

IN THE SUPREME COURT OF OHIO

THE OFFICE OF THE OHIO CONSUMERS' COUNSEL,	:	Case No. 08-367
	:	
Appellant,	:	Second Appeal from the Public Utilities Commission of Ohio
v.	:	Cases No. 03-93-EL-ATA
	:	03-2079-EL-AAM
THE PUBLIC UTILITIES COMMISSION OF OHIO	:	03-2080-EL-ATA
	:	03-2081-EL-AAM
	:	
Appellee.	:	

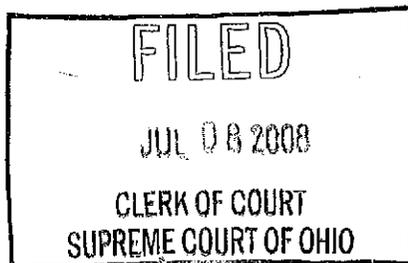
MOTION BY
INTERVENING APPELLEES
CINERGY CORP.
AND DUKE ENERGY RETAIL SALES, LLC
FOR LEAVE TO FILE
A PORTION OF THEIR SUPPLEMENT UNDER SEAL

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**MOTION BY
INTERVENING APPELLEES CINERGY CORP.
AND DUKE ENERGY RETAIL SALES, LLC
FOR LEAVE TO FILE A PORTION OF THEIR SUPPLEMENT UNDER SEAL**

Now come Intervening Appellees, Duke Energy Retail Sales, LLC and Cinergy Corp., to respectfully move this Honorable Court, pursuant to Rule XIV(1)(B) of the Rules of Practice of The Supreme Court of Ohio, for leave to submit portions of their Second Supplement under seal. The basis for this motion is set forth in the attached memorandum in support, which is incorporated by reference herein.

MEMORANDUM IN SUPPORT

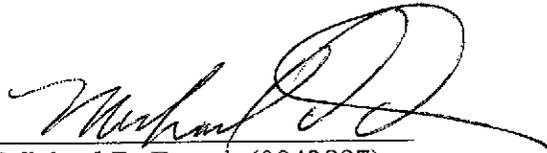
This case is an appeal of Entries and Orders of the Public Utilities Commission of Ohio (the Commission). Among those Orders, and among the subjects of this appeal, is the Commission's determination that certain information contained in documents and testimony introduced into evidence during the proceedings below should be protected from disclosure to the public by Ohio's "Trade Secrets" laws, Ohio Revised Code section 1331.61.

In drafting their Merit Brief and in preparing their Appendix and their Second Supplement for filing in this Court, Intervening Appellees Duke Energy Retail Sales, LLC and Cinergy Corp. have done their best to minimize the amount of information that should remain shielded from public view. In fact, they need not and do not seek protection of any word within their Brief on the Merits. Even so, Intervening Appellees cite to and rely upon certain excerpts from the testimony of Mr. Greg Ficke, a former vice president of Cinergy Corp., and from the testimony of Ms. Beth Hixon, an expert witness

in the employ of Appellant, The Office of the Ohio Consumers' Counsel. Portions of the testimony of those individuals were placed under seal by Orders of the Commission's Attorney Examiners.

In order to comply with the Orders of the Attorney Examiners, and in order to preserve that portion of the information that is properly protected, Intervening Appellees Duke Energy Retail Sales, LLC and Cinergy Corp. respectfully request that those portions of the testimony of these individuals found within their Second Supplement similarly be placed under seal by this Honorable Court, pending this Court's final disposition on the merits of the subject of the protection of information by the Commission.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

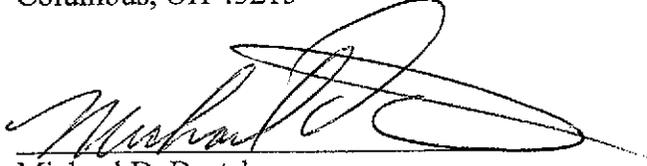
I certify that a copy of the foregoing was served upon parties through their counsel, by depositing the same in the United States Mail, postage prepaid, addressed as follows, this 8th day of July 2008.

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