

BEFORE

THE PUBLIC UTILITY COMMISSION OF OHIO

In the Matter of the Application of Duke)
Energy Ohio for Authority to Establish a)
Standard Service Offer Pursuant to Section)
4928.143, Revised Code, in the Form of an) Case No. 14-841-EL-SSO
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 OF DUKE ENERGY OHIO, INC.,
TO EXTEND PROTECTIVE ORDER**

Comes now Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) and, pursuant to O.A.C. 4901-1-24(F), hereby respectfully requests an order extending the confidential treatment afforded certain documents filed with the Public Utilities Commission of Ohio (Commission) in connection with its Electric Security Plan (ESP), Case No. 14-841-EL-SSO, *et al.* (ESP III). Said documents were afforded confidential treatment by the Opinion and Order (Protective Order) in this case dated April 2, 2015,¹ wherein it was ordered that the initial twenty-four month period for which confidential protection will be afforded would expire on April 3, 2017.² Duke Energy hereby moves to extend the Protective Order and to continue the confidential treatment of specific confidential information included in the following exhibits that were admitted into evidence (Confidential Information):

¹ *In the Matter of the Application of Duke Energy Ohio for Authority to Establish a Standard Service Offer and Related Matters*, Case No. 14-841-EL-SSO, *et al.*, (April 2, 2015).

² *Id.*

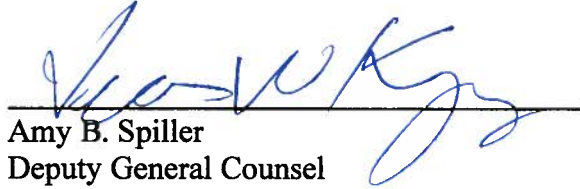
1. Duke Energy Ohio exhibits 16A-17A, 21A;
2. OCC Exhibits 4A-5A, 7A-8A, 10A-27A, 29A-31A, 39A, 41A, 43A-44A;
3. OEG Exhibit 1A;
4. IGS Exhibit 4A, 7A-8A, 12A;
5. Sierra Exhibit 4A;
6. OMA Exhibits 3A – 8A;
7. Transcript Volumes (Confidential versions) III, V-VII, IX-XII, and XV;
8. Confidential version of Initial Brief filed by IGS on December 15, 2014;
9. Confidential version of Initial Brief filed by Sierra Club on December 15, 2014; and
10. Confidential version of Initial Post-Hearing Brief filed by OCC on December 15, 2014.

Specifically, the proprietary, trade-secret information the Company seeks to continue to protect includes sensitive and proprietary financial information and analysis. As demonstrated herein, this information constitutes proprietary and competitively sensitive work product that should be treated as Confidential Information.

Duke Energy Ohio sets forth, in the attached Memorandum in Support, the reasons why continued 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 Commission's original ruling and it will continue to be extremely sensitive and confidential for at least the next twenty-four months.

Respectfully submitted,

DUKE ENERGY OHIO, INC.



Amy B. Spiller
Deputy General Counsel
Jeanne W. Kingery
Associate General Counsel
139 E. Fourth Street, 1303-Main
Cincinnati, Ohio 45201-0960
Telephone: (614) 222-1334
Fax: (614) 222-1337
Email: jeanne.kingery@duke-energy.com

MEMORANDUM IN SUPPORT

Duke Energy Ohio respectfully requests that the Commission extend the protection of the Confidential Information admitted as evidence in the Company's ESP III proceedings.

Specifically the following:

1. Duke Energy Ohio exhibits 16A-17A, 21A;
2. OCC Exhibits 4A-5A, 7A-8A, 10A-27A, 29A-31A, 39A, 41A, 43A-44A;
3. OEG Exhibit 1A;
4. IGS Exhibit 4A, 7A-8A, 12A;
5. Sierra Exhibit 4A;
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7. Transcript Volumes (Confidential versions) III,V-VII, IX-XII, and XV;
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As demonstrated in the Company's ESP III proceedings and as reasserted herein, this information constitutes proprietary trade secret information, primarily related to the Ohio Valley Electric Company's (OVEC) financial analysis and planning. The information for which protection was granted by Opinion and Order on April 2, 2015, and for which the Company seeks an extension of that protection, constitutes trade secret information and, therefore, requires continued protection from disclosure.

The Commission generally refers to the requirements of R.C. 1333.61 for a determination of whether specific information should be release or treated confidentially. Subsection (D) of the section defines “trade secret” as follows:

“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.

Further, the Supreme Court of Ohio has adopted six factors to be used in determining whether a trade secret claim meets the statutory definition:³

- (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.

