

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)	
Energy Ohio, Inc., for the Establishment of a)	Case No. 12-2400-EL-UNC
Charge Pursuant to Revised Code Section)	
4909.18.)	

In the Matter of the Application of Duke)	Case No. 12-2401-EL-AAM
Energy Ohio, Inc., for Approval to Change)	
Accounting Methods.)	

In the Matter of the Application of Duke)	Case No. 12-2402-EL-ATA
Energy Ohio, Inc. ., for the Approval of a)	
Tariff for a New Service.)	

**MOTION FOR PROTECTIVE ORDER
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

Consistent with the Attorney Examiner's rulings during the evidentiary hearing for this proceeding, the Office of the Ohio Consumers' Counsel ("OCC") hereby moves the Public Utilities Commission of Ohio ("PUCO") for a protective order regarding information asserted to be confidential by Duke Energy Ohio ("Duke").¹ As part of discovery in this proceeding, Duke provided information to OCC, subject to a protective agreement, and Duke asserts that this information constitutes trade secret information under Ohio law.

OCC hereby requests that, in accordance with Ohio Adm. Code. 4901-1-02(E), the PUCO issue such order as is necessary to protect the undisclosed (redacted) portions of the Initial Post-Hearing Brief that Duke asserts to be confidential. Subject to OCC's

¹ This Motion is filed pursuant to Ohio Adm. Code 4901-1-02(E), 4901-1-12 and 4901-1-24(D).

rights under the protective agreement, OCC is filing the Initial Post-Hearing Brief under seal, and is also filing a public version that shows all information not claimed by the Duke to be confidential.

By filing the instant Motion, OCC does not concede that the information constitutes trade secret information. However, OCC acknowledges that it has obtained this information pursuant to a protective agreement with Duke that provides for such information to be treated as confidential and protected (subject to OCC's right under the protective agreement to initiate a process for the PUCO to rule whether the information deserves confidential treatment under Ohio law).

The grounds for this Motion are more fully described in the accompanying Memorandum in Support.

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Maureen R. Grady
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MEMORANDUM IN SUPPORT

OCC files this Motion for Protective Order (“Motion”) contemporaneously with the filing of OCC’s Initial Post-Hearing Brief. In filing this Motion, OCC does not concede that any of the information in OCC’s Initial Post-Hearing Brief is trade secret information pursuant to R.C. 1333.61(D) and does not concede that the information is deserving of protection from public revelation under Ohio Adm. Code 4901-1-24(D).

OCC understands that Duke considers the undisclosed (redacted) information to be confidential and deserving of the protection of trade secret information as defined in R.C. 1333.61(D). OCC’s understanding is based on claims by Duke that the information (1) derives economic value, actual or potential, from not being known to, and not being readily ascertainable by proper means by others, and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.² Under the assertions made

² See R.C. 1333.61(D).

by Duke, at this time, confidential treatment of the redacted information in OCC's Initial Post-Hearing Brief would be appropriate, subject to OCC's rights under its protective agreement with Duke to initiate a process to determine whether the information should be protected.

In addition, OCC is filing a public version of OCC's Initial Post-Hearing Brief so that all information not claimed by Duke to be confidential is accessible for the public's review. The public version does not contain information that was asserted by Duke to be confidential.

For the foregoing reasons and subject to the foregoing reservations of rights, this Motion should be granted at this time.

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Maureen R. Grady

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion for Protective Order* by the Office of the Ohio Consumers' Counsel has been served upon those persons listed below via electronic mail this 28th day of June 2013.

/s/ Maureen R. Grady
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Summary: Motion Motion for Protective Order by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Grady, Maureen R. Ms.