

FILE

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

RECEIVED-COOKING DIV

2008 JUL 21 PM 5:00

In the Matter of the Consolidated Duke Energy )  
Ohio, Inc. Rate Stabilization Plan and Rider ) Cases No. 03-93-EL-ATA  
Adjustment Cases ) 03-2079-EL-AAM  
) 03-2080-EL-AAM  
) 03-2081-EL-ATA  
) 05-724-EL-UNC  
) 05-725-EL-UNC  
) 06-1068-EL-UNC  
) 06-1069-EL-UNC  
) 06-1085-EL-UNC

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**JOINT MOTION FOR CONTINUATION OF PROTECTIVE ORDERS**

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By this motion, Duke Energy Ohio (DE-Ohio), Duke Energy Retail Sales, LLC (DERS) and Cinergy Corp. (Cinergy, and collectively the Duke Entities) seek the continuation, as necessary, of Orders issued May 13, 2004, May 2, 2006, March 19, 2007, October 24, 2007, and May 28, 2008 determining that certain information is proprietary and trade secret, and should be treated as confidential.

**MEMORANDUM IN SUPPORT**

Via entries and/or Orders issued May 13, 2004, May 2, 2006, March 19, 2007, and October 24, 2007, this Commission and its attorney examiners determined that certain information submitted to this Commission in the above-captioned cases should be protected from public dissemination. In its October 24, 2007 Order on Remand, this Commission expressly adopted as its own a protective order issued orally by its Hearing Examiners on March 19, 2007. The Commission further cautioned the parties that, pursuant to this Commission's rules, the protection offered by that Order would

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nonetheless expire eighteen (18) months after March 19, 2007 – that is, on September 19, 2008. Finally, in its October 24, 2007 Order on Remand, the Commission further directed that any party seeking an extension of the protections provided through that Order should file for such an extension 60 days in advance of the expiration of the Order (i.e., by today's date) rather than the typical 45 days set forth within Rule 24(F) of this Commission's Rules of Practice.<sup>1</sup>

Then, on May 28, 2008, the Commission issued still another Order addressing the protection of information in its possession. After discussing its protection of information in this case dating back to information first protected by the Commission's May 13, 2004 Entry and Order, the Commission next discussed its preparation of its own version of redactions of information from documents and its intent to place the Commission's version of those documents in the public record on July 1, 2008 unless applications for rehearing were timely submitted – as they ultimately were – pursuant to Ohio Revised Code section 4903.10. The Commission then ruled:

Although the information in question has been held in the confidential files of the Commission for some time, pending review, such information has now been fully reviewed. The Commission finds that it is appropriate in these particular circumstances to grant a protective order for a period lasting through January 1, 2011. Accordingly, on January 2, 2011, the Commission's docketing division shall release the information to the public. Any party seeking to extend the protection should file an appropriate motion, pursuant to the cited rule, setting forth in particularity what information should still be deemed to be a trade secret and why. Such a motion shall refer to the information in question based on the Commission page number, for reference purposes.

Entry May 28, 2008, ¶16.

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<sup>1</sup> Rule 4901-1-24(F) of the Ohio Administrative Code.

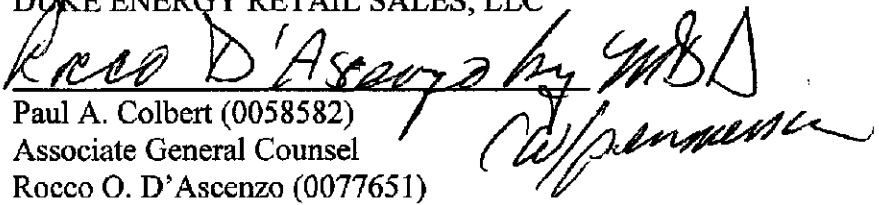
The Duke Entities believe that the import of this Commission's May 28, 2008 Entry is clear, and that as a result *all documents* submitted under seal to this Commission are to remain under seal until at least January 1, 2011. The Duke Entities believe further that the Commission has found it appropriate to disclose certain *information* within those documents as soon as feasibly possible and to protect certain other *information* contained in those documents until at least January 1, 2011, and it is to that end that the Commission created its own version of the documents, redacting protected information from that version. As a result, the Duke Entities believe that all confidential information submitted in this proceeding is now protected until January 1, 2011.

Even so, the issue of confidential information has been a heatedly disputed one in this proceeding. The Duke Entities wish to avoid any future arguments that it failed to seek the protection of any information which would be protected but for Rule 4901-1-24(F) and this Commission's directions that it file for an extension of the hearing examiner's oral protective order no less than sixty days before the expiration of that Order. Thus, in the event that any information in the possession of this Commission might be determined to fall outside the scope of this Commission's May 28, 2008 Entry protecting information in its possession until January 1, 2011, the Duke Entities respectfully ask for the extension to January 1, 2011, of this Commission's protective orders regarding that information, consistent with this Commission's Entry of May 28, 2008.

Respectfully submitted,



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## CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served electronically upon parties, their counsel, and others through use of the following email addresses this 21<sup>st</sup> day of July 2008.

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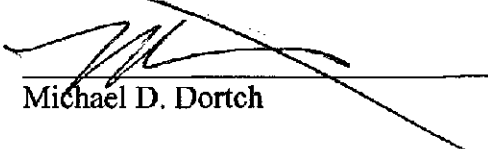
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