

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)	
Energy Ohio for Authority to Establish a)	Case No. 14-841-EL-SSO
Standard Service Offer Pursuant to)	
Section 4928.143, Revised Code, in the)	
Form of an Electric Security Plan,)	
Accounting Modifications and Tariffs for)	
Generation Service.)	

In the Matter of the Application of Duke)	
Energy Ohio for Authority to Amend its)	Case No. 14-842-EL-ATA
Certified Supplier Tariff, P.U.C.O.)	
No. 20.)	

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

The Office of the Ohio Consumers' Counsel ("OCC") hereby moves the Public Utilities Commission ("PUCO" or "Commission") for a protective order regarding information asserted to be confidential by Duke Energy Ohio ("Duke Ohio" or "Utility") and/or the Ohio Valley Electric Corporation ("OVEC").¹ As part of discovery in this proceeding, Duke Ohio and OVEC provided certain information to OCC, subject to protective agreements. Duke Ohio and OVEC assert that this information is proprietary and competitively-sensitive confidential, and constitutes trade secrets under Ohio law, and that non-disclosure is not inconsistent with the purposes of R.C. Title 49.

OCC hereby requests that the Commission issue such order as is necessary to protect limited portions of the deposition transcripts of Charles Whitlock, Bryan

¹ This Motion is filed pursuant to Ohio Adm. Code 4901-1-24(D).

Dougherty, Ben Zhang, Ken Jennings and John Brodt. These individuals have been subpoenaed to appear as OCC Witnesses at the evidentiary hearing in this proceeding. The deposition transcripts were produced from the depositions taken by OCC of these individuals. The limited portions of the deposition transcripts sought to be protected contain information that Duke Ohio and/or OVEC deem confidential. OCC is filing portions of the deposition transcripts under seal. Those portions of the deposition transcripts contain information alleged by Duke Ohio or OVEC to be confidential and is information subject to a protective agreement. OCC is also filing a public version of the transcripts excluding the confidential portions, subject to OCC's rights under the protective agreement and provisions of Ohio law.

By filing the instant motion, OCC does not concede that the information constitutes trade secrets. However, OCC acknowledges that it has obtained this information pursuant to protective agreements with Duke Ohio and OVEC. Those protective agreements provide for such information to be treated as confidential and protected (subject to OCC's right 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

Contemporaneously with the filing of this Motion, OCC is filing the deposition transcripts of five individuals who have been subpoenaed by OCC to testify in this matter. The deposition transcripts of deponents Charles Whitlock, Bryan Dougherty, Ben Zhang, Ken Jennings, and John Brodt contain information gained during discovery that Duke Ohio and OVEC assert is competitively-sensitive confidential. Accordingly, OCC is filing portions of the deposition transcripts of Charles Whitlock, Bryan Dougherty, Ben Zhang, Ken Jennings, and Jon Brodt under seal, pursuant to Ohio Adm. Code 4901-1-24(D)(2) and the protective agreements OCC has with Duke Ohio and OVEC. OCC is also filing a public version of the depositions, subject to OCC's rights under the protective agreement and provisions of Ohio law for viewing by the public, excluding the confidential portions pursuant to Ohio Adm. Code 4901-1-24(D)(1) and the protective agreement between OCC, Duke, and OVEC.

Without conceding that the allegedly confidential information meets the standard for trade secrets and deserves protection from public revelation under R.C. 1333.61(D), OCC files the instant Motion to protect the information. Accordingly, OCC requests that the Commission issue such order as is necessary to protect portions of the deposition transcripts of Charles Whitlock, Bryan Dougherty, Ben Zhang, Ken Jennings, and Jon Brodt as filed under seal. Such information was designated as confidential by Duke Ohio and/or OVEC, subject to OCC's rights under the protective agreements. OCC, nonetheless, retains the right to initiate the process for the PUCO to decide if confidential treatment is appropriate.

OCC understands that Duke Ohio and OVEC consider the information to be confidential and deserving of the status of trade secrets as defined in R.C. 1333.61(D). Such assertions would be based on claims by the Utility and OVEC 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. Under such assertions, confidential treatment of portions of the deposition transcripts of Charles Whitlock, Bryan Dougherty, Ben Zhang, Ken Jennings, and Jon Brodt would be appropriate, subject to OCC's rights under the protective agreement to initiate a process to determine whether the information should be protected.

For the foregoing reasons and subject to the foregoing reservations of rights, this Motion for Protective Order should be granted.

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 electronically upon those persons listed below this 17th day of October, 2014.

/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 Patti Mallarnee on behalf of Grady, Maureen