

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

**MOTION OF DUKE ENERGY OHIO, INC.,
TO EXTEND PROTECTIVE ORDER**

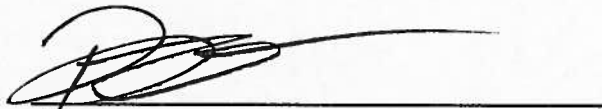
In connection with the attorney examiner's ruling granting the Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) motion for protective order (Protective Order) in this processing on January 30, 2012 and pursuant to O.A.C. 4901-1-24(F), Duke Energy hereby moves to extend the Protective Order to continue the confidential treatment of specific information included in the the Office of the Ohio Consumers' Counsel's (OCC) Exhibits 11-14 and the Company's Exhibit 8 and 10. Specifically, the proprietary, trade-secret information the Company seeks to continue to protect includes the Company's employee numbers, employee names, specific description titles, contractor names, and any telephone numbers or addresses that reference a contractor (collectively, the "Confidential Information") that are included in the OCC Exhibits 11-14 and the Company Exhibits 8-10. Duke Energy Ohio filed its first Motion to Extend Protective Order (Motion) on May 30, 2012. As more fully described below, this confidential information remains trade secret information and continues to merit protection. Thus through this Motion, the Company is seeking an Order continuing protection of the confidential material described herein for another eighteen-month period, through approximately June 2015.

Duke Energy Ohio sets forth, in the attached Memorandum in Support, the reasons why protective treatment of the Confidential Information is necessary. Ohio law prohibits the release of this Confidential Information, and nondisclosure of the Confidential Information is not inconsistent with the purposes of Title 49 of the Revised Code. The Confidential Information is as sensitive and proprietary today as it was on the date of the attorney examiner's original ruling and it will continue to be extremely sensitive and confidential throughout its existence.

Therefore, in the interest of administrative efficiency, and with the understanding that public disclosure of the Confidential Information will not, after a short time period, be harmless to the Company, its employees, or contractors, Duke Energy Ohio respectfully requests that the Public Utilities Commission of Ohio (Commission) extend the Protective Order for a period of ten years.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

A handwritten signature in black ink, appearing to read 'Amy B. Spiller', is written over a horizontal line.

Amy B. Spiller
Deputy General Counsel
Rocco D'Ascenzo
Associate General Counsel
139 E. Fourth Street, 1303-Main
P.O. Box 961
Cincinnati, Ohio 45201-0960
Telephone: (513) 287-4359
Fax: (513) 287-4385
Email: Amy.Spiller@duke-energy.com

MEMORANDUM IN SUPPORT

Duke Energy Ohio respectfully requests that the Commission extend the protection of the Confidential Information included in the the OCC Exhibits 11-14 and the Company Exhibits 8-10 in the proceeding hereunder. The information for which protection was orally granted on May 26, 2010, and for which the Company seeks an extension of that protection, constitutes trade secret information and, therefore, requires continued protection from disclosure.

R.C. 1333.61(D) provides, in pertinent part:

“Trade secret” means information, including . . . 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. [Emphasis added.]

Further, the Supreme Court of Ohio adopted six factors to be used in determining whether a trade secret claim meets the statutory definition:

- (1) The extent to which the information is known outside the business;
- (2) The extent to which it is known to those inside the business, *i.e.*, by the employees;
- (3) The precautions taken by the holder of the trade secret to guard the secrecy of the information;
- (4) The savings affected and the value to the holder in having the information as against competitors;
- (5) The amount of effort or money expended in obtaining and developing the information; and
- (6) The amount of time and expense it would take for others to acquire and duplicate the information.¹

¹ *State ex rel. The Plain Dealer v. Ohio Dept. of Ins.* (1997), 80 Ohio St.3d 513, 524-25, 1997-Ohio-75.

The Confidential Information, which the attorney examiner held included “[e]mployee code numbers, vendor names, employee ID (s) employee names, specific position description titles, contractor names, [and] any telephone number or address that would reference a contractor[.]” The OCC Exhibits 11-14 and the Company Exhibits 8-10 is valuable in that it is not readily ascertainable by most Company insiders, or by outsiders. Very few individuals, even within the Company, have access to the pertinent Confidential Information contained within the the OCC Exhibits 11-14 and the Company Exhibits 8-10. The Confidential Information is closely guarded by the Company, as it contains personally identifiable and other economically valuable information. The Company has expended a significant amount of time and resources in developing the Confidential Information. Moreover, disclosure of the Confidential Information would harm the Company’s competitive position in the marketplace. Accordingly, the Confidential Information for which the Company seeks continued protective treatment is trade secret information.

The protection of trade secret information from public disclosure is consistent with the purposes of R.C. Title 49. In the event that the Commission or its Staff requires access to the information, it will continue to be available to them. Given the nature of the information, however, it is rather unlikely that either party would need to access the confidential portions of the OCC Exhibits 11-14 and the Company Exhibits 8-10. The public, redacted version provides a comprehensive view of the issues discussed in his testimony. As such, granting continued protection of the Confidential Information will not impair the regulatory responsibilities incumbent upon the Commission or Staff.

Because the information for which Duke Energy Ohio seeks protection is largely personal in nature, it will not likely be appropriate for disclosure at any point in the future; thus, the Company anticipates that, under the existing protective order renewal framework, it will be administratively burdensome for it to file continuances, and for the Commission to issue orders, every eighteen months to continue to protect the information at issue. The Company therefore respectfully requests that the Commission lengthen the period of protection for the Confidential Information to ten years.

In view of these circumstances, continued confidential treatment of the Confidential Information contained in the the OCC Exhibits 11-14 and the Company Exhibits 8-10 is appropriate, and is require by Ohio law and the Commission’s regulations. For the foregoing

reasons, Duke Energy Ohio respectfully requests that the Commission grant its Motion to Extend the Protective Order pursuant to O.A.C. 4901-1-24(F), and extend the period of protection to last ten years.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

A handwritten signature in black ink, appearing to read 'Amy B. Spiller', is written over a horizontal line.

Amy B. Spiller
Deputy General Counsel
Rocco D'Ascenzo
Associate General Counsel
139 E. Fourth Street, 1303-Main
P.O. Box 961
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 to Extend Protective Order and Memorandum in Support was served on the following parties via ordinary mail delivery, postage prepaid, and/or electronic mail delivery on this 3rd day of December, 2013.



Rocco D'Ascenzo

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

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

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

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Summary: Motion of Duke Energy Ohio, Inc., to Extend Protective Order electronically filed by Dianne Kuhnell on behalf of Duke Energy Ohio, Inc. and Spiller, Amy B. and Rocco D'Ascenzo