

FILE

6

RECEIVED-DOCKETING DIV

2010 MAY -5 AM 11:27

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

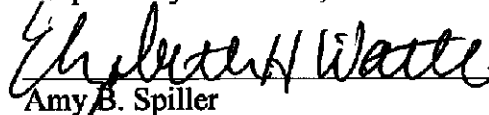
PUCO

In the Matter of the Five-Year Review of )  
Natural Gas Company Uncollectible Riders ) Case No. 08-1229-GA-COI  
)

**DUKE ENERGY OHIO, INC.'S MOTION FOR PROTECTIVE ORDER TO  
PROTECT THE CONFIDENTIALITY OF INFORMATION CONTAINED IN  
THE FILING OF THE AUDIT REPORT**

Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) hereby moves the Public Utilities Commission of Ohio (Commission) for leave to file under seal, certain information contained in the audit report, Chapter V, Section C titled "Key Practice Comparison" (Audit Comparison) pursuant to Ohio Administrative Code 4901:1-24(D). Duke Energy Ohio sets forth in the attached Memorandum in Support its reasons why confidential treatment of certain information contained in this Audit Comparison is necessary.

Respectfully submitted,



Amy B. Spiller  
Associate General Counsel  
Elizabeth Watts  
Assistant General Counsel  
Duke Energy Shared Services, Inc.  
139 East Fourth Street, 25 Atrium II  
Cincinnati, Ohio 45202  
Phone (513)419-1810  
Fax (513)419-1846

This is to certify that the foregoing are an accurate and complete representation of a case file document delivered in the regular course of business.  
Technician PC Date Processed 5-5-2010

---

**DUKE ENERGY OHIO'S MEMORANDUM IN SUPPORT OF ITS MOTION  
FOR PROTECTIVE ORDER TO PROTECT THE CONFIDENTIALITY OF  
INFORMATION CONTAINED IN THE FILING OF THE AUDIT REPORT**

---

Duke Energy Ohio respectfully requests that the Commission grant its Motion for Protective Order to protect the confidentiality of information contained in the audit report, Chapter V, Section C titled "Key Practice Comparison" (Audit Comparison)..

Duke Energy Ohio is an Ohio corporation with its principal office in Cincinnati, Ohio. Duke Energy Ohio is engaged in the business of providing gas and electric service to the public in the State of Ohio. Accordingly, Duke Energy Ohio is a public utility as defined by R. C. 4905.02 and 4905.03. As such, Duke Energy Ohio is subject to the jurisdiction of the Commission in the manner and to the extent provided by the laws of the State of Ohio.

By entry dated August 19, 2009, the Public Utilities Commission of Ohio, (Commission) noted that in order to fully evaluate and measure uncollectible rider mechanisms across all the Ohio gas utilities, that it required a more complete understanding of the companies' recovery of uncollectibles; their practices, policies and performance. Thereafter the Commission ordered that each company undergo an audit for this purpose.

Duke Energy Ohio participated in the audit concerning the natural gas company uncollectible riders, conducted by NorthStar Consulting Group (Northstar). Duke Energy Ohio was given an opportunity to review a draft of the report prior to its filing and

identified specific portions that are proprietary and confidential. Northstar redacted the information which Duke Energy Ohio has designated as confidential and proprietary.

Rule 4901-1-24(D), Ohio Administrative Code (O.A.C.) provides that a party may file a motion for a protective order with regard to confidential information. Duke Energy Ohio requests that the Commission issue an order to protect the confidentiality of the information contained in the Audit Comparison.

This information in question is a comparison of all of the natural gas company practices as it concerns terminations and payment arrangements of its customers. This information would be of value to customers seeking to understand the parameters of the Company's collection practices and to avoid responsibility for payment of their bills. This would increase the amount of bad debt which Duke Energy Ohio would necessarily accrue and could substantially exacerbate the uncollectible problem.

Ohio Administrative Code Section 4901-1-24(D) allows Duke Energy Ohio to seek leave of the Commission to file information that Duke Energy Ohio considers to be proprietary trade secret information, or otherwise confidential, in a redacted and non-redacted form under seal.<sup>1</sup> This rule also establishes a procedure for presenting to the Commission that information which is confidential, and therefore should be protected.<sup>2</sup> The redacted information contained in the Audit Comparison constitutes trade secret information in accordance with Ohio's Uniform Trade Secret Act and relevant jurisprudence.

