

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Joint Application of)	
Columbia Gas of Ohio, Inc. and The East)	Case No. 20-1569-GA-AEC
Ohio Gas Company d/b/a Dominion Energy)	
Ohio for Approval of an Arrangement.)	

**MOTION FOR PROTECTIVE ORDER OF
THE EAST OHIO GAS COMPANY D/B/A DOMINION ENERGY OHIO**

In accordance with Ohio Adm. Code 4901-1-24(D), The East Ohio Gas Company d/b/a Dominion Energy Ohio (DEO or the Company) respectfully moves for a protective order to keep confidential and not part of the public record certain terms and conditions contained in Attachment A of the application filed today. The information redacted in the Attachment is confidential and includes non-public cost and pricing information and negotiated terms and conditions, personal identifying information, and information regarding pipeline infrastructure, all of which should be protected from public disclosure. Good cause exists to grant this motion for the reasons set forth in the attached Memorandum in Support.

Dated: October 2, 2020

Respectfully submitted,

/s/ Andrew J. Campbell
Andrew J. Campbell (0081485)
DOMINION ENERGY, INC.
The KeyBank Building, Suite 1303
88 East Broad Street
Columbus, Ohio 43215
Telephone: (614) 601-1777
andrew.j.campbell@dominionenergy.com

(All counsel are willing to accept service by email)

ATTORNEY FOR THE EAST OHIO GAS
COMPANY D/B/A DOMINION ENERGY OHIO

MEMORANDUM IN SUPPORT

Under Ohio Adm. Code 4901-1-24(D), the Commission and other designees “may issue any order which is necessary to protect the confidentiality of information contained in [a document filed with the Commission], to the extent that state or federal law prohibits release of the information, including 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.”

The information contained within Attachment A for which DEO seeks protective treatment contains confidential trade secret information, and DEO would suffer harm if competitive economic interests would have access to these proprietary trade secrets.

A. Ohio law prohibits the release of trade secrets.

Ohio law prohibits the release of trade secrets. *State ex rel. Besser v. Ohio State*, 89 Ohio St.3d 396, 399 (2000). “Trade secret,” among other things, means “any business information or plans, financial information, or listing of names, addresses, or telephone numbers” that meets two conditions:

(1) “[i]t 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” and

(2) “is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.”

R.C. 1333.61(D)(1)–(2). The information identified above satisfies these conditions and should be kept confidential.

First, the redacted content includes price and cost information, as well as negotiated terms and conditions, that are of a business and financial nature. These negotiated terms in

conditions provide numerous conditions on the provision, receipt, and termination of service, timing requirements applicable to installation and payment, dispute resolution requirements, cost responsibility, land rights and access issues, insurance requirements – all of which were specifically negotiated and all of which may vary from contract to contract for business reasons. Second, DEO derives independent economic value from such information not being readily ascertainable by others – the release of this information would put DEO in a disadvantageous position in negotiating similar contracts with other counterparties.

Finally, it is reasonable under the circumstances to redact the confidential information contained within Attachment A given the public nature of proceeding before the Commission. For similar reasons, the Commission has repeatedly recognized that non-public pricing information and other negotiated terms contained within an agreement are worthy of protection. *See, e.g., In re Generation Pipeline*, Case No. 17-524-GA-AEC, Order at 3 (Apr. 19, 2017) (“the Commission finds that the pricing, shrinkage factor, and volume information contained in Exhibit B to the natural gas transportation service agreement constitutes trade secret information”); *In re Appl. of Ohio Power Company*, Case No. 15-279-EL-RDR, 2015 Ohio PUC LEXIS 233, Finding & Order at *7 (Mar. 18, 2015) (granting protective treatment for “pricing information”); *In re Appl. of N. Coast Gas Transmission LLC*, Case No. 14-158-PL-AEC, 2014 Ohio PUC LEXIS 59, Finding & Order at (Mar. 19, 2014) (granting protective treatment for “pricing, volumes, and shrinkage factors”).

DEO has also taken reasonable efforts to protect the information. Only a limited number of management-level DEO personnel have participated in determination of such information, and DEO has not disclosed such information outside of this narrow group. DEO has not otherwise disclosed this information and has treated it as sensitive and confidential. The terms contained

within Attachment A require both parties to treat the information contained therein as confidential. And DEO now files this motion for protective treatment.

Additionally, under Ohio Adm. Code 4901-1-24(D), nondisclosure of this information is not inconsistent with Title 49 of the Revised Code. The Commission and Staff will have full access to the information needed to provide complete and thorough review of the application, and no provision of Ohio law would support the competitive harm that would result from the disclosure of this information.

B. Other factors support the protection of this information under Ohio law.

DEO would also observe that the following factors, identified by the Supreme Court of Ohio in addition to the statutory factors, support protecting this information. *See State ex rel. Plain Dealer v. Ohio Dep't of Ins.*, 80 Ohio St. 3d 513, 524–25 (1997).

First, the pertinent information is *not* “known outside” of DEO and Columbia, who has agreed to keep the information confidential. *Id.* No other entity has access to this information. Second, the information is not widely “known to those inside” of DEO. *Id.* As explained, only a small group of management-level personnel had access to this information. Third, DEO has taken reasonable “precautions to guard the secrecy of the information,” *id.*, by carefully limiting disclosure of the information, including internally, and marking documents containing the information appropriately. Fourth, the information would be “valu[able]” to competitive interests in the marketplace were it to be published. *Id.* Finally, regarding the “time and expense it would take for others to acquire and duplicate the information,” *id.*, it would be impossible for any party to acquire this information at this time, unless it were disclosed.

For the foregoing reasons, Ohio law compels the protection of this information.

C. DEO also seeks protection of personal identifying information and system information.

In addition, DEO is also seeking protective treatment of personal identifying information of DEO and Columbia Gas employees, as well as a schematic setting forth detailed information regarding the physical infrastructure at the interconnect. Redaction of this information is important to protect, respectively, employee privacy and the safety of the public and the companies' operating systems.

WHEREFORE, DEO respectfully requests that the Commission grant the motion for a protective order and for waiver and grant all other necessary and proper relief.

Dated: October 2, 2020

Respectfully submitted,

/s/ Andrew J. Campbell

Andrew J. Campbell (0081485)

DOMINION ENERGY, INC.

The KeyBank Building, Suite 1303

88 East Broad Street

Columbus, Ohio 43215

Telephone: (614) 601-1777

andrew.j.campbell@dominionenergy.com

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Summary: Motion Motion for Protective Order electronically filed by Christopher T Kennedy on behalf of The East Ohio Gas Company d/b/a Dominion Energy Ohio