

BEFORE

THE PUBLIC UTILITY COMMISSION OF OHIO

In the Matter of the 2014 Long-Term)
Gas Forecast Report of) Case No.14-0868-GA-FOR
Duke Energy Ohio and Related Matters)

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

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 documents submitted to the Public Utilities Commission of Ohio (Commission) in connection with its 2014 Gas Long-Term Forecast Report (GLTFR). Said documents were afforded confidential treatment by Entry in this case dated July 30, 2015, for a two-year period, until July 30, 2017.¹ That confidential treatment was extended by Entry on August 3, 2017, for a three-year period, until August 3, 2020.² On July 2, 2020, that confidential treatment was again extended by Entry for a three-year period, until July 2, 2023.³ Duke Energy hereby moves to extend the protective order issued on July 30, 2015 (Protective Order) to continue the confidential treatment of specific information included in the following exhibits admitted into evidence:

1. Appendix II to GLTFR (Existing Transmission Systems); and
2. Appendix III to GLTFR (Ten-Year Resource Plan).

Specifically, the proprietary, trade-secret information the Company seeks to continue to protect includes existing gas transmission systems. As demonstrated herein, this information constitutes

¹ *In the Matter of the 2014 Long-Term Gas Forecast Report of Duke Energy Ohio, Inc. and Related Matters*, Case No.14-0868-GA-FOR, Entry (July 30, 2015).

² *Id.* Entry (August 3, 2017).

³ *Id.* Entry (July 2, 2020).

proprietary “Critical Energy Infrastructure Information” (CEII) that should be treated as confidential information.

Duke Energy Ohio sets forth, in the attached Memorandum in Support, the reasons why 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, Duke Energy Ohio respectfully requests that the Public Utilities Commission of Ohio (Commission) extend the Protective Order for a period of two additional years.

Respectfully submitted,
DUKE ENERGY OHIO, INC.

/s/ Jeanne W. Kingery

Rocco D’Ascenzo
Deputy General Counsel
Jeanne W. Kingery
Associate General Counsel
Larisa M. Vaysman
Senior Counsel
Elyse H. Akhbari
Senior Counsel
139 E. Fourth Street, 1303-Main
Cincinnati, Ohio 45202
Telephone: (513) 287-4320
Rocco.dascenzo@duke-energy.com
Jeanne.Kingery@duke-energy.com
Larisa.vaysman@duke-energy.com
Elyse.akhbari@duke-energy.com

MEMORANDUM IN SUPPORT

Duke Energy Ohio respectfully requests that the Commission extend the protection of the Confidential Information included in the Appendix II to GLTFR (Existing Transmission Systems) and Appendix III to GLTFR (Ten Year Resource Plan) constituting the Company's proposed and existing gas transmission systems. As demonstrated herein, this information constitutes proprietary "Critical Energy Infrastructure Information" (CEII). The information for which protection was granted by Entry on July 30, 2015, 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:⁴

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

- (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 Confidential Information, for which the attorney examiner found warranted protection, included Duke Energy Ohio's existing transmission system and its ten-year resources plan that includes the Company's proposed and existing gas transmission systems. This information that constitutes proprietary CEII is valuable and not readily ascertainable within or outside Duke Energy Ohio. Indeed, very few individuals within the Company have access to the pertinent Confidential Information contained within Duke Energy Ohio's existing transmission system and its ten-year resources plan that includes the Company's proposed and existing gas transmission systems. The Confidential Information is closely guarded by the Company, as it contains personally identifiable and other economically valuable information. 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 is 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 either party would need to access the confidential portions of Duke Energy Ohio's existing transmission system and its ten-year resources plan that includes the Company's proposed and existing gas transmission systems. 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 Duke Energy Ohio's existing transmission system and its ten-year resources plan that includes the Company's proposed and existing gas transmission systems, 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).

Respectfully submitted,
DUKE ENERGY OHIO, INC.

/s/ Jeanne W. Kingery

Rocco D'Ascenzo
Deputy General Counsel
Jeanne W. Kingery
Associate General Counsel
Larisa M. Vaysman
Senior Counsel
Elyse H. Akhbari
Senior Counsel
139 E. Fourth Street, 1303-Main
Cincinnati, Ohio 45202
Telephone: (513) 287-4320
Rocco.dascenzo@duke-energy.com
Jeanne.Kingery@duke-energy.com
Larisa.vaysman@duke-energy.com
Elyse.akhbari@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 electronic mail delivery on this 27th day of June, 2023.

/s/ Jeanne W. Kingery
Jeanne W. Kingery

John Jones
Section Chief, Public Utilities Section
Ohio Attorney General's Office
30 E. Broad St., 14th Floor
Columbus, Ohio 43215
John.jones@ohioAGO.gov