

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio)	
Edison Company, The Cleveland Electric)	
Illuminating Company, and The Toledo)	Case No. 10- 388 -EL-SSO
Edison Company for Authority to Establish)	
a Standard Service Offer Pursuant to)	
R.C. §4928.143 in the Form of an Electric)	
Security Plan)	

**MOTION FOR PROTECTIVE ORDER AND MEMORANDUM IN SUPPORT
OF ENERNOC, INC.**

Pursuant to the provisions of Rule 4901-1-24, Ohio Administrative Code, EnerNOC, Inc, (EnerNOC) respectfully moves the Public Utilities Commission of Ohio (Commission) to issue a protective order to protect the confidentiality of and prohibit the disclosure of the testimony filed simultaneously with this motion in the above-captioned docket. The testimony at issue contains sensitive and highly proprietary information comprising of trade secrets. The grounds for the Instant Motion are detailed in the attached Memorandum in Support.

Respectfully submitted,
ENERNOC, INC.

/s/ Jacqueline Lake Roberts

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April 15, 2010

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MEMORANDUM IN SUPPORT

The testimony filed by EnerNOC this date contains business sensitive and proprietary information, which require confidential treatment. Consequently, EnerNOC requests that the Commission maintain the confidential nature of these documents and the information contained therein, and protect the documents from public disclosure. EnerNOC has taken care to protect the limited amount of information that falls under this category by filing a public, redacted version of the testimony of Kenneth D. Schisler and unredacted versions of the same. EnerNOC's request for protective treatment is limited to those portions of the testimony that have been redacted. Specifically, in Mr. Schisler's testimony, questions and answers 7 through 12.

Rule 4901-1-24(0), O.A.C, provides for the issuance of an order that is necessary to protect the confidentiality of information contained in documents filed at the Commission to the extent that state and federal law prohibit the release of such information and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code. State law recognizes the need to protect information that is confidential in nature, as is the

information contained in the supplemental documents that are the subject of this motion.

Additionally, nondisclosure of the information will not impair the purposes of Title 49.

The testimony includes highly sensitive business information falling within the statutory characterization of a trade secret as defined by Section 1333.61(D) of the Revised Code. The definition of trade secret contained in Section 1333.1(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.

Section 1333.61(D), Revised Code (emphasis added).

The information is not generally known by the public and is held in confidence in the normal course of business. Therefore, EnerNOC reasonably requests that the financial and trade secret information filed under seal be deemed to contain trade secrets, and thus, be treated as confidential by this Commission and its Staff.

Additionally, EnerNOC hereby requests a waiver from Rule 4901-1-24(F), O.A.C, which causes any order prohibiting public disclosure of certain documents to automatically expire eighteen (18) months after the date the order was issued. Given the extremely sensitive nature of the requested financial documents and given the fact that such information addresses issues pertaining to ongoing business strategies and trade secrets, an indefinite period is requested. EnerNOC believes that a waiver of this rule is necessary. The information is proprietary now, and will continue to be indefinitely, certainly more than eighteen (18) months; the sensitive

nature of this financial and trade secret information will remain and the need to keep the information from public disclosure will not diminish. Thus, it is imperative to maintain the information as confidential and for the Commission to continue its protection from public disclosure. As such, EnerNOC respectfully requests that the Commission grant a waiver from Rule 4901-1-24(F), O.A.C, to prevent the information that has been filed under seal from being removed from protective status and placed into the public record of the proceeding.

WHEREFORE, given the highly confidential and proprietary nature of the contents of the information filed under seal, EnerNOC urges the Commission to grant this Motion and issue an appropriate Order to ensure the continued non-disclosure of these proprietary materials.

Respectfully submitted,
ENERNOC, INC.

/s/ Jacqueline Lake Roberts

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April 15, 2010

CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Motion for Protective Order, Memorandum in Support and the Prefiled Direct Testimony of Kenneth D. Schisler* was served on the persons identified below, *via Electronic Service*, this 15th day of April 2010.

/s/ Jacqueline Lake Roberts
Jacqueline Lake Roberts

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Summary: Motion for Protective Treatment and Memorandum in Support electronically filed by Ms. Jacqueline Lake Roberts on behalf of EnerNOC, Inc.