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BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

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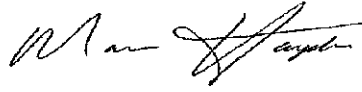
In the Matter of the Application of Ohio)
Edison Company, The Cleveland)
Electric Illuminating Company and The) Case Nos. 09-21-EL-ATA
Toledo Edison Company for Approval) 09-22-EL-AEM
of Rider FUEL and Related Accounting) 09-23-EL-AAM
Authority)
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MOTION FOR PROTECTIVE ORDER

Pursuant to the provisions of Ohio Administrative Code § 4901-1-24, Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company ("Companies"), move the Commission to issue an order which protects the confidentiality of and prohibits the disclosure of certain documents filed under seal by the Companies in this docket on February 2, 2009. The documents at issue, more specifically, certain portions of the *Post-RFP Report on the Competitive Procurement for Standard Service Offer Supply* ("Report"), contain sensitive and highly proprietary detailed information about the results of a Request for Proposal ("RFP") solicitation process by which the Companies procured wholesale energy and capacity for the provision of retail electric generation service. These documents were filed under seal and separate from the remainder of the materials that comprise the information pertaining to the RFP as required by the January 30, 2009 Entry in this case. Moreover, the Companies filed, and served Parties to this Proceeding, a redacted version of the Report. The grounds for the instant Motion are more fully set out in the accompanying Memorandum in Support.

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Respectfully submitted,



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THE TOLEDO EDISON COMPANY

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MEMORANDUM IN SUPPORT OF MOTION FOR PROTECTIVE ORDER

On February 2, 2009, the Companies filed sensitive and highly proprietary detailed information about the results of a Request for Proposal ("RFP") solicitation process by which the Companies procured wholesale energy and capacity for the provision of retail electric generation service. Specifically, the information filed under seal included pricing and quantity information pertaining to the results of the RFP. This information was filed under seal simultaneously with the filing this Motion. The documents filed under seal contain sensitive and proprietary information requiring confidential treatment. This information was filed pursuant to the January 30, 2009 Entry ("Entry") requesting that such information pertaining to the RFP be filed with this Commission. The Entry also noted that to the extent such information is considered confidential, the Companies may seek appropriate protective treatment.¹ The Companies request such protective treatment and that the Commission maintain the confidential nature of those documents and that information.

The supply agreement which the Companies and winning bidders entered into as well as the bidding rules which govern the bidding process provide that each party in the process shall

¹ Entry at 5, Case No. 09-21-EL-ATA, January 30, 2009

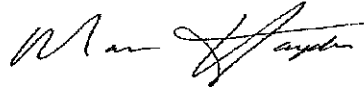
reasonably hold in confidence and not release or disclose information furnished as part of the agreement and process. The sensitive and highly proprietary materials filed in connection with this Motion are precisely the type of materials that should be held in confidence pursuant to the supply agreement and bidding rules. Upon that basis alone, the Commission should grant the Companies' request to maintain the information under seal. Moreover, public release of the confidential information at issue would result in severe and detrimental consequences affecting potential future procurement processes, as such information, if disclosed to the public and potential bidders, would undermine the bidding process. As a result, the Companies and customers would potentially be subject to higher bid prices and recovery of such higher costs through retail rates.

A review of the documents in question also demonstrates that they comprise information that falls within the statutory characterization of a trade secret under R.C. §1333.61(D). It is established that information comprising trade secrets is exempted from the requirements of disclosure under that statutory provision. *State ex rel. The Plain Dealer v. Ohio Dept. of Ins.*, 80 Ohio St. 3d 513 (1997); 88 O. Jur. 3d, Trade Secrets § 27. Requests under the Open Records law for disclosure of the documents filed under seal in this proceeding should be rejected under Revised Code § 149.43(A)(1)(v) as records whose release is prohibited under state and federal law.

Given the highly confidential and proprietary nature of the information filed under seal, the Companies urge the Commission to grant this Motion and issue an appropriate Order or act otherwise so as to assure the nondisclosure of these sensitive materials.²

² Because the information submitted under seal will be available to the Commission Staff, the Staff's review may take place without the necessity of public disclosure of the confidential information.

Respectfully submitted,



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CERTIFICATE OF SERVICE

A copy of the foregoing was served upon the following via regular U.S. Mail, this 2nd day of February, 2009. A copy was also served via electronic mail on those parties with email addresses listed below.

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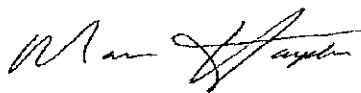
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