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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

IN THE MATTER OF THE REPORT )  
OF DUKE ENERGY RETAIL SALES, LLC )  
CONCERNING ITS ADVANCED AND )  
RENEWABLE ENERGY )  
BASELINE AND BENCHMARKS )

Case No. 11-2517-EL-ACP

IN THE MATTER OF THE REPORT )  
OF DUKE ENERGY RETAIL SALES, LLC )  
CONCERNING ITS TEN YEAR ADVANCED )  
ENERGY AND RENEWABLE ENERGY )  
BENCHMARK COMPLIANCE PLAN )

Case No. 11-2518-EL-ACP

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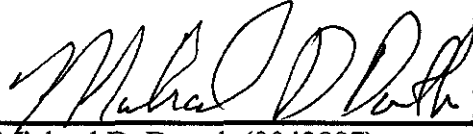
**DUKE ENERGY RETAIL SALES, LLC'S  
MOTION FOR PROTECTIVE ORDER**

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Duke Energy Retail Sales, LLC (Duke Retail), by and through its attorneys, and pursuant to Section 4901-1-24(D) of the Commission's rules moves for a protective order keeping confidential certain designated confidential information filed in connection with its 2010 Attentive Energy Compliance Portfolio Report and Ten Year Advanced and Renewable Energy Benchmark Compliance Plan. If made public, this foregoing information could be used by Duke Retail's competitors to gain an advantage in the competitive market for renewable energy credits and resources. The reasons underlying this motion are detailed in the attached Memorandum in Support. Consistent with the requirements of Section 4901-1-24(D) of the Commission's rules, three unredacted copies of the confidential information which is the subject of this motion have been filed under seal.

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Respectfully submitted,

 (by R. Parsons  
10082270)

Michael D. Dortch (0043897)  
KRAVITZ, BROWN & DORTCH, LLC  
65 East State Street  
Suite 200  
Columbus, OH 43215  
(614)464-2000  
(614)464-2002 (fax)  
[mdortch@kravitzllc.com](mailto:mdortch@kravitzllc.com)

Attorneys for  
DUKE ENERGY RETAIL SALES, LLC

## MEMORANDUM IN SUPPORT

Duke Energy Retail Sales, LLC (Duke Retail) respectfully requests that the confidential and proprietary information set forth in its Alternative Energy Portfolio Status Report and Ten Year Advanced and Renewable Energy Benchmark Compliance Plan (Report & Plan) filed in this docket be protected from public disclosure because it constitutes a trade secret. The information contained in its Report & Plan for which protection is sought includes Duke Retail's total electric sales for 2009; its 2010 renewable energy baseline and benchmark requirements; the identity and sources of renewable energy credits and solar renewable energy credits Duke Retail seeks to retire to comply with its renewable energy benchmark requirements; and the methodology used to evaluate compliance options (collectively, the "Designated Information"). The disclosure of the Designated Information to Duke Retail's competitors would harm Duke Retail's ability to compete in the electric service and the REC markets.

Ohio Admin. Code §4901-1-24(D) provides that the Commission or certain designated employees may issue an order necessary to protect the confidentiality of information contained in documents filed with the Commission's Docketing Division to the extent that state or federal law prohibits the release of the information and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code. While the Commission has expressed its preference for open proceedings, the Commission also long ago recognized its statutory obligations with regard to trade secrets:

The Commission is of the opinion that the "public records" statute must also be read in *pari materia* with Section 1333.31, Revised Code ("trade secrets" statute). The latter statute must be interpreted as evincing the recognition, on the part of the General Assembly, of the value of trade secret information.

*In re: General Telephone Co.*, Entry, PUCO Case No, 81-383-TP-AIR (Feb. 17, 1982).

Likewise, the Commission has facilitated the protection of trade secrets in its rules. *See, e.g.*,

Ohio Admin. Code §4901-1-24(A)(7).

Ohio Rev. Code §1133.61(D) defines “trade secret” as:

[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.

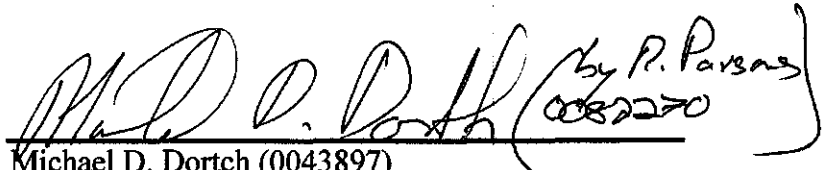
Ohio Rev. Code §1333.61(D). This definition clearly reflects the state policy favoring the protection of trade secrets such as the confidential financial and proprietary information which is the subject of this motion.

The Designated Information in the Report & Plan constitutes confidential and proprietary information that is a trade secret. Duke Retail does not disclose the Designated Information and makes reasonable efforts to maintain its secrecy. The disclosure of the Designated Information would give Duke Retail’s competitors an advantage that would hinder its ability to compete in the electric services and REC markets. In addition, non-disclosure of the Designated Information will not impair the purposes of Title 49. The Commission and its Staff have full access to the Designated Information in order to review the information provided, and no purpose of Title 49 would be served by the public disclosure of the Designated Information.

Indeed, for the Commission not to protect the Designated Information would negate the protections the Ohio General Assembly has granted to all businesses, including public utilities, through the Uniform Trade Secrets Act. In addition, Duke Retail is prepared to make the Designated Information available to counsel for any interested party upon request and the execution of a protective agreement.

For the foregoing reasons, Duke Retail request that the Designated Information in the Report & Plan be protected from the public disclosure.

Respectfully submitted,



Michael D. Dortch (0043897)  
KRAVITZ, BROWN & DORTCH, LLC  
65 East State Street  
Suite 200  
Columbus, OH 43215  
(614)464-2000  
(614)464-2002 (fax)  
[mdortch@kravitzllc.com](mailto:mdortch@kravitzllc.com)

Attorneys for  
DUKE ENERGY RETAIL SALES, LLC