in Attachment JAR-2 of Mr. Riddle's testimony derives actual, independent economic value to the Company as a result of its not being generally known or readily ascertainable by other persons who could use it to affect the market prices and availability of commodities in the market. Public disclosure of this information could have a real effect on the financial position of Duke Energy Ohio. Duke Energy Ohio attempts to ensure that this market information remains secret, both internally and externally.

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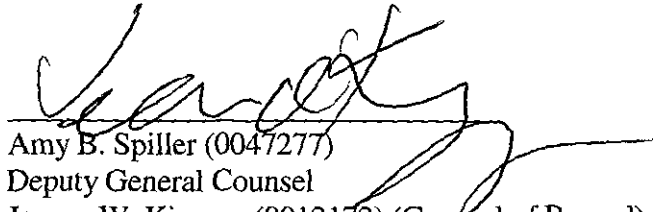
<sup>1</sup> R.C. 1333.61(emphasis added).

O.A.C. 4901-1-24(D) allows Duke Energy Ohio to seek leave of the Commission to file information Duke Energy Ohio considers to be proprietary trade secret information, or otherwise confidential, in a redacted and non-redacted form, under seal. Duke Energy Ohio is filing the related attachment in unredacted form, under seal, together with this Motion.

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

Respectfully submitted,

DUKE ENERGY OHIO, INC.



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## CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list on the Docket Card who have electronically subscribed to this case. In addition, the undersigned certifies that either notification of the filing or a copy of the foregoing document is also being served upon the persons listed below via electronic mail, this 16<sup>th</sup> day of March, 2017.

  
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