

FILE

**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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**DUKE ENERGY-OHIO, INC.'S, CENERGY CORP.'S AND
DUKE ENERGY RETAIL SALES, LLC'S
SPECIFIC IDENTIFICATION OF PAGES THAT THEY REQUEST REMAIN
SUBJECT TO THE PROTECTIVE ORDERS OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

As directed by the Attorney Examiner's Entry of November, 17, 2010, Duke Energy Ohio, Inc., Cinergy Corp., and Duke Energy Retail Sales, LLC ("Movants") herein identify, by the Commission-stamped page number, the specific pages currently subject to Commission protective orders in the above captioned cases that Movants maintain should remain subject to those protective orders.

I. MOVANTS SEEK THE CONTINUED PROTECTION OF THE FOLLOWING INFORMATION.

1) CUSTOMER ACCOUNT NUMBERS

Page Nos. 014, 030, 047, 048, 049, 064, 078, 091, 104, 118, 132, 145, 174, 175, 190, 203, 219, 236, 250, 264, 288, 291, 305, 319, 333, and 963 contain redactions that protect customer account numbers from public disclosure. Movants maintain that this information should remain protected. Further, because this information is unlikely to change in the future, Movants respectfully request that the Commission protect this

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information for no less than four years after it issues an entry in response to Movants' Motion.

As discussed at length in Movant's motion, 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. Continuation of the protective order is therefore consistent with these rules, and the policy of this Commission.

2) CUSTOMER GENERATION LOAD FACTORS

Page Nos. 1091, 1092, 1093, 1107 and 1108 contain redactions that protect information regarding customer load factors from public disclosure. This Commission has already found that the information protected from disclosure in these paragraphs 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.

Information regarding customer load factors tends to be remarkably stable over periods of time, and changes to those factors are dependent largely upon customer initiated changes in operations and/or facilities. Load factors have obvious economic value to competitive suppliers of electric services and is not readily ascertainable unless the customer chooses to share that information with those suppliers. Duke Energy Ohio and (when applicable)

Duke Energy Retail Sales both utilize reasonable efforts to maintain the confidentiality of customer load factors. Movants respectfully request the continued protection of this information.

3) DUKE ENERGY OHIO'S OWN CAPACITY POSITIONS.

Page Nos. 3071 – 3116, and 3120 contain redactions that protect information regarding Duke Energy Ohio's own 2005 and 2006 capacity positions, costs, and similar information from public disclosure. While Duke Energy Ohio's 2010 and 2011 capacity positions and costs are somewhat different than its 2005 and 2006 positions and costs, information concerning the 2005 and 2006 positions remains sensitive information as it provides confirmation of "baseline" information to competitors and others attempting to extrapolate current information regarding Duke Energy Ohio's current positions and costs. Again, this Commission has previously recognized the confidentiality of the protected information. Again, Duke Energy Ohio finds the information to be competitively sensitive, and continues to exercise efforts reasonable in the circumstances to protect that information from public disclosure. Duke Energy Ohio respectfully requests the continued protection of this information.

4) THE "MARQUEE" CUSTOMERS OF AN FOURTH AFFILIATE OF THE DUKE FAMILY OF CORPORATE ENTITIES.

Page Nos. 2318, 2373, 2437, and 2535 contain redactions that protect the identity of the "marquee customers" of an unregulated subsidiary of Duke Energy Ohio which has never been made a party to these proceedings. The identity of those customers constitute a trade secret of that subsidiary, and the information satisfies both prongs of the test of a trade secret:

- (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.

R.C. § 1133.61 (D). On behalf of their affiliate entity, which has never been named a party to these proceedings, Movants respectfully request the continued protection of the identity of these customers. In the event that the Commission should choose not to continue to protect this information, however, Movants respectfully request that their affiliate be provided notice of that decision and an opportunity to intervene in order to seek the continued protection of this information.

II. CONCLUSION

Pursuant to O.A.C. § 4901-1-24(F), Movants respectfully request the PUCO extend the protective orders issued in this case. Due to the nature of the protected information and the probability that the information will retain significant value over an extended period of time, Movants further request that the Commission Order the information protected for an additional forty-eight (48) months.

Respectfully Submitted,



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
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 30, 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, Cavaliere

dane.stinson@baileycavaliere.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
WTTPMLC@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@mgsglaw.com

Strategic Energy

JKubacki@strategicenergy.com

Cinergy Corp.

mdortch@kravitzllc.com



Michael D. Dortch