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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>Consolidated Duke Energy Ohio, Inc.,</b>	)	<b>Case Nos.</b>	<b>03-93-EL-ATA</b>
<b>Rate Stabilization Plan Remand and</b>	)		<b>03-2079-EL-AAM</b>
<b>Rider Adjustment Cases</b>	)		<b>03-2081-EL-AAM</b>
	)		<b>03-2080-EL-ATA</b>
	)		<b>05-724-EL-UNC</b>
	)		<b>05-725-EL-UNC</b>
	)		<b>06-1068-EL-UNC</b>
	)		<b>06-1069-EL-UNC</b>
	)		<b>06-1085-EL-UNC</b>

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**MOTION FOR EXTENSION OF TIME  
TO RESPOND TO THE OFFICE OF THE CONSUMERS' COUNSEL'S  
MOTION TO MODIFY PROTECTIVE ORDER  
AND  
MOTION TO MODIFY AND SET ASIDE THE EXPEDITED TIMEFRAME  
ESTABLISHED IN THIS CASE FOR RESPONSES TO FILINGS**

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Pursuant to Ohio Administrative Code § 4901-1-13, Duke Energy Ohio, Inc. (DE-Ohio), Cinergy Corp. (Cinergy), and Duke Energy Retail Sales, LLC (DERS) respectfully move the Public Utilities Commission of Ohio (PUCO) for an extension of twenty (20) days in which to file a response to the Office of the Consumers' Counsel's March 13, 2009 Motion to Modify Protective Order. The moving parties also respectfully request that the PUCO modify and set aside its expedited timetable, established in an entry dated February 18, 2004 Entry, for all parties involved in these cases. Movants further request that the standard timetable for motions, memorandum contra, and reply memorandum, as set forth in O.A.C. § 4901-1-12, apply to filings in this case from this point forward. The reasons supporting this Motion are provided in the attached Memorandum in Support.

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Respectfully Submitted,



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**MEMORANDUM IN SUPPORT**

**I. MOVANTS REQUEST AN EXTENSION OF TIME IN WHICH TO RESPOND TO THE OFFICE OF THE CONSUMERS' COUNSEL'S MOTION TO MODIFY PROTECTIVE ORDER**

On March 13, 2009, the Ohio Consumers' Counsel (OCC) filed a motion with the Public Utilities Commission of Ohio (PUCO) to modify a protective order issued October 1, 2008 by the PUCO. The OCC moved the PUCO to modify the protective order so that materials previously protected be released to the public. In support, OCC states that certain protected materials were released to the public on September 18, 2008, as attachments to Plaintiff's Motion for a Preliminary Injunction in *Williams v. Duke Energy International, Inc.*, Case No. 1:108-CV -00046 (U.S. Dist. Ct., Southern Dist. of Ohio).

Duke Energy Ohio, Inc. (DE-Ohio), Cinergy Corp. (Cinergy) and Duke Energy Retail Sales, LLC (DERS) respectfully request that the PUCO grant them an extension of time to file a response to the OCC's March 13, 2009 Motion to Modify Protective

Order. Under the expedited timetable, any memorandum contra must be filed by March 20, 2009. Pursuant to O.A.C. §4901-1-13(A), DE-Ohio, DERS and Cinergy request a twenty (20) day extension to file a memorandum contra from the date that this Motion is filed.

Movants seek this extension in order to have sufficient time to review the protected materials that the OCC requests be released to the public, and to determine whether any or all of them should take action in the *Williams* matter to further protect these materials. Because of the sensitive nature of the protected materials, and the sheer volume of the materials, Movants request the extension in order to permit them to consider all attachments to Plaintiff's Motion for a Preliminary Injunction in *Williams v. Duke Energy International, Inc.*, Case No. 1:108-CV -00046 (U.S. Dist. Ct., Southern Dist. of Ohio).


**II. MOVANTS FURTHER REQUEST THAT THE PUCO MODIFY AND SET ASIDE THE EXPEDITED TIMETABLE ESTABLISHED FOR THE INSTANT CASE**

In a February 18, 2004 Entry in these cases, the Attorney examiner Ordered parties to file any memoranda contra any motion filed within the cases within seven (7) days after the service of the motion, and any reply memorandum within three (3) days after the service of a memorandum contra. (Entry, Feb. 18, 2004, at ¶ 5.) Movants respectfully request that the PUCO modify and set aside this expedited timetable for response, for all parties involved in these cases. The Movants submit that the expediency that was once a concern in this case is no longer required. In place of the expedited timetable, Movants request that the standard timetable for responses, as set forth in O.A.C. § 4901-1-12, be restored and apply to all future filings in this case.

### III. CONCLUSION

Pursuant to O.A.C. §4901-1-13(A), DE-Ohio, DERS and Cinergy request a twenty (20) day extension in which to respond to OCC's Motion to Modify the Protective Order entered in this case. DE-Ohio, DERS and Cinergy also respectfully request the PUCO modify and set aside the expedited timetable, set forth in the February 18, 2004 Entry in these matters, for all parties. DE-Ohio, DERS and Cinergy request that the standard timetable for motions, memorandum contra, and reply memorandum, as set forth in O.A.C. § 4901-1-12, apply to these cases from this point forward.

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 19<sup>th</sup> day of March, 2009.

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