

**FILE**

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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Consolidated Duke Energy Ohio, Inc. Rate )	Case No. 03-93-EL-ATA
Stabilization Plan Remand and Rider )	03-2079-EL-AAM
Adjustment Cases )	03-2081-EL-AAM
)	03-2080-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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PUCO

**DUKE ENERGY-OHIO, INC.'S, CINERGY CORP.'S AND  
DUKE ENERGY RETAIL SALES, LLC'S  
MOTION TO EXTEND THE PROTECTIVE ORDER REGARDING  
MATERIALS FILED JUNE 22, 2009 AND AUGUST 17, 2009**

Duke Energy Ohio, Inc., Cinergy Corp., and Duke Energy Retail Sales, LLC hereby respectfully request that the Public Utilities Commission of Ohio ("PUCO") extend its protective orders in this case, thereby continuing the protections afforded to the information redacted from the pages filed June 22, 2009 and August 17, 2009 in these cases. The reasons supporting this Motion are provided in the attached Memorandum in Support.

**MEMORANDUM IN SUPPORT**

**I. INTRODUCTION**

This Commission permitted Duke Energy Ohio, Inc., Cinergy Corp., and Duke Energy Retail Sales, LLC to submit certain information in these cases under seal, ordering certain documents to be redacted before they were filed in the public record of these cases. Following disclosures of some of those same documents in unredacted form during litigation in other forums, this Commission Ordered<sup>1</sup> Duke Energy Ohio, Inc., Cinergy Corp. and Duke Energy Retail Sales, LLC to review the redacted documents

<sup>1</sup> Entry dated June 1, 2009.

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filed in this case, determine what information should be released into the public record, and to then file new copies of those documents with this Commission by June 22, 2009, redacting information that should remain protected, and "unredacting" information that had become public knowledge from those documents.

Other parties were then permitted to review the "unredacted" documents submitted by Duke Energy Ohio, Inc., Cinergy Corp. and Duke Energy Retail Sales, LLC, and provide those entities with a list of additional information those other parties believed should be made public. Finally, Duke Energy Ohio, Inc., Cinergy Corp. and Duke Energy Retail Sales, LLC were provided until August 17, 2009 to file any additional pages of "unredactions" with which it agreed, or to file a list of items in dispute with this Commission.

Duke Energy Ohio, Inc., Cinergy Corp. and Duke Energy Retail Sales, LLC complied with this procedure, filing the last of the pages containing "unredactions" on August 17, 2009 as directed. No documents remained in dispute between any other party and Duke Energy Ohio, Inc., Cinergy Corp. or Duke Energy Retail Sales, LLC.

## **II. LAW AND ARGUMENT**

Pursuant to Ohio Administrative Code § 4901-1-24(F),

A party wishing to extend a protective order beyond eighteen months shall file an appropriate motion at least forty-five days in advance of the expiration date of the existing order. The motion shall include a detailed discussion of the need for continued protection from disclosure.

The information that remains protected in this case consists almost entirely – if not entirely – of customer account numbers. This Commission's own rules, 4901:1-10-12(F)(1) (electric) and 4901:1-13-12 (gas) recognize a continuing obligation to protect customer account numbers from public disclosure.

In addition, Ohio's public records law exempts from disclosure "[r]ecords the release of which is prohibited by state or federal law." O.R.C. § 149.43(A)(v). In this case, the information at issue is protected against disclosure by the rules of this Commission, and has furthermore already been granted protective treatment in this case. As a result, there should be no further need to review the initial process by which Duke Energy Ohio, Inc., Cinergy Corp. and Duke Energy Retail Sales, LLC were granted protective treatment. Even so, the protected information also constitutes a trade secret under Ohio law. R.C. § 1133.61 (D) defines "trade secret" as follows:

[I]nformation including the whole or any portion of phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement, or any business information or plans, financial information, or listing of names, addresses, or telephone numbers, that satisfies both of the following:

- (1) It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.
- (2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

The account numbers that are protected information in this case are protected against disclosure by this Commission's rules, and in addition, those numbers satisfy the mandates of R.C. § 1133.61 (D). Account numbers have independent economic value from not being generally known or readily ascertainable, and they have been and remain the subject of efforts that are reasonable to preserve their secrecy.

