

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Modify Rider PSR.)))	Case No. 17-0872-EL-RDR
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Amend Rider PSR.)))	Case No. 17-0873-EL-ATA
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Change Accounting Methods.)))	Case No. 17-0874-EL-AAM
In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates.)))	Case No. 17-0032-EL-AIR
In the Matter of the application of Duke Energy Ohio, Inc., for Tariff Approval.)))	Case No. 17-0033-EL-AIR
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Change Accounting Methods.)))	Case No. 17-0034-EL-AAM
In the Matter of the Application of Duke Energy Ohio, Inc. 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.)))))))))))	Case No. 17-1263-EL-SSO
In the Matter of the Application of Duke Energy Ohio, Inc. for Authority to Amend Its Certified Supplier Tariff, P.U.C.O. No. 20.))))	Case No. 17-1264-EL-ATA
In the Matter of the Application of Duke Energy Ohio, Inc. for Authority to Defer Vegetation Management Costs.))))	Case No. 17-1265-EL-AAM

SIERRA CLUB'S MOTION FOR PROTECTIVE ORDER

Pursuant to Rule 4901-1-24, Ohio Administrative Code, Sierra Club respectfully requests that the Public Utilities Commission of Ohio ("Commission") issue a protective order for the confidentiality of portions of the Direct Testimony of Jeremy I. Fisher, which was filed on June 25, 2018 in this proceeding. Sierra Club seeks this protective order for the reasons set forth in the attached Memorandum in Support.

Dated: June 25, 2018

Respectfully submitted,

/s/ Tony Mendoza

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In the Matter of the Application of Duke)	

**MEMORANDUM IN SUPPORT
SIERRA CLUB’S MOTION FOR PROTECTIVE ORDER**

Contemporaneous with this Motion, Sierra Club has filed the Direct Testimony of Jeremy I. Fisher (“Fisher Direct Testimony”) with the Commission. Sierra Club has filed the Fisher Direct Testimony in both a redacted, public form and in an unredacted form under seal. By this Motion, Sierra Club requests confidential treatment of the unredacted portions filed under seal, which include information provided to Sierra Club by the Ohio Valley Electric Corporation (“OVEC”) and, separately, by Duke Energy Ohio (“Duke”).

Sierra Club received information from OVEC under a Subpoena Duces Tecum issued to OVEC. OVEC has designated certain information produced under this Subpoena as competitively sensitive confidential and/or trade secrets and has produced the information subject to a protective agreement between OVEC and Sierra Club. Sierra Club seeks protective treatment for this OVEC-provided information that is being filed under seal. Sierra Club reserves the right to challenge whether the information is a confidential trade secret under Ohio law, but files this Motion for Protective Order and Memorandum in Support pursuant to a protective agreement with OVEC. The documents for which OVEC is requesting confidential treatment include those containing cost projections, financial data, and other proprietary information.

Rule 4901-1-24(D), O.A.C., provides that the Commission or certain designated employees may issue an order which is necessary to protect the confidentiality of

information contained in documents filed with the Commission's Docketing Division 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 purposes of Title 49 of the Revised Code. Trade secrets, as referenced in Rule 4901:1-24(D) and defined in R.C. 1333.61(D), are subject to protection from public disclosure by the Commission.

Under the assertions made by OVEC to Sierra Club as set forth herein,¹ the redacted information which is subject to this Motion should be recognized as a trade secret under R.C. 1333.61(D). OVEC considers and has treated all the information which is subject to this Motion as a trade secret. In the ordinary course of OVEC's business, information pertaining to operating and labor cost projections, as well as prospective investment for environmental projects under review, is kept confidential. According to OVEC, revelation of this information would provide competitors with tremendous insight into energy generation costs and optimization strategies, thereby undermining the PJM competitive bidding process. The redacted documents that are subject to this Motion were prepared for review by OVEC Board members only. During the course of previous Commission proceedings, information of this type has generally been provided only under a protective agreement. Therefore, information contained in the documents designated as "CONFIDENTIAL" warrants protection from public disclosure pursuant to

¹ Sierra Club has included OVEC's representation to Sierra Club in this motion so that the Commission has sufficient information to grant this motion, as OVEC is not a party to this proceeding. By including these representations herein Sierra Club does not waive any rights to challenge OVEC's confidential-treatment designations.

Rule 4901-1-24(D). OVEC reserves the right to file an appearance and defend its assertions of confidentiality if any party to these proceedings challenges the designations.

In addition, Sierra Club received information from Duke in discovery in this proceeding. Duke has designated certain information produced to Sierra Club as competitively sensitive confidential and/or trade secrets and has produced the information subject to a protective agreement between Duke and Sierra Club. Sierra Club seeks protective treatment for this Duke-provided information that is being filed under seal. Sierra Club reserves the right to challenge whether the information is a confidential trade secret under Ohio law, but files this Motion for Protective Order and Memorandum in Support pursuant to a protective agreement with Duke.

Sierra Club respectfully requests that this Motion for Protective Order be granted for the reasons set forth herein.

Dated: June 25, 2018

Respectfully submitted,

/s/ Tony Mendoza

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Sierra Club's Motion for Protective Order has been served upon the following parties via electronic mail on June 25, 2018.

/s/ Tony Mendoza

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Summary: Motion for Protective Order electronically filed by Mr. Tony G. Mendoza on behalf of
Sierra Club