BEFORE
THE PUBLIC UTILITY COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio 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. 11-3549-EL-SSO
In the Matter of the Application of Duke Energy Ohio for Authority to Amend its Certified Supplier Tariff, P.U.C.O. No. 20.	Case No. 11-3550-EL-ATA
In the Matter of the Application of Duke Energy Ohio for Authority to Amend its Corporate Separation Plan.	Case No. 11-3551-EL-UNC

MOTION OF DUKE ENERGY OHIO, INC., TO EXTEND PROTECTIVE ORDER

Comes now Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) and pursuant to O.A.C. 4901-1-24(F), hereby respectfully requests an order extending the confidential treatment afforded certain documents submitted to the Public Utilities Commission of Ohio (Commission) in connection with its Electric Security Plan (ESP) Case Nos. 11-3549-EL-SSO, *et al.*, (ESP). Said documents were afforded confidential treatment by Entry in this case dated November 22, 2011,[1] wherein it was ordered that the initial eighteen-month period for which confidential protection will be afforded would expire on May 22, 2013.[2] On April 4, 2013, August 12, 2014, December 22, 2015, May 4, 2017, September 20, 2018, and January 29, 2020, Motions to Extend Protective Order were filed but rulings have not yet been made by the Commission. Duke

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[1] *In the Matter of the Application of Duke Energy Ohio for Authority to Establish a Standard Service Offer and Related Matters,* Case No. 11-3549-EL-SSO, *et al.*, (November 22, 2011).

[2] *Id.*

Energy Ohio hereby moves to extend the protective order granted on November 22, 2011 (Protective Order) and to continue the confidential treatment of specific confidential information included in the following exhibits admitted into evidence (Confidential Information):

1. Direct Testimony and work papers of Judah L. Rose.

Specifically, the proprietary, trade-secret information the Company seeks to continue to protect includes sensitive and proprietary financial information and analysis. As demonstrated herein, this information constitutes proprietary and competitively sensitive work product that should be treated as Confidential Information.

Duke Energy Ohio sets forth, in the attached Memorandum in Support, the reasons why protective treatment of the Confidential Information is necessary. Ohio law prohibits the release of this Confidential Information and nondisclosure of the Confidential Information is not inconsistent with the purposes of Title 49 of the Revised Code. The Confidential Information is as sensitive and proprietary today as it was on the date of the attorney examiner's original ruling and it will continue to be extremely sensitive and confidential at least through the end of 2021.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

/s/ Jeanne W. Kingery

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MEMORANDUM IN SUPPORT

Duke Energy Ohio respectfully requests that the Commission extend the protection of the Confidential Information admitted as evidence in the Company's ESP proceedings. Specifically, the following:

1. Direct Testimony and work papers of Judah L. Rose;

As demonstrated in the Company's ESP proceedings as reasserted herein, this information constitutes proprietary trade secret information related to the Company's financial analysis and planning. The information for which protection was granted by Opinion and Order on November 22, 2011, and for which the Company seeks an extension of that protection, constitutes trade secret information and, therefore, requires continued protection from disclosure.

The Commission, therefore, generally refers to the requirements of R.C. 1333.61 for a determination of whether specific information should be release or treated confidentially. Subsection (D) of the section defines "trade secret" as follows:

> "Trade secret" means information, including . . . 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. [Emphasis added.]

Further, the Supreme Court of Ohio adopted six factors to be used in determining whether a trade secret claim meets the statutory definition:[3]

(1) The extent to which the information is known outside the business;

(2) The extent to which it is known to those inside the business, *i.e.*, by the employees;

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[3] *State ex rel. The Plain Dealer v. Ohio Dept. of Ins.* (1997), 80 Ohio St.3d 513, 524-25, 1997-Ohio-75.

(3) The precautions taken by the holder of the trade secret to guard the secrecy of the information;

(4) The savings affected and the value to the holder in having the information as against competitors;

(5) The amount of effort or money expended in obtaining and developing the information; and

(6) The amount of time and expense it would take for others to acquire and duplicate the information.

The Confidential Information, for which the Attorney Examiner found warranted protection, included information relevant to Duke Energy Ohio's application for an electric security plan. Portions of the analysis undertaken by the Company in preparing for hearing and to seek approval for an electric security plan, necessarily involves confidential and proprietary financial information. This information is valuable and not readily ascertainable within or outside Duke Energy Ohio. Indeed, very few individuals within have access to the pertinent Confidential Information contained within these documents. The Confidential Information is closely guarded by the Company, as it contains personally identifiable and other economically valuable information. The Company has expended a significant amount of time and resources in developing the Confidential Information. Moreover, disclosure of the Confidential Information would harm the company's competitive position in the marketplace. Accordingly, the Confidential Information for which the Company seeks continued protective treatment is trade secret information.

The protection of trade secret information from public disclosure is consistent with the purposes of R.C. Title 49. In the event the Commission or its Staff requires access to the information, it will continue to be available to them. The public, redacted version provides a comprehensive view of the issues discussed in the ESP proceedings. As such, granting continued protection of the Confidential Information will not impair the regulatory responsibilities incumbent upon the Commission or Staff.

For the foregoing reasons, Duke Energy Ohio respectfully requests that the Commission grant its Motion to Extend the Protective Order pursuant to O.A.C. 4901-1-24(F).

Respectfully submitted,

DUKE ENERGY OHIO, INC.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Extend Protective Order and Memorandum in Support was served on the following parties via ordinary mail delivery, postage prepaid, and/or electronic mail delivery on this 14th day of June, 2021.

/s/ Jeanne W. Kingery
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Summary: Motion of Duke Energy Ohio, Inc., to Extend Protective Order electronically filed by Carys Cochern on behalf of Duke Energy Ohio, Inc.