

In the Matter of the 2018 Long-Term)
Forecast Report of Duke Energy Ohio, Inc.) Case No. 18-484-EL-FOR

On June 29, 2018, Duke Energy Ohio, Inc. (Duke Energy Ohio or the Company) filed the “2018 Electric Long-Term Forecast Report Submitted by Duke Energy Ohio, Inc.” (Electric Long-Term Forecast Report). On August 15, 2018, Duke Energy Ohio filed a motion for confidential treatment to protect the confidentiality of information filed in its June 29, 2018 Electric Long-Term Forecast Report. The motion for confidential treatment has not yet been ruled on by the Commission, therefore the Company is requesting continuation of the protective treatment pursuant to O.A.C. 4901-1-24(F) using the filing date of the previous motion, August 15, 2018 for the calculation of the continuation of the protective treatment. By this motion, Duke Energy Ohio seeks to continue the protective treatment of the confidential information filed under seal on August 15, 2018, determining that this information is proprietary and should be treated as confidential. Duke Energy Ohio requests that this Commission continue the protective treatment requested on August 15, 2018, to include that this data, filed under seal, should be maintained at the Commission in a separate file which has restricted access.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

Duke Energy Ohio respectfully requests the Public Utilities Commission of Ohio (Commission) grant its Motion to Extend Confidential Treatment Contained in its Electric Long-Term Forecast Report.

Duke Energy Ohio is an Ohio corporation with its principal office in Cincinnati, Ohio. Duke Energy Ohio has the corporate power and authority, among others, to engage, and it is engaged, in the business of supplying electric distribution service in the State of Ohio. Accordingly, Duke Energy Ohio is a public utility within the meaning of that term as used in R. C. 4905.02 and 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.

Duke Energy Ohio owns, operates, manages and controls properties and equipment used and useful in supplying electric distribution service to over 600,000 customers in southwestern Ohio.

On June 29, 2018, Duke Energy Ohio filed its Long-Term Forecast Report and on August 15, 2018 filed its motion for confidential treatment to protect the confidentiality of information filed in its Electric Long-Term Forecast Report. The motion for confidential protective treatment has not yet been ruled on by the Commission, therefore the Company is requesting continuation of the protective treatment pursuant to O.A.C. 4901-1-24(F) using the filing date of August 15, 2018 for the calculation of the continuation of the protective treatment. First, the supplemental information provided under seal with the August 15, 2018 filing is being withheld from the filing pursuant to O.A.C. 4901:5-5-

04(A)¹ because critical energy infrastructure information (CEII) is contained in the document. The supplemental information provided in these forms also constitutes “infrastructure information” as that term is used in R.C. 129.433. However, at the request of Staff, the Company is now voluntarily submitting this CEII/infrastructure information to the Commission under seal in expectation of protection from disclosure as provided by R.C. 149.433. To that end, the Commission should enter a protective order prohibiting the disclosure of this information for a minimum of twenty-five years as provided in R.C. 149.43.

Second, Duke Energy Ohio is filing under seal supplemental information regarding strategic business planning which is clearly related to business relationships and business strategic planning. These references, if disclosed, would provide advantages to competitors and could thereby harm competition as well.

Ohio Administrative Code Section 4901-1-24(D) allows Duke Energy Ohio to seek leave of the Commission to file information that Duke Energy Ohio considers to be proprietary trade secret information, or otherwise confidential.² This rule also establishes a procedure for presenting to the Commission that information which is confidential, and therefore should be protected.³

The redacted information contained in the Report constitutes trade secret information in accordance with Ohio’s Uniform Trade Secret Act and relevant jurisprudence.

¹ “To the extent the information sought from electric transmission owners in this rule contains critical energy infrastructure information, such information shall remain at the reporting person’s premises, but subject to inspection and review at the request of the commission’s staff, unless the commission staff determines it necessary to take possession.” O.A.C. 4901:5-5-04(A).

² O.A.C. § 4901-1-24.

³ *Id.*

The definition of Trade Secret contained in R.C. 1333.61(D) is as follows:

“Trade secret” means information, including 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.⁴

The information for which Duke Energy Ohio is seeking confidential treatment is not known outside of Duke Energy Ohio, and it is not disseminated within Duke Energy Ohio except to those employees with a legitimate business need to know and act upon the information.

The public interest will be served by granting this Motion. By protecting the confidentiality of this information, the Commission will prevent undue harm to Duke Energy Ohio and its ratepayers, as well as ensuring a sound competitive marketplace.

WHEREFORE, Duke Energy Ohio respectfully requests that the Commission, pursuant to Ohio Admin. Code Section 4901-1-24(F), extend its Motion for Protective Order to protect the confidentiality of information contained in this motion for protective order by making a determination that the Confidential Material is confidential, proprietary and a trade secret under R. C. 4901.16 and 1333.61.

This confidential trade secret information in both instances, if publicly disclosed, would give Duke Energy Ohio’s competitors access to competitively sensitive, confidential information that is not ascertainable by others by proper means.

⁴ Ohio Rev. Code Ann. § 1333.61(D) (Baldwin 2007).

WHEREFORE, Duke Energy Ohio respectfully requests that the Commission, pursuant to Ohio Administrative Code Section 4901-1-24(F) continue the protection as requested in Motion of August 15, 2018 and the Confidential Material remain confidential, proprietary and a trade secret under R. C. 4901.16 and 1333.61.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion of Duke Energy Ohio to Extend the Protective Order was served on the following parties this 30th day of June, 2020 by overnight delivery.

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Summary: Motion Motion of Duke Energy Ohio, Inc. To Extend Confidential Treatment electronically filed by Mrs. Tammy M Meyer on behalf of Duke Energy Ohio Inc. and D'Ascenzo, Rocco and Vaysman, Larisa