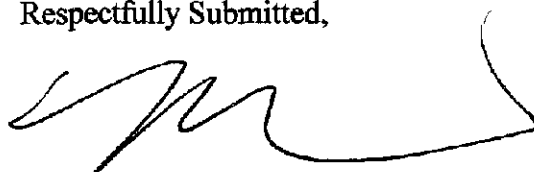
Duke Energy Ohio, Inc., Cinergy Corp. and Duke Energy Retail Sales, LLC respectfully submit to the PUCO that the information presently sealed in this case remains confidential and the information will remain confidential for an indefinite period

into the future. As a result, Duke Energy Ohio, Inc., Cinergy Corp. and Duke Energy Retail Sales, LLC respectfully ask, therefore, that the PUCO order these account numbers be maintained under seal for a minimum of forty-eight (48) months, if not longer.

### III. CONCLUSION

Pursuant to O.A.C. § 4901-1-24(F), Duke Energy Ohio, Inc., Cinergy Corp. and Duke Energy Retail Sales, LLC respectfully request the PUCO extend the protective order issued in its 2009 Entry for an additional forty-eight (48) months.

Respectfully Submitted,



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Michael D. Dortch (0043897)  
KRAVITZ, BROWN & DORTCH, LLC  
65 East State Street  
Suite 200  
Columbus, Ohio 43215  
Tel: 614-464-2000  
Fax: 614-464-2002  
E-mail: [mdortch@kravitzllc.com](mailto:mdortch@kravitzllc.com)  
Attorneys for Duke Energy Ohio, Inc.,  
Cinergy Corp. and Duke Energy Retail  
Sales, LLC

**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 November 12, 2010.

**Staff of the PUCO**

Anne.Hammerstein@puc.state.oh.us  
Stephen.Reilly@puc.state.oh.us  
Scott.Farkas@puc.state.oh.us  
Thomas.McNamee@puc.state.oh.us  
Werner.Margard@puc.state.oh.us

**Bailey, Cavalieri**

dane.stinson@baileycavalieri.com

**Bricker & Eckler, LLP**

sbloomfield@bricker.com  
TOBrien@bricker.com;

**Duke Energy**

anita.schafer@duke-energy.com  
paul.colbert@duke-energy.com  
michael.pahutski@duke-energy.com

**First Energy**

korkosza@firstenergycorp.com

**Eagle Energy**

eagleenergy@fuse.net;

**IEU-Ohio**

dneilsen@mwncmh.com;  
jbowser@mwncmh.com;  
lmcAlister@mwncmh.com;  
sam@mwncmh.com;

**Ohio Consumers Counsel**

bingham@occ.state.oh.us  
HOTZ@occ.state.oh.us  
SAUER@occ.state.oh.us  
SMALL@occ.state.oh.us

BarthRoyer@aol.com;

ricks@ohanet.org;  
shawn.leyden@pseg.com  
mchristensen@columbuslaw.org;  
cmooney2@columbus.rr.com  
rsmithla@aol.com  
nmorgan@lascinti.org  
schwartz@evainc.com  
WTPMLC@aol.com  
cgoodman@energymarketers.com;

**Boehm Kurtz & Lowry, LLP**

dboehm@bkllawfirm.com;  
mkurtz@bkllawfirm.com;

**Duke Energy Retail Services**

rocco.d'ascenzo@duke-energy.com

**Cognis Corp**

tschneider@mgs glaw.com

**Strategic Energy**

JKubacki@strategicenergy.com

**Cinergy Corp.**

mdortch@kravitzllc.com



Michael D. Dortch