

Ohio Partners for Affordable Energy

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August 16, 2007

Ms. Betty McCauley, Docketing Chief
Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street, 13th Floor
Columbus, Ohio 43215

RE: Case Nos. 03-93-EL-ATA
03-2079-EL-AAM
03-2081-EL-AAM
03-2080-EL-ATA
05-724-EL-UNC
05-725-EL-UNC
06-1068-EL-UNC
06-1069-EL-UNC
06-1085-EL-UNC

*Consolidated Duke Energy Ohio, Inc, Rate
Stabilization Plan Remand and Rider
Adjustment Cases.*

Dear Ms. McCauley:

On August 8, 2007, the attorney examiner assigned to the above-captioned cases issued an entry requesting that the parties submit memoranda discussing whether the Commission should modify the current protective order in response to a public records request. The current protective order is conditioned on the Commission's ability to modify it if deemed appropriate. The entry requests that the parties address the appropriate treatment of information currently under seal.

Ohio Partners for Affordable Energy (OPAE) is a party subject to the current protective order. Counsel for OPAE was only able to view the protected materials subject to the protective order. With the exception of protection for individual customers' account numbers, OPAE sees no basis for any Commission order protecting the

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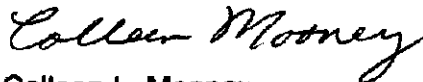
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materials currently under seal. OPAE intends to support the release into the public record of the materials currently under seal at any time the Commission considers this matter.

Legal authority favors open proceedings of government agencies such as the Commission. The Commission must provide an open process with a public record allowing for public scrutiny of the Commission's orders. It is difficult to see how the Commission could issue final orders in these cases without reference to materials currently under seal. There is a strong presumption in favor of disclosure of materials in the Commission's possession; which presumption a party claiming protection has the burden to overcome.

While the examiner addresses a specific public records request in her entry, it is obvious that the resolution of this matter will affect the continued protected status of these materials. Given that those seeking protection have the burden of proving the need for such protection, it would be more appropriate to require those parties seeking protection to respond to the specific items detailed in the examiner's entry at Paragraph (6) and to provide their legal basis for their request for protected status. The other parties should then have the opportunity to respond.

Sincerely,



Colleen L. Mooney
Counsel

cc: Parties of Record