

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Calpine Energy	:	
Solutions, LLC's Alternative Energy	:	Case No. 18-0689-EL-ACP
Resource Portfolio for 2017	:	

CALPINE ENERGY SOLUTIONS LLC'S MOTION FOR A PROTECTIVE ORDER

Calpine Energy Solutions, LLC ("Calpine Solutions"), pursuant to Ohio Administrative Code ("O.A.C.") §4901-1-24(D)¹, moves for a protective order to keep certain information related to its Alternative Energy Resources Portfolio Report, for the 2017 calendar year ("AERP"), compliance obligations confidential and not part of the public record. A Memorandum in Support is attached to this Motion and should be incorporated herein.

Respectfully submitted,

/s/ Justin M. Dortch

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¹ Consistent with the requirements of O.A.C. §4901-1-24(D), two (2) un-redacted copies of Calpine's AERP are submitted under seal.

MEMORANDUM IN SUPPORT

Ohio Administrative Code (“O.A.C.”) §4901-1-24(D) provides that the Public Utilities Commission of Ohio (“PUCO” or “Commission”) and/or certain designated employees may issue an order necessary to protect the confidentiality of information contained in documents filed with the Commission’s Docketing Division 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 Ohio Revised Code (“R.C”). While the Commission has expressed its preference for open proceedings, the Commission recognized its statutory obligations with regard to trade secrets:

The Commission is of the opinion that the "public records" statute must also be read in *pari materia* with Section 1333.31, Revised Code ("trade secrets" statute). The latter statute must be interpreted as evincing the recognition, on the part of the General Assembly, of the value of trade secret information.

In re: General Telephone Co., Entry, PUCO Case No, 81-383-TP-AIR (Feb. 6, 1982). Likewise, the Commission has facilitated the protection of trade secrets in its rules. *See, e.g.*, O.A.C. §4901-1- 24(A)(7).

O.R.C. §1133.61(D) defines “trade secret” as:

[I]nformation including the whole or any portion of 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.

R.C. §1333.61(D).

This definition clearly reflects the state policy favoring the protection of trade secrets such as the confidential financial and proprietary information which is the subject of this Motion. In this case, the ten year forecast of solar and non-solar renewable energy credits (“Forecast”) contains confidential and proprietary information and constitutes a trade secret. Specifically, the Forecast’s disclosure could give competitors an advantage that would hinder Calpine Solutions’ ability to compete. In addition, public disclosure of the Forecast is not likely to assist the Commission in carrying out its duties because the Commission, and its Staff, possesses an un-redacted copy of this information.

WHEREFORE, for the reasons stated above, Calpine Solutions requests that the commission GRANT its Motion for a protective order and maintain the Forecast under seal.

Respectfully submitted,

/s/ Justin M. Dortch

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