



Office of the Ohio Consumers' Counsel

Your Residential Utility Consumer Advocate

Janine L. Migden-Ostrander  
Consumers' Counsel

May 22, 2009

Ms. Renee Jenkins, Director  
Public Utilities Commission of Ohio  
180 East Broad Street, 7<sup>th</sup> Floor  
Columbus, Ohio 43215-3793

RE: Motion to Modify Protective Order, Case Nos. 03-93-EL-~~UNC~~<sup>ATA</sup>, et al.

Dear Ms. Jenkins:

I write to provide a complete update to events in the United States District Court, Southern District of Ohio, in connection with the Motion to Modify Protective Order ("Motion") filed by the Ohio Consumers' Counsel ("OCC") on March 13, 2009. The issue raised in the Motion was the September 18, 2009 filing of certain documents in federal court<sup>1</sup> that are the subject of an order of protection issued by the Public Utilities Commission of Ohio ("PUCO" or "Commission").

On April 9, 2009, Duke's Memorandum Contra OCC's Motion stated that Duke "will apprise the Commission once the inadvertent disclosure of personal identification information has been addressed by the *Williams* Court" and that the Commission could subsequently "modify its Protective Order at that time if it believes further modification is in [o]rder."<sup>2</sup> On May 21, 2009, Duke stated in a Notice filed in the above-captioned PUCO docket that its affiliate filed, in federal court, a Motion to Redact Confidential Customer Account Numbers in Documents Filed With The Court.<sup>3</sup> Duke's Notice also mentions that the United States District Court for the Southern District of Ohio ordered the re-filing of attachments to the September 18, 2009 pleading to redact customer account numbers.<sup>4</sup>

Duke's Notice does not mention that Plaintiffs in *Williams* submitted the substitute attachments on May 15, 2009, redacting only the customer account numbers in the contracts identified in the

<sup>1</sup> *Williams v. Duke Energy International, Inc.*, Civil Action 1:08-cv-046 ("Williams").

<sup>2</sup> Duke Memorandum Contra OCC Motion at 11 (April 9, 2009).

<sup>3</sup> Duke Notice at 1-2 and Attachment A (May 21, 2009) (Duke Energy International, Inc. filing May 8, 2009).

<sup>4</sup> Duke Notice at 1-2 and Attachment B (May 21, 2009) (Order filed May 12, 2009).

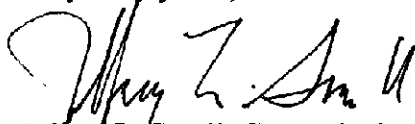
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OCC's Motion.<sup>5</sup> The OCC does not want the impression left that any matter regarding the confidentiality of information remains pending in federal court.

This update regarding developments in federal court is provided, now that Duke has completed the actions it contemplated in its pleadings dated April 9, 2009, so that the PUCO has accurate information regarding developments in federal court for purposes of the PUCO's ruling on OCC's Motion.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeffrey L. Small".

Jeffrey L. Small, Counsel of Record  
Assistant Consumers' Counsel

cc: Michael Dortch, Attorney for the Duke in Case Nos. 03-93-EL-ATA, et al.  
Elizabeth Watts, Duke Energy, Inc.

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<sup>5</sup> The OCC has never opposed the redaction of only the customer account information in documents filed at the Commission in these cases. This was reiterated in a recent pleading in which the OCC stated that "Duke's Memo Contra appears to simply ask the Commission to redact these identification numbers, a limited request to which the OCC does not object regarding the information released in the *Williams* case. This objective does not require additional delay." OCC Reply to Duke Memorandum Contra Motion at 3, footnote 6 (April 16, 2009).