The Confidential Information, which the Commission found warranted protection, includes information relevant to Duke Energy Ohio’s application for an electric security plan. Portions of the analysis undertaken by the Company in applying for approval of an electric security plan and preparing for hearing necessarily involve confidential and proprietary financial

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

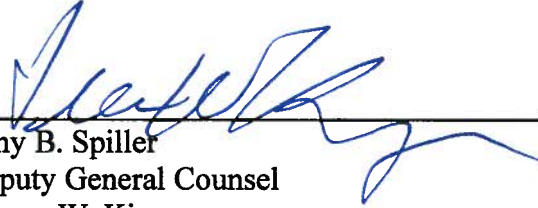
information. This information is valuable and not readily ascertainable within or outside Duke Energy Ohio. Indeed, very few individuals within the Company have access to the Confidential Information contained within these documents. The Confidential Information is closely guarded by the Company, as 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, proprietary information.

The protection of trade secret information from public disclosure is consistent with the purposes of R.C. Title 49. In the event the Commission or its Staff requires access to the information, it will continue to be available to them. The public, redacted version provides a comprehensive view of the issues discussed in the ESP III proceedings. As such, granting continued protection of the Confidential Information will not impair the regulatory responsibilities incumbent upon the Commission or Staff.

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).

Respectfully submitted,

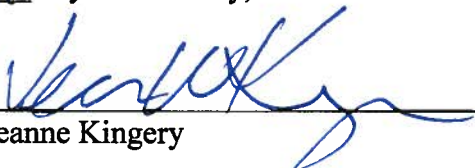
DUKE ENERGY OHIO, INC.



Amy B. Spiller
Deputy General Counsel
Jeanne W. Kingery
Associate General Counsel
139 E. Fourth Street, 1303-Main
P.O. Box 961
Cincinnati, Ohio 45201-0960
Telephone: (614) 222-1334
Fax: (614) 222-1337
Email: Jeanne.kingery@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 17th day of February, 2017.



Jeanne Kingery

Steven Beeler
Thomas Lindgren
Assistant Attorneys General
Public Utilities Section
180 East Broad St., 6th Floor
Columbus, Ohio 43215
Steven.beeler@ohioattorneygeneral.gov
Thomas.lindgren@ohioattorneygeneral.gov
Counsel for Staff of the Commission

David F. Boehm
Michael L. Kurtz
Jody M. Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
dboehm@BKLawfirm.com
mkurtz@BKLawfirm.com
jkylercohn@BKLawfirm.com

Counsel for the Ohio Energy Group

Kevin R. Schmidt
88 East Broad Street, Suite 1770
Columbus, Ohio 43215
schmidt@sppgrp.com

Mark A. Hayden
Jacob A. McDermott
Scott J. Casto
FirstEnergy Service Company
76 South Main Street
Akron, Ohio 44308
haydenm@firstenergycorp.com
jmcdermott@firstenergycorp.com
scasto@firstenergycorp.com

**Counsel for the Energy Professionals of
Ohio**

**Counsel for FirstEnergy Solutions
Corp.**

Maureen R. Grady
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Maureen.grady@occ.ohio.gov

Dane Stinson
Bricker & Eckler LLP
100 S. Third Street
Columbus, Ohio 43215
dstinson@bricker.com

Counsel for the Ohio Consumers' Counsel

Kimberly W. Bojko
Jonathan A. Allison
Carpenter Lipps & Leland LLP
280 Plaza, Suite 1300
280 North High Street
Columbus, Ohio 43215
Bojko@carpenterlipps.com
Allison@carpenterlipps.com

**Counsel for the Ohio
Developmental Services Agency**
Joseph Olikier
6100 Emerald Parkway
Dublin, Ohio 43016
joliker@igsenergy.com

**Counsel for the Ohio Manufacturers'
Association**

Jennifer Spinosi
Direct Energy
21 East State Street, 19th Floor
Columbus, Ohio 43215
jennifer.sponosi@directenergy.com

**Counsel for Interstate Gas Supply,
Inc.**

Mark J. Whitt
Andrew J. Campbell
Rebekah J. Glover
Whitt Sturtevant LLP
88 East Broad Street, Suite 1950
Chicago, Illinois 60601
whitt@whitt-sturtevant.com
campbell@whitt-sturtevant.com
glover@whitt-sturtevant.com

**Counsel for Direct Energy Services, LLC
and Direct Energy Business, LLC**

**Counsel for Direct Energy Services,
LLC and Direct Energy Business,
LLC**

Samuel C. Randazzo
Frank P. Darr
Matthew R. Pritchard
McNees Wallace & Nurick LLC
21 East State Street, 17th Floor
Columbus, Ohio 43215
sam@mwncmh.com
fdarr@mwncmh.com
mpritchard@mwncmh.com

Counsel for Industrial Energy Users-Ohio

Trent Dougherty
1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212-3449
tdougherty@theOEC.org

Counsel for the Ohio Environmental Council

Andrew J. Sonderman
Margeaux Kimbrough
Kegler Brown Hill & Ritter LPA
Capitol Square, Suite 1800
65 East State Street
Columbus, Ohio 43215-4294
asonderman@keglerbrown.com
mkimbrough@keglerbrown.com

Counsel for People Working Cooperatively, Inc.

