

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of EDF Energy Services,)	
LLC's Annual Alternative Energy Portfolio)	
Status Report and Plan for Compliance with)	Case No. 17-0985-EL-ACP
Future Annual Renewable Energy)	
Benchmarks)	

Motion for Protective Order of EDF Energy Services, LLC

Pursuant to Ohio Adm. Code 4901-1-24(D), EDF Energy Services, LLC ("EDF") hereby moves for a protective order to preserve as confidential certain competitively sensitive information contained in its Alternative Energy Portfolio Status Report for calendar year 2016 (the "Annual Report"), filed on this date in the above-captioned proceeding.

The basis for this motion is set forth in the accompanying memorandum in support. As required by Ohio Adm. Code 4901-1-24(D)(2), EDF has filed under seal two copies of the confidential and unredacted Annual Report.

WHEREFORE, EDF respectfully requests that this motion be granted.

Respectfully submitted,

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Dated April 14, 2017

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LLC's Annual Alternative Energy Portfolio)	
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**Memorandum in Support of Motion for
Protective Order for EDF Energy Services, LLC**

Ohio Adm. Code 4901:1-40-05(A) requires jurisdictional electric utilities and electric service companies to submit annual reports showing their compliance with the benchmarks set forth in Ohio Revised Code ("R.C.") § 4928.64(B) and Ohio Adm. Code 4901:1-40-03(A). Accordingly, EDF Energy Services, LLC ("EDF") has in the above-captioned proceeding on this date filed its Annual Alternative Energy Portfolio Status Report (the "Annual Report"). Because this Annual Report contains competitively sensitive information, EDF has redacted portions from the publicly filed version of the Annual Report and seeks a protective order from the Commission to prevent public disclosure of the redacted information.¹ In compliance with Ohio Adm. Code 4901-1-24(D)(2), EDF has filed under seal two copies of the confidential and unredacted version of the Annual Report.

Ohio Adm. Code 4901-1-24(D) states that:

Upon motion of any party or person with regard to the filing of a document with the commission's docketing division relative to a case before the commission, the commission, the legal director, the deputy legal director, or an attorney examiner may issue any order which is necessary to protect the confidentiality of information contained in the document, to the extent that state or federal law prohibits release of the information, including

¹ Ohio Adm. Code 4901-1-24(D)(1) states that public versions of documents submitted that contain information for which protection is requested "should be filed with only such information redacted as is essential to prevent disclosure of the allegedly confidential information."

where the information is deemed by the commission, the legal director, the deputy legal director, or the attorney examiner to constitute a trade secret under Ohio law, and where nondisclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code. Any order issued under this paragraph shall minimize the amount of information protected from public disclosure.

Consistent with the criteria for the issuance of a protective order as set forth in the aforementioned rule, EDF submits that the information it seeks to protect constitutes a trade secret under Ohio law and non-disclosure of such information is not inconsistent with the purpose of Title 49 of the Revised Code. R.C. § 1333.61(D) defines a trade secret as:

information . . . 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.

The redacted information is independently economically valuable both to EDF and to its competitors as the information is neither generally known nor readily ascertainable by others, and EDF has taken reasonable steps to protect its secrecy.

The redacted information from the Annual Report consists of forecasted baseline volumes and the associated calculations based on those forecasts, which if revealed would divulge EDF's strategic position and planning in Ohio.² Public disclosure of this information would damage EDF's position in the Ohio retail electric market, particularly if used by EDF's competitors. The Ohio Supreme Court has stated that "[e]xposing a competitor's business strategies . . . would likely have a negative impact on that provider's viability."³ Such a risk of damage to EDF's interests is

² The Commission has granted similar protection to other electric service providers. *See. e.g., Border Energy Electric Services, Inc.*, Case No. 13-0881-EL-ACP (Dec. 18, 2013); *Champion Energy Services, LLC*, Case No. 12-1260-EL-ACP (Nov. 13, 2013).

³ *Ohio Consumers' Counsel v. Pub. Util. Comm'n. of Ohio*, 121 Ohio St.3d 362, 370 (2009).

unnecessary when the Commission and Staff will have full access to the unredacted version of the information for their respective reviews.

WHEREFORE, EDF respectfully requests that the information redacted in the Annual Report be granted confidential treatment and that the Commission grant this Motion.

Respectfully submitted,

/s/ David E. Kronenberg

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Summary: Motion Motion for Protective Order electronically filed by Mr. David E Kronenberg
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