

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

- In the Matter of the Application of Duke Energy Ohio, Inc.,) Case No. 17-32-EL-AIR
for an Increase in Electric Distribution Rates.)
- In the Matter of the Application of Duke Energy Ohio, Inc.,) Case No. 17-33-EL-ATA
for Tariff Approval.)
- In the Matter of the Application of Duke Energy Ohio, Inc.,) Case No. 17-34-EL-AAM
for Approval to Change Accounting Methods.)
- In the Matter of the Application of Duke Energy Ohio, Inc.,) Case No. 17-872-EL-RDR
for Approval to Modify Rider PSR.)
- In the Matter of the Application of Duke Energy Ohio, Inc.,) Case No. 17-873-EL-ATA
for Approval to Amend Rider PSR.)
- In the Matter of the Application of Duke Energy Ohio, Inc.,) Case No. 17-874-EL-AAM
for Approval to Change Accounting Methods.)
- In the Matter of the Application of Duke Energy Ohio, Inc.,) Case No. 17-1263-EL-SSO
for Authority to Establish a 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, Inc.,) Case No. 17-1264-EL-ATA
for Authority to Amend its Certified Supplier Tariff, P.U.C.O.)
No. 20.)
- In the Matter of the Application of Duke Energy Ohio, Inc.,) Case No. 17-1265-EL-AAM
for Authority to Defer Vegetation Management Costs.)
- In the Matter of the Application of Duke Energy Ohio, Inc., to) Case No. 16-1602-EL-ESS
Establish Minimum Reliability Performance Standards)
Pursuant to Chapter 4901:1-10, Ohio Administrative Code.)

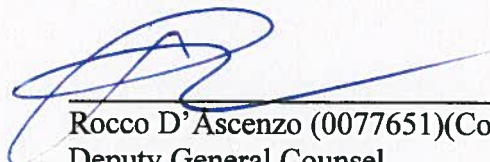
DUKE ENERGY OHIO'S MOTION FOR A PROTECTIVE ORDER

Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) hereby moves this honorable Public Utilities Commission of Ohio (Commission) for a protective order, pursuant to O.A.C. Rule 4901-1-24(D), covering certain confidential information specifically, the proprietary, trade secret, competitive business information that Duke Energy Ohio seeks to have protected is contained in the Supplemental Direct Testimony of Duke Energy Ohio witness William Don Wathen Jr.

Duke Energy Ohio sets forth, in the attached Memorandum in Support, its reasons why confidential treatment of this information is necessary. In compliance with the governing rule, Duke Energy Ohio is filing, under seal, three unredacted copies of the confidential information.

Respectfully submitted,

DUKE ENERGY OHIO, INC.



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MEMORANDUM IN SUPPORT

Duke Energy Ohio respectfully requests that the Commission grant its Motion for a Protective Order. Duke Energy Ohio is an Ohio corporation with its principal office in Cincinnati, Ohio. Duke Energy Ohio is engaged in the business of supplying electric power to the public in the state of Ohio. Accordingly, Duke Energy Ohio is a public utility within the meaning of R. C. 4905.02 and R.C. 4905.03. As such, Duke Energy Ohio is subject to the jurisdiction of the Commission in the manner and to the extent provided by the laws of the state of Ohio.

The supplemental direct testimony of Duke Energy Ohio witness Wathen contains information that is or may be deemed to be confidential, proprietary, trade secret, and/or competitive business information of Duke Energy Ohio and its witnesses and contractual counterparties. More specifically, the information for which protection is sought covers labor costs and individual job description salary information.

O.A.C. 4901-1-24(D) provides that the Commission or its attorney examiner may issue a protective order to assure the confidentiality of information contained in filed documents to the extent that state or federal law prohibits the release of the information and where non-disclosure of the information is not inconsistent with the purpose of Title 49 of the Revised Code.

The Commission, therefore, generally refers to the requirements of R.C. 1333.61 for a determination of whether specific information should be released or treated confidentially.

Subsection (D) of that section defines "trade secret" as follows:

"Trade secret" means information, included the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement, or 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.¹

Thus, business information or plans and financial information are trade secrets if they derive independent economic value from not being generally known to or ascertainable by others who can obtain their own value from use of the information and they are the subject of reasonable efforts to maintain their secrecy.

The supplemental direct testimony of Company witness Wathen contains proprietary, confidential, and competitively sensitive information. Such information includes salaries of specific Company employees by job title and number of employees in such positions. This salary information and the associated, underlying assumptions and data, must remain confidential so that the competitive salary information of private employees is not publicly released and not compromised or disadvantaged and salary identified by individual job description is not released into the public domain. Releasing this information would identify specific non-executive employee salaries by title, which may contain a single employee. Releasing this information would make it difficult for the Company to maintain its ability to attract and retain talent. Competitors and vendors that would have access to what the Company pays for specific levels of employees and could use that information to disadvantage the Company and its ability to either retain talent or to negotiate for contract workers. The information is treated as confidential, and protected, by Company witness Wathen, and Duke Energy Ohio. Indeed, the Company takes steps to ensure that this information is not disclosed to anyone within or affiliated with its

¹ R.C. 1336.61(emphasis added).

organization who does not have a business need to know the material and it does not externally disclose such confidential information absent the existence of appropriate protective devices. Further, salary information has consistently been afforded confidential treatment by the Commission²

O.A.C. 4901-1-24(D) allows Duke Energy Ohio to seek leave of the Commission to file information Duke Energy Ohio considers to be proprietary, trade secret, or otherwise confidential information in a non-redacted form, under seal.³ Duke Energy Ohio is filing the testimony in unredacted form, under seal, together with this Motion.


WHEREFORE, Duke Energy Ohio respectfully requests that the Commission, pursuant to O.A.C. 4901-1-24(D), grant its Motion for Protective Order by making a determination that the redacted information is confidential, proprietary, and trade secret under R. C. 4901-16 and 1333.61.

² See e.g., *In the Matter of the Commission Review of the Capacity Charges of Ohio Power Company and Columbus Southern Power Company*, Case No. 10-2929-EL-UNC, Entry at pg. 3 (April 13, 2012),

³ O.A.C. 4901-1-24.

Respectfully submitted,

DUKE ENERGY OHIO, INC.



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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Duke Energy Ohio's Motion for a Protective Order was served via electronic mail or ordinary mail on the following parties this 6th day of June, 2018.


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Summary: Motion Duke Energy Ohio's Motion for Protective Order - William Don Wathen Jr. electronically filed by Mrs. Adele M. Frisch on behalf of Duke Energy Ohio, Inc. and D'Ascenzo, Rocco O and Kingery, Jeanne W and Watts, Elizabeth H