The confidential material described above, if disclosed, would enable customers to ascertain the manner in which Duke Energy Ohio plans, manages and operates its

---

<sup>1</sup> OHIO ADMIN. CODE § 4901-1-24 (Anderson 2007)

<sup>2</sup> *Id.*

termination and payments procedures. If customers are aware of the termination procedures, they would then be able to determine how much of an unpaid bill to maintain and never be sent for termination due to an unpaid bill.

If this information becomes public, Duke Energy Ohio will be placed at a disadvantage, in among other things, reducing its ability to terminate service and make payment arrangements for those customers who are delinquent in payments and gaming the system. With the information contained in the Audit Comparison, a customer could take actions that, in the absence of this information, it would not otherwise take.

The information for which Duke Energy Ohio is seeking confidential treatment is not known outside of Duke Energy Ohio, and it is not disseminated within Duke Energy Ohio except to those employees with a legitimate business need to know and act upon the information.

The public interest will be served by granting this Motion. By protecting the confidentiality of the Audit Comparison and its existing business plans regarding termination and payment arrangements, the Commission will prevent undue harm to Duke Energy Ohio and its ratepayers, as well as ensuring that customers not become delinquent in payment of their bills.

Duke Energy Ohio considers the Audit Comparison's confidential material to be proprietary, confidential, and trade secrets, as that term is used in R. C. 1333.61. In addition, this information should be treated as confidential pursuant to R. C. 4901.16. The redacted versions of the Audit Comparison do not include the confidential material.

WHEREFORE, Duke Energy Ohio respectfully requests that the Commission, pursuant to Ohio Admin. Code Section 4901-1-24(D), grant its Motion for Protective

Order to Protect the Confidentiality of Information Contained in the portion of the Audit Report titled "Key Practice Comparison" by making a determination that the Confidential Material is confidential, proprietary and a trade secret under R. C. 4901.16 and 1333.61.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Elizabeth Watts", is written over a horizontal line.

Amy B. Spiller  
Associate General Counsel  
Elizabeth Watts  
Assistant General Counsel  
Duke Energy Shared Services, Inc.  
139 Fourth Street, 25 Atrium II  
Cincinnati, Ohio 45202  
Phone (513)419-1810  
Fax (513)419-1846

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was served on the following parties this 5<sup>th</sup> day of May 2010, by electronic mail.

  
Elizabeth H. Watts

Joseph P. Serio Assistant Consumers' Counsel Office of the Ohio Consumers' Counsel 10 West Broad Street, Suite 1800 Columbus, OH 43215-3420 <a href="mailto:serio@occ.state.oh.us">serio@occ.state.oh.us</a>	Joseph M. Clark, Esq. Counsel for Industrial Energy Users-Ohio McNees Wallace & Nurick LLC 21 E. State Street, 17 <sup>th</sup> Floor Columbus, Ohio 43215 <a href="mailto:jclark@mwncmh.com">jclark@mwncmh.com</a>
Andrew J. Sonderman Weltman, Weinberg & Reis Co., LPA 175 South 3 <sup>rd</sup> Street Suite 900 Columbus, OH 43215 <a href="mailto:asonderman@weltman.com">asonderman@weltman.com</a>	Brooke E. Leslie Stephen B. Seiple 200 Civic Center Drive P.O. Box 117 Columbus, OH 43216 <a href="mailto:bleslie@nisource.com">bleslie@nisource.com</a>
Duane Luckey Public Utilities Commission of Ohio 180 East Broad Street, 9 <sup>th</sup> Floor Columbus, Ohio 43215 <a href="mailto:Duane.luckey@occ.state.oh.us">Duane.luckey@occ.state.oh.us</a>	Paul Colbert Grant Garber Jones Day P.O. Box 165017 Columbus, OH 43216 <a href="mailto:apcolbert@jonesday.com">apcolbert@jonesday.com</a>
David Kutik Jones Day North Point, 901 Lakeside Avenue Cleveland, OH 44114 <a href="mailto:dakutik@jonesday.com">dakutik@jonesday.com</a>	Mark A. Whitt Carpenter Lipps & Leland LLP 280 Plaza, Suite 1300 280 North High Street Columbus, OH 43215 <a href="mailto:whit@carpetnerlipps.com">whit@carpetnerlipps.com</a>
M. Howard Petricoff Vorys Sater Seymour & Pease 52 East Gay Street P.O.Box 1008 Columbus, OH 43216 <a href="mailto:mhpetricoff@vorys.com">mhpetricoff@vorys.com</a>	