

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission Review of)
the Capacity Charges of Ohio Power) Case No. 10-2929-EL-UNC
Company and Columbus Southern Power)
Company.)

ENTRY

The Attorney Examiner finds:

- (1) Since the issuance of the Entry on Rehearing on February 23, 2012, motions to intervene have been filed by: Interstate Gas Supply Inc. (IGS); Retail Energy Supply Association (RESA); jointly by The Ohio Association of School Business Officials, Ohio School Boards Association, Buckeye Association of School Administrators, and Ohio School Councils (Schools); Ohio Farm Bureau Federation (Farm Bureau); Duke Energy Commercial Asset Management, Inc. (DECAM); The Kroger Company (Kroger); National Federation of Independent Business - Ohio Chapter (NFIB-Ohio); Dominion Retail, Inc. (Dominion Retail); Association of Independent Colleges and Universities of Ohio (AICUO); the city of Grove City (Grove City); and Ohio Construction Materials Coalition (Construction Coalition). No memorandum contra was filed to any of the above-listed motions to intervene.
- (2) All of the above-listed motions to intervene assert a real and substantial interest that is not represented by another party to this case. Further, each motion asserts that the disposition of this proceeding may impair or impede the prospective intervenor's ability to protect that interest. Accordingly, the motions to intervene filed by IGS, RESA, Schools, Farm Bureau, DECAM, Kroger, NFIB-Ohio, Dominion Retail, AICUO, Grove City, and the Construction Coalition are reasonable and should be granted.
- (3) Pursuant to the procedural schedule established in this case, all motions to intervene and intervenor testimony, except Staff, was due by April 4, 2012.
- (4) On April 4, 2012, along with its written testimony, Industrial Energy Users-Ohio (IEU-Ohio) filed a motion for a protective

order for confidential information included in the testimony of IEU-Ohio witness Kevin Murray. Although IEU-Ohio takes no position on whether the information is confidential trade secret information under Ohio law, IEU-Ohio states that Mr. Murray's testimony, at question 27 and exhibit KMM-5, incorporates information provided by Ohio Power Company (AEP-Ohio or Company), which AEP-Ohio has designated as confidential and competitively sensitive. IEU-Ohio notes that the information was provided pursuant to a protective agreement between IEU-Ohio and AEP-Ohio.

- (5) On April 5, 2012, AEP-Ohio filed a motion for protective order of the portion of the Murray testimony and exhibit, as requested by IEU-Ohio in its motion. AEP-Ohio states that the designated portions of Mr. Murray's testimony and exhibit include third-party information and competitively sensitive details about offerings and bilateral transactions for energy and capacity. Further, AEP-Ohio asserts the information has been kept confidential to protect its substantial economic value to AEP-Ohio. AEP-Ohio claims that public release of the information at issue would significantly reduce, if not eliminate, the value of the information, causing harm to AEP-Ohio.
- (6) On April 5, 2012, the Ohio Manufacturers' Association (OMA) filed a motion for leave to file testimony one-day late and a motion for a protective order. OMA states that the paralegal who usually prepares documents for filing with the Commission was unexpectedly out of the office and OMA missed the deadline to timely file the testimony with the Commission. However, OMA notes that the testimony of its member companies was timely served on the parties to the proceeding and, thus, the parties will not be prejudiced by the granting of this request.

In its motion for a protective order, OMA requests that certain portions of the testimony of its five witnesses not be disclosed to the public. OMA reasons that portions of the testimony offered by OMA witnesses Belden, Burke, Forshey, Siefker and Walters include payroll and salary information and other confidential business information, which is trade secret. OMA reasons that each member company considers the financial information to be competitively sensitive and keeps the

information confidential to protect its economic value. OMA argues that public release of the information would give competitors and other third parties inappropriate access to competitively sensitive business information about the respective OMA member company, which would significantly reduce, if not eliminate, the value of the information, causing harm to each of the member companies offering testimony.

- (7) The Attorney Examiner finds that the portion of the Murray testimony and exhibit KMM-5, for which IEU-Ohio and AEP-Ohio request a protective order, and the portions of the testimony of Belden, Burke, Forshey, Siefker and Walters, for which OMA requests a protective order, constitute confidential, competitively sensitive information. Accordingly, IEU-Ohio's, AEP-Ohio's, and OMA's requests for a protective order are reasonable and should be granted for 18 months from the date this entry is issued.
- (8) AEP-Ohio, IEU-Ohio, and OMA are reminded that, pursuant to Rule 4901-1-24(F), Ohio Administrative Code, any request to extend the protective order must be filed at least 45 days before the protective order expires.
- (9) Although OMA failed to adhere to the procedural schedule in this case, the other parties were not prejudiced by OMA's failure to timely file its written testimony. Therefore, OMA's motion for leave to file one day out of time should be granted.

It is, therefore,

ORDERED, That the motions to intervene filed by IGS, RESA, Schools, Farm Bureau, DECAM, Kroger, NFIB-Ohio, Dominion Retail, AICUO, Grove City, and the Construction Coalition be granted. It is, further,

ORDERED, That the motions for protective order filed by IEU-Ohio, AEP-Ohio, and OMA be granted for 18 months from the date this entry is issued. It is, further,

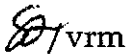
ORDERED, That OMA's motion for leave to file its testimony one day out of time be granted. It is, further,

ORDERED, That a copy of this Entry be served upon all parties of record in this case.

THE PUBLIC UTILITIES COMMISSION OF OHIO

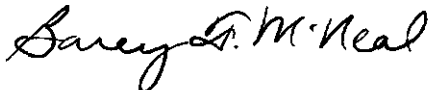


By: Greta See
Attorney Examiner

ETVrm

Entered in the Journal

APR 13 2012



Barcy F. McNeal
Secretary