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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

PUCO

- In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates.) Case No. 08-709-EL-AIR
- In the Matter of the Application of Duke Energy Ohio, Inc., for a Tariff Approval.) Case No. 08-710-EL-ATA
- In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Change Accounting Methods.) Case No. 08-711-EL-AAM
- In the Matter of the Application of Cincinnati Gas & Electric Company for Approval of its Rider BDP, Backup Delivery Point.) Case No. 06-718-EL-ATA

MOTION FOR PROTECTIVE ORDER

Pursuant to Rule 4901-1-24(D) of the Ohio Administrative Code, the Ohio Cable Telecommunications Association ("the OCTA" or "the Association") respectfully moves for a protective order to maintain the confidentiality of certain information and documents provided to it by Duke Energy Ohio ("Duke") through the discovery process that were designated as "confidential". The OCTA has developed Objections to the Staff Report and the Testimony of expert witness Patricia Kravtin based upon this information and these documents. This information and these documents were provided to the OCTA only after the OCTA signed a Confidentiality Agreement with Duke. The OCTA does not necessarily agree with such a designation and reserves the right to subsequently challenge such a designation. But the Confidentiality Agreement obligates the OCTA to maintain the confidentiality of certain information and documents designated as confidential by Duke. Consistent with the

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requirements of the above cited Rule, three (3) unredacted copies of the confidential portions of the Objections to the Staff Report and the Testimony of Patricia Kravtin are submitted under seal.

Respectfully submitted,



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**MEMORANDUM IN SUPPORT OF
MOTION FOR PROTECTIVE ORDER**

The Ohio Cable Telecommunications Association respectfully moves that the Commissioner or an Attorney Examiner issue an Entry granting its Motion for a Protective Order. The OCTA has received several documents and information from Duke in discovery. Some of these documents and information were designated by Duke as confidential and were provided to the OCTA only after the OCTA signed a Confidentiality Agreement with Duke. The OCTA does not necessarily agree with such a designation and reserves the right to subsequently challenge such a designation. But the Confidentiality Agreement obligates the Association to *maintain the confidentiality of certain documents.*

Some of the documents that were marked as confidential by Duke have been used in Depositions conducted by the OCTA of various Duke representatives. Consequently, some of the Deposition Exhibits marked as confidential were the subject of examination during the course of the Depositions. Redacted versions of the Deposition Exhibits and the Deposition Transcripts were filed in the public record on February 23, 2009.

The OCTA moved that the following Deposition Exhibits be deemed as confidential and not subject to public disclosure at this time.

OCTA Deposition Exhibits 11-14 (from the December 15, 2008
Deposition of James Dean)
OCTA Deposition Exhibit 20 (from the January 29, 2009
Deposition of Richard Harrell)
OCTA Deposition Exhibit 21 – the two pages marked confidential
(from the January 29 Deposition of David Yelton); and
OCTA Deposition Exhibits 23-28 (from the January 30, 2009
Deposition of James Dean)

In addition, the OCTA moved that the following Deposition Transcript excerpts be deemed as confidential and not subject to public disclosure at this time:

December 15, 2008 Deposition Transcript of James Dean, page 52, line 11 through page 98, line 9;
January 29, 2009 Deposition Transcript of Richard Harrell, page 55, line 1 through page 74, line 16; and
January 30, 2009 Deposition Transcript of James Dean, page 47, line 6 through page 115, line 15.

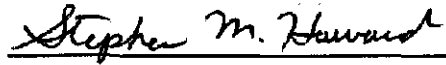
The OCTA has developed objections to the Staff Report which utilizes certain information and documents designated by Duke as "confidential". The OCTA has also retained as an expert witness Patricia Kravtin who utilized certain information in developing testimony.

Rule 4901-1-24(D) of the Ohio Administrative Code provides that the Commission or certain designated employees may issue an order which is 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 Revised Code. State law recognizes the need to protect certain types of information which are the subject of this motion. Based on its designation of confidentiality, we believe that Duke's position would be that the non-disclosure of the information will not impair the purposes of Title 49. The Commission and its Staff have full access to the information in order to fulfill its statutory obligations. Based on its designation of confidentiality, we believe that Duke's position would be that a purpose of Title 49 would be served by the public disclosure of the information at this time.

WHEREFORE, for the above reasons, The Ohio Cable Telecommunications Association requests the Commission to grant its motion for a protective order with respect to its Objections to the Staff Report and the Testimony of Patricia Kravtin and to maintain at this time

the information designated as confidential by Duke which was submitted in this proceeding under seal.

Respectfully submitted,



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LIST OF EXHIBITS
FOR WHICH PROTECTION IS SOUGHT

EXHIBITS

Objections to Staff Report


Testimony of Patricia Kravtin

REASONS JUSTIFYING PROTECTION

Duke has designated certain information and exhibits as “confidential”. The OCTA does not necessarily agree with such a designation. The OCTA is a party to a “Confidentiality Agreement” which obligates it to maintain the confidentiality of information designated to be confidential by Duke. The Deposition Transcript excerpts submitted under seal include the examination of the deponent relating to those Exhibits designated by Duke to be confidential. The OCTA has developed Objections to the Staff Report and Testimony of Patricia Kravtin based upon such confidential information and exhibits. The OCTA reserves the right to subsequently challenge the confidential designation on all or some of these Deposition Exhibits and Deposition Transcript excerpts.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing document was served upon the following persons via email or first class U.S. Mail, this 26th day of February, 2009.



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