

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Ohio Power Company to Establish) Case No. 12-3255-EL-RDR
Initial Storm Damage Recovery Rider)
Rates.)

**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 Power Company. As part of discovery in this proceeding, Ohio Power provided information to OCC, subject to a protective agreement, and Ohio Power 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 the Direct Testimony of Anthony J. Yankel that Ohio Power asserts to be confidential.¹ Subject to OCC's rights under the protective agreement, OCC is filing the Direct Testimony of Anthony J. Yankel under seal, and is also filing a public version that shows all information Ohio Power does not claim to be confidential.

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 Ohio Power that provides for

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

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
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: (614) 466-7964 (Etter direct)
terry.etter@occ.ohio.gov

Kimberly W. Bojko
Carpenter Lipps & Leland LLP
280 Plaza, Suite 1300
280 N. High Street
Columbus, Ohio 43215
Telephone: (614) 365-4124
bojko@carpenterlipps.com

Outside Counsel for the
Office of the Ohio Consumers' Counsel

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Ohio Power Company to Establish) Case No. 12-3255-EL-RDR
Initial Storm Damage Recovery)
Rider Rates.)

MEMORANDUM IN SUPPORT

OCC files this Motion for Protective Order (“Motion”) contemporaneously with the filing of the Direct Testimony of Anthony J. Yankel. In filing this Motion, OCC does not concede that the information in the Direct Testimony of Anthony J. Yankel 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 Ohio Power 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 Ohio Power 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.² Under the assertions made by Ohio Power, at this time, confidential treatment of the redacted information in the Direct Testimony of Anthony J. Yankel would be appropriate, subject to OCC’s rights under its protective agreement with Ohio Power to initiate a process to determine whether the information should be protected.

² See R.C. 1333.61(D).

In addition, OCC is filing a public version of the Direct Testimony of Anthony J. Yankel so that all information Ohio Power does not claim to be confidential is accessible for the public's review. The public version does not contain information that was asserted by Ohio Power 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
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: (614) 466-7964 (Etter direct)
terry.etter@occ.ohio.gov

Kimberly W. Bojko
Carpenter Lipps & Leland LLP
280 Plaza, Suite 1300
280 N. High Street
Columbus, Ohio 43215
Telephone: (614) 365-4124
bojko@carpenterlipps.com

Outside Counsel for the
Office of the Ohio Consumers' Counsel

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion for Protective Order* by the Office of the Ohio Consumers' Counsel has been served upon those persons listed below via electronic mail this 30th day of December 2013.

/s/ Terry L. Etter

Terry L. Etter
Assistant Consumers' Counsel

SERVICE LIST

Werner.margard@puc.state.oh.us
Ryan.orourke@puc.state.oh.us
stnourse@aep.com
mjsatterwhite@aep.com
ricks@ohanet.org
tobrien@bricker.com
rbrundrett@ohiomfg.com

Attorney Examiners:

Sarah.parrot@puc.state.oh.us
Jonathan.tauber@puc.state.oh.us

dboehm@BKLawfirm.com
mkurtz@BKLawfirm.com
jkylercohn@BKLawfirm.com
myurick@taftlaw.com
zkravitz@taftlaw.com
sam@mwncmh.com
fdarr@mwncmh.com
mpritchard@mwncmh.com
joliker@mwncmh.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

12/30/2013 4:25:58 PM

in

Case No(s). 12-3255-EL-RDR

Summary: Motion Motion for Protective Order by the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Etter, Terry L Mr.