

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>In the Matter of the Application of Duke</b>	)	
<b>Energy Ohio, Inc., to Establish and Adjust the</b>	)	<b>Case No. 09-1946-EL-RDR</b>
<b>Initial Level of its Distribution Reliability</b>	)	
<b>Rider.</b>	)	

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**MOTION OF DUKE ENERGY OHIO, INC., FOR LEAVE TO  
FILE *INSTANTER* A MOTION TO EXTEND PROTECTIVE ORDER  
AND MEMORANDUM IN SUPPORT**

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Pursuant to O.A.C. 4901-1-24(F), a party wishing to extend a protective order beyond eighteen months must file an appropriate motion at least forty-five days in advance of the expiration date of the existing order.

Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) hereby respectfully moves the Public Utilities Commission of Ohio (Commission) for leave to file *instanter* its motion to extend the protective order covering the Office of Ohio Consumers' Counsel (OCC) Exhibits 11-14 and Duke Energy Ohio Exhibits 8 and 10. The reasons supporting the Company's Motion for Leave to File *Instanter* are set forth in the attached memorandum.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

A handwritten signature in blue ink, reading "Amy B Spiller /OKK", is written over a horizontal line.

Amy B. Spiller

Deputy General Counsel

Elizabeth H. Watts

Associate General Counsel

139 E. Fourth Street, 1303-Main

P.O. Box 960

Cincinnati, Ohio 45201-0960

Telephone: (513) 287-4359

Fax: (513) 287-4385

Email: [Amy.spiller@duke-energy.com](mailto:Amy.spiller@duke-energy.com)

## MEMORANDUM IN SUPPORT

On May 26, 2010, during the course of the hearing in this proceeding, the attorney examiner issued an oral ruling that granted, for a period of eighteen months, the Office of the Ohio Consumers' Counsel's (OCC) Motion for Protective Order concerning certain information contained in OCC Exhibits 11-14 and similarly granted the same confidential treatment to Duke Energy Ohio Exhibits 8 and 10. (Tr. Vol. II, p. 203). In an Entry dated January 30, 2012, the Commission confirmed that:

In light of the determination in finding (8) that the initial 18-month period began at the issuance of the January 11, 2011, order the protective orders pertaining to those documents do not expire until July 11, 2012<sup>1</sup>.

Pursuant to O.A.C. 4901-1-24(F), a party wishing to extend a protective order beyond eighteen months must file an appropriate motion at least forty-five days in advance of the expiration date of the existing order. Contemporaneous with this Motion, Duke Energy Ohio has filed a Motion to Extend the Protective Order, as was affirmed on January 30, 2012. The Company did not, however, file the motion no later than forty-five days prior to July 11, 2012, which would have been May 29, 2012<sup>2</sup> thus respectfully requests permission to file said motion *instantly*.

Duke Energy Ohio submits that the absence of a filed motion to extend confidential treatment by May 29, 2012, was due to inadvertence and not because Duke Energy Ohio felt the information at issue no longer deserving of confidential treatment. To the contrary, the Confidential Information at issue herein is the type of information that Duke Energy Ohio

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<sup>1</sup> *In the Matter of the Application of Duke Energy Ohio, Inc. to Establish and Adjust the Initial Level of its Distribution Reliability Rider*, Case No.09-1946-EL-RDR, (Tr. Vol. II, p. 203).

<sup>2</sup> Due to legal holidays and week-ends, May 29, 2012 is the first business day on which the motion to extend was to have been filed consistent with O.A.C 4901-1-24(F).

routinely guards and protects as confidential and, if disclosed, would unfairly position Duke Energy Ohio vis-à-vis competitors and counterparties.

The Company further asserts that no party will be negatively impacted if the Commission determines it is proper to grant its Motion for Leave to File *Instantly*, as interested parties may still file responsive pleadings and thus a complete record as to this request may be developed. Accordingly, the Company respectfully requests that the Commission grant its Motion for Leave to File *Instantly* its Motion to Extend the Protective Order.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

A handwritten signature in blue ink that reads "Amy B. Spiller / OBC". The signature is written over a horizontal line.

Amy B. Spiller  
Deputy General Counsel  
Elizabeth H. Watts  
Associate General Counsel  
139 E. Fourth Street, 1303-Main  
P.O. Box 960  
Cincinnati, Ohio 45201-0960  
Telephone: (513) 287-4359  
Fax: (513) 287-4385  
Email: Amy.spiller@duke-energy.com

### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Leave to File *Instantly* and Memorandum in Support was served on the following parties via ordinary mail delivery, postage prepaid, and/or electronic mail delivery on this, the 30th day of May 2012.

  
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Amy B. Spiller

Bruce Westin  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215

Stephen Reilly  
Assistant Attorney General  
Public Utilities Section  
180 East Broad Street, 6th Floor  
Columbus, Ohio 43215

Mark Yurick  
Taft Stettinius & Hollister LLP  
65 East State Street, Suite 1000  
Columbus, Ohio 43215-4213

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**Case No(s). 09-1946-EL-RDR**

Summary: Motion of Duke Energy, Ohio, Inc. for Leave to File Instantly a Motion to Extend Protective Order and Memorandum in Support electronically filed by Dianne Kuhnell on behalf of Duke Energy Ohio, Inc. and Spiller, Amy B. and Watts, Elizabeth H.