BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of a Market Rate Offer to Conduct a Competitive Bidding Process for a Standard Service Offer Electric Generation Supply, Accounting Modifications, and Tariffs for Generation Service.	)	Case No. 10-2586-EL-SSO

MOTION OF DUKE ENERGY OHIO, INC.,
TO EXTEND PROTECTIVE ORDER

In connection with the Attorney Examiner's ruling granting the Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) motion for protective order (Protective Order) at the hearing in this proceeding on January 12, 2011, and in its Opinion and Order of February 23, 2011, and pursuant to O.A.C. 4901-1-24(F), Duke Energy Ohio hereby moves to extend the Protective Order to continue the confidential treatment of specific information presented on the record and in brief. Duke Energy Ohio filed its first Motion to Extend Protective Order (Motion) on July 5, 2012 and subsequent Motions were filed on November 13, 2013 and August 8, 2016 but a ruling has not yet been made by the Commission. As more fully described below, this confidential information remains trade secret information and continues to merit protection. Thus through this Motion, the Company is seeking an Order continuing protection of the confidential material described herein for another eighteen-month period, through approximately May 2019.

Specifically, the proprietary, trade-secret information the Company seeks to continue to protect includes portions of Volumes II and III of the hearing transcript, the unredacted copies of IEU-Ohio (IEU) Exhibits 1 through 10 that were filed under seal on January 19, 2011, and sections of briefs filed by both IEU and Duke Energy Ohio (Confidential Information).

Duke Energy Ohio sets forth, in the attached Memorandum in Support, the reasons why continued protective treatment of the Confidential Information is necessary. Ohio law prohibits the release of this Confidential Information, and nondisclosure of the Confidential Information is

not inconsistent with the purposes of Title 49 of the Revised Code. The Confidential Information is as sensitive and proprietary today as it was on the date of the attorney examiner's original ruling and it will continue to be extremely sensitive and confidential throughout its existence. Therefore, in the interest of administrative efficiency, and with the understanding that public disclosure of the Confidential Information will not, after a short time period, be harmless to the Company, its employees, or contractors, Duke Energy Ohio respectfully requests that the Public Utilities Commission of Ohio (Commission) extend the Protective Order.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

Amy B. Spiller (0047277)
Deputy General Counsel
Elizabeth H. Watts (0031092)
Associate General Counsel
Rocco D'Ascenzo (0077651)
Associate General Counsel
139 E. Fourth Street, 1303-Main
Cincinnati, Ohio 45201-0960
Telephone: (513) 287-4320
Fax: (513) 287-4385
Email: rocco.d'ascenzo@duke-energy.com

MEMORANDUM IN SUPPORT

Duke Energy Ohio respectfully requests that the Commission extend the protection of the Confidential Information included in portions of Volumes II and III of the hearing transcript, the unredacted copies of IEU-Ohio (IEU) Exhibits 1 through 10 that were filed under seal on January 19, 2011, and sections of briefs filed by both IEU and Duke Energy Ohio. The information for which protection was granted, 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:

(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.

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

The Confidential Information that the attorney examiner held as confidential included information related to Duke Energy Ohio's internal deliberations and management analysis of various business scenarios related to its relationship with regional transmission authorities. Although the decision under discussion in these documents was temporal in nature, the Company's internal processes and analysis leading to its decision and the supporting documentation remains competitively sensitive as it included long-term business forecasts and modeling. These analyses included future projections of financial costs and business assumptions that remain relevant and sensitive to the Company today. Very few individuals, even within the Company, have access to the pertinent Confidential Information contained within protected material. The Confidential Information is closely guarded by the Company, as it contains personally identifiable and other economically valuable information including, but not limited to, future market projections. The Company has expended a significant amount of time and resources in developing the Confidential Information. Moreover, disclosure of the Confidential Information would harm the Company's competitive position in the marketplace. Accordingly, the Confidential Information for which the Company seeks continued protective treatment remains trade secret information.

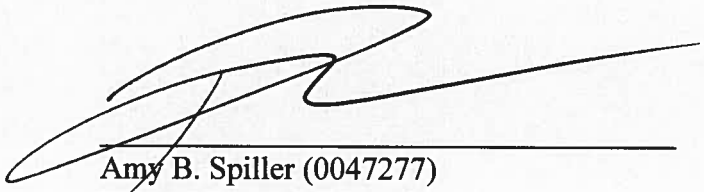
The protection of trade secret information from public disclosure is consistent with the purposes of R.C. Title 49. In the event that the Commission or its Staff requires access to the information, it will continue to be available to them. Given the nature of the information, however, it is rather unlikely that any party would need to access the confidential portions of Volumes II and III of the hearing transcript, the unredacted copies of IEU-Ohio (IEU) Exhibits 1 through 10 that were filed under seal on January 19, 2011, and sections of briefs filed by both IEU and Duke Energy Ohio. 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 Volumes II and III of the hearing transcript, the unredacted copies of IEU-Ohio (IEU) Exhibits 1 through 10 that were filed under seal on January 19, 2011, and sections of briefs filed by both IEU and Duke Energy Ohio is appropriate, and is require 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), and extend the period of protection.