Colleen L. Mooney
Ohio Partners for Affordable Energy
P.O. Box
Columbus, Ohio 43264
cmooney@ohiopartners.org

Counsel for Ohio Partners for Affordable Energy

Steven T. Nourse
Matthew J. Satterwhite
Yazen Alami
American Electric Power Service Corporation
1 Riverside Plaza 29th Floor
Columbus, Ohio 43215
stnourse@aep.com
mjsatterwhite@aep.com
yalami@aep.com

Counsel for Ohio Power Company

Richard Sahli
Richard Sahli Law Office, LLC
981 Pinewood Lane
Columbus, Ohio 43230
rsahli@columbus.rr.com

Counsel for the Sierra Club

Angela Paul Whitfield
Carpenter Lipps & Leland LLP
280 Plaza, Suite 1300
280 North High Street
Columbus, Ohio 43215
paul@carpenterlipps.com

Counsel for The Kroger Company

Michael J. Settineri
Gretchen L. Petrucci
Vorys, Sater, Seymour, and Pease, LLP
52 East Gay Street
P.O.Box 1008
Columbus, Ohio 43216-1008
mjsettineri@vorys.com
glpetrucci@vorys.com

**Counsel for Constellation NewEnergy, Inc.
and Exelon Generation Company,
LLC**

David I. Fein
Vice President, State Government
Affairs - East
Exelon Corporation
10 South Dearborn Street, 47th Floor
Chicago, Illinois 60603
David.fein@exeloncorp.com

For Exelon Corporation

Douglas E. Hart
441 Vine Street
Suite 4192
Cincinnati, Ohio 45202
dhart@douglasehart.com

**Counsel for The Greater Cincinnati
Health Council**

Cynthia Fonner Brady
Exelon Business Services Company
4300 Winfield Road
Warrenville, Illinois 60555
Cynthia.brady@constellation.com

For Constellation NewEnergy, Inc.

Lael Campbell
Exelon
101 Constitution Avenue, NW
Washington, DC 2001
Lael.Campbell@constellation.com

For Constellation NewEnergy, Inc.

Michael J Settineri
Vorys, Sater, Seymour, and Pease, LLP
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008

mjsettineri@vorys.com

**Counsel for Miami University and the
University of Cincinnati**

Justin Vickers
Environmental Law & Policy Center
35 East Wacker Drive, Suite 1600
Chicago, Illinois 60601
jvickers@elpc.org

**Counsel for the Environmental Law &
Policy Center**

Samantha Williams
Natural Resources Defense Council
20 N. Wacker Drive, Suite 1600
Chicago, Illinois 60606

swilliams@nrdc.org

**Counsel for the Natural Resources Defense
Council**

Michael J. Settineri
Gretchen L. Petrucci
Vorys, Sater, Seymour, and Pease,
LLP
52 East Gay Street
P.O.Box 1008
Columbus, Ohio 43216-1008
mjsettineri@vorys.com
glpetrucci@vorys.com

**Counsel for the Retail Energy
Supply Association**

Gregory J. Poulos
EnerNOC, Inc.
471 E. Broad Street, Suite 1520
Columbus, Ohio 43215
gpoulos@enernoc.com

Counsel for EnerNOC, Inc.

Tony Mendoza
Sierra Club
2101 Webster Street, Suite 1300
Oakland, CA 94612

Tony.mendoza@sierraclub.org

Counsel for the Sierra Club

Rick D. Chamberlain
Behrens, Wheeler, & Chamberlain
6 N.E. 63rd Street, Suite 400
Oklahoma City, OK 73105
rchamberlain@okenergy.com

Counsel for Wal-Mart Stores East, LP and Sam's East, Inc.

Judi L. Sobecki
The Dayton Power and Light Company
1065 Woodman Drive
Dayton, Ohio 45432
Judi.sobecki@aes.com

Counsel for The Dayton Power and Light Company

Gregory J. Poulos
EnerNOC, Inc.
101 Federal Street, Suite 1100
Boston, MA 02110
gpoulos@enernoc.com

Counsel for EnerNOC, Inc.

Donald L. Mason
Michael R. Traven
Roetzel & Andress, LPA
155 E. Broad Street, 12th Floor
Columbus, Ohio 43215
dmason@ralaw.com
mtraven@ralaw.com

Counsel for Wal-Mart Stores East, LP and Sam's East, Inc.

Joel E. Sechler
Carpenter Lipps & Leland LLP
280 North High Street, Suite 1300
Columbus, Ohio 43215
sechler@carpenterlipps.com

Counsel for EnerNOC, Inc.

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Summary: Motion 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 Kingery, Jeanne W.