

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the Smart     )  
Grid Modernization Initiative Contained     ) Case No. 12-406-EL-RDR  
in the Tariffs of Ohio Edison Company,     )  
The Cleveland Electric Illuminating     )  
Company, and The Toledo Edison     )  
Company.     )

---

**MOTION FOR PROTECTIVE ORDER  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

---

The Office of the Ohio Consumers' Counsel ("OCC") hereby moves the Public Utilities Commission of Ohio ("PUCO") for a protective order regarding information asserted to be confidential by Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, "FirstEnergy").<sup>1</sup> As part of discovery in this proceeding, FirstEnergy provided information to OCC, subject to a protective agreement, and FirstEnergy asserts that this information constitutes trade secret information under Ohio law.

OCC hereby requests that, in accordance with Ohio Adm. Code. 4901-1-02(E), the PUCO issue such order as is necessary to protect the undisclosed (redacted) portions of OCC's Comments that FirstEnergy asserts to be confidential. Subject to OCC's rights under the protective agreement, OCC is filing its Comments under seal, and is also filing a public version that shows all information FirstEnergy does not claim to be confidential.

---

<sup>1</sup> This Motion is filed pursuant to Ohio Adm. Code 4901-1-02(E), 4901-1-12 and 4901-1-24(D).

By filing the instant Motion, OCC does not concede that the information constitutes trade secret information. However, OCC acknowledges that it has obtained this information pursuant to a protective agreement with FirstEnergy that provides for such information to be treated as confidential and protected (subject to OCC's right under the protective agreement to initiate a process for the PUCO to rule whether the information deserves confidential treatment under Ohio law).

The grounds for this Motion are more fully described in the accompanying Memorandum in Support.

Respectfully submitted,

BRUCE J. WESTON  
OHIO CONSUMERS' COUNSEL

/s/ Terry L. Etter

Terry L. Etter, Counsel of Record

Kyle L. Kern

Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone: Etter – (614) 466-7964

Telephone: Kern – (614) 466-9585

[etter@occ.state.oh.us](mailto:etter@occ.state.oh.us)

[kern@occ.state.oh.us](mailto:kern@occ.state.oh.us)

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the Smart     )  
Grid Modernization Initiative Contained     ) Case No. 12-406-EL-RDR  
in the Tariffs of Ohio Edison Company,     )  
The Cleveland Electric Illuminating     )  
Company, and The Toledo Edison     )  
Company.     )

---

**MEMORANDUM IN SUPPORT**

---

OCC files this Motion for Protective Order (“Motion”) contemporaneously with the filing of OCC’s Comments in the above-captioned proceeding. In filing this Motion, OCC does not concede that the information in OCC’s Comments is trade secret information pursuant to R.C. 1333.61(D) and does not concede that the information is deserving of protection from public revelation under Ohio Adm. Code 4901-1-24(D).

OCC understands that FirstEnergy considers the undisclosed (redacted) information to be confidential and deserving of the protection of trade secret information as defined in R.C. 1333.61(D). OCC’s understanding is based on claims by FirstEnergy that the information (1) derives economic value, actual or potential, from not being known to, and not being readily ascertainable by proper means by others, and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.<sup>2</sup> Under the assertions made by FirstEnergy, at this time, confidential treatment of the redacted information in OCC’s Comments would be appropriate, subject to OCC’s rights under its protective agreement with FirstEnergy to initiate a process to determine whether the information should be protected.

---

<sup>2</sup> See R.C. 1333.61(D).

In addition, OCC is filing a public version of its Comments so that all information FirstEnergy does not claim to be confidential is accessible for the public's review. The public version does not contain information that was asserted by FirstEnergy to be confidential.

For the foregoing reasons and subject to the foregoing reservations of rights, this Motion should be granted at this time.

Respectfully submitted,

BRUCE J. WESTON  
OHIO CONSUMERS' COUNSEL

/s/ Terry L. Etter

Terry L. Etter, Counsel of Record

Kyle L. Kern

Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone: Etter – (614) 466-7964

Telephone: Kern – (614) 466-9585

[etter@occ.state.oh.us](mailto:etter@occ.state.oh.us)

[kern@occ.state.oh.us](mailto:kern@occ.state.oh.us)

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion for Protective Order has been served upon those persons listed below via electronic mail this 5<sup>th</sup> day of April 2013.

/s/ Terry L. Etter

Terry L. Etter

Assistant Consumers' Counsel

### **SERVICE LIST**

Thomas G. Lindgren

Devin Parram

Attorney General's Office

Public Utilities Section

180 E. Broad St, 6th Floor

Columbus, Ohio 43215

[Thomas.lindgren@puco.state.oh.us](mailto:Thomas.lindgren@puco.state.oh.us)

[Devin.parram@puco.state.oh.us](mailto:Devin.parram@puco.state.oh.us)

Kathy J. Kolich

FirstEnergy Corp.

76 South Main Street

Akron, Ohio 44308

[kjkolich@firstenergycorp.com](mailto:kjkolich@firstenergycorp.com)

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**4/5/2013 4:20:30 PM**

**in**

**Case No(s). 12-0406-EL-RDR**

Summary: Motion Motion for Protective Order by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Etter, Terry L.