Respectfully submitted,

DUKE ENERGY OHIO, INC.



Amy B. Spiller (0047277)
Deputy General Counsel
Elizabeth H. Watts (0031092)
Associate General Counsel
Rocco D'Ascenzo (0077651)
Associate General Counsel
139 E. Fourth Street, 1303-Main
Cincinnati, Ohio 45201-0960
Telephone: (513) 287-4320
Fax: (513) 287-4385
Email: rocco.d'ascenzo@duke-energy.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Extend Protective Order and Memorandum in Support was served on the following parties via ordinary mail delivery, postage prepaid, and/or electronic mail delivery on this 21ST day of December, 2017.

Rocco D'Ascenzo

John Bentine
Taft Stettinius & Hollister LLP
65 E. State Street, Suite 1000
Columbus, Ohio 43215
jbentine@taftlaw.com

Counsel for the Kroger Company

David F. Boehm
Michael L. Kurtz
Boehm, Kurtz, & Lowry
36 East Seventh St., Suite 1510
Cincinnati, OH 45202
dboehm@bklawfirm.com
mkurtz@bklawfirm.com

Counsel for Ohio Energy Group

Samuel C. Randazzo
McNees Wallace & Nurick LLC
21 E. State Street, 17th Floor
Columbus, Ohio 43215
sam@mwncmh.com
jokiker@mwncmh.com

Counsel for Industrial Energy Users-Ohio

Nolan Moser
Trent A. Dougherty
1207 Grandview Avenue, Suite 201
Columbus, OH 43212-3449
nolan@theoec.org
trent@theoec.org

Counsel for Ohio Environmental Council

David A. Kutik
Jones Day North Point
901 Lakeside Avenue
Cleveland, OH 44114
dakutik@jonesday.com

Counsel for FirstEnergy Solutions Corp.

Terry L. Etter
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215-3485
terry.etter@occ.ohio.gov

Counsel for the Office of the Ohio Consumers' Counsel

Douglas E. Hart
441 Vine Street, Suite 4192
Cincinnati, OH 45202
dhart@douglasehart.com

Attorney for The Greater Cincinnati Health Council

Douglas E. Hart
441 Vine Street, Suite 4192
Cincinnati, OH 45202
dhart@douglasehart.com

Counsel for Eagle Energy, LLC

Stephen M. Howard
Lija Kaleps-Clark
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
P. O. Box 1008
Columbus, OH 43216-1008
mhpetricoff@vorys.com
smhoward@vorys.com

Counsel for Constellation Energy Resources, LLC

Cynthia Fonner Brady
Constellation Energy Resources, LLC
550 W. Washington St., Suite 300
Chicago, IL 60661
cynthia.brady@constellation.com

Counsel for Constellation Energy Resources, LLC

Barth E. Royer
Bell & Royer Co., LPA
33 South Grant Avenue
Columbus, OH 43215-3927
BarthRoyer@aol.com

Counsel for Dominion Resources Services, Inc.

Gary A. Jeffries
Senior Counsel
Dominion Resource Services, Inc.
501 Martindale Street, Suite 400
Pittsburgh, PA 15212-5817
Gary.A.Jeffries@dom.com

Counsel for Dominion Resources Services, Inc.

Steven Beeler
John Jones
Assistant Attorneys General
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215
Steven.beeler@puc.state.oh.us
John.jones@puc.state.oh.us

Michael D. Dortch
Kravitz, Brown & Dortch, LLC
65 East State Street, Ste 200
Columbus, OH 43215
mdortch@kravitzllc.com

Counsel for Duke Energy Retail, LLC

Colleen L. Mooney
Ohio Partners for Affordable Energy
1431 Mulford Road
Columbus, OH 43212-3404
cmooney2@columbus.rr.com

Counsel for Ohio Partners for Affordable Energy

Grant W. Garber
Jones Day
325 John H. McConnell Blvd., Suite 600
Columbus, Ohio 43215-2673
gwgarber@jonesday.com

Attorney for FirstEnergy Solutions Corp.

Devin Parram
Brickler & Eckler LLP
100 South Third Street
Columbus, OH 43215-4291
dparram@bricker.com

Counsel for the City of Cincinnati

Kimberly W. Bojko
Carpenter Lipps & Leland LLP
280 North High Street, Suite 1300
Columbus, Ohio 43215
Bojko@carpenterlipps.com

Attorney for Ohio Manufacturers Association

Summary: Motion Motion of Duke Energy Ohio, Inc., to Extend Protective Order electronically filed by Mrs. Adele M. Frisch on behalf of Duke Energy Ohio, Inc. and D'Ascenzo, Rocco O and Spiller, Amy B and Watts, Elizabeth H