

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Fuel Adjustment	)	
Clause of Columbus Southern Power	)	Case No. 10-268-EL-FAC
Company and Ohio Power Company and	)	Case No. 10-269-EL-FAC
Related Matters for 2010.	)	

In the Matter of the Fuel Adjustment	)	
Clauses for Columbus Southern Power	)	Case No. 11-281-EL-FAC
Company and Ohio Power Company and	)	
Related Matters.	)	

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

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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.<sup>1</sup> 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 OCC's Initial Post-Hearing Brief that Ohio Power asserts to be confidential.<sup>2</sup> Subject to OCC's rights under the protective agreement, OCC is filing its Initial Post-Hearing

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<sup>1</sup> Effective at the end of 2011, Columbus Southern Power Company and Ohio Power Company merged, with Ohio Power becoming the successor in interest to Columbus Southern Power. See *In the Matter of the Application of Ohio Power Company and Columbus Southern Power Company for Authority to Merge and Related Approvals*, Case No. 10-2376- EL-UNC, Entry (March 7, 2012) at 11.

<sup>2</sup> This Motion is filed pursuant to Ohio Adm. Code 4901-1-02(E), 4901-1-12 and 4901-1-24(D).

Brief 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 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

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**MEMORANDUM IN SUPPORT**

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OCC files this Motion for Protective Order (“Motion”) contemporaneously with the filing of OCC’s Initial Post-Hearing Brief. In filing this Motion, OCC does not concede that the information in its Initial Post-Hearing Brief 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.<sup>3</sup> Under the assertions made by Ohio Power, at this time, confidential treatment of the

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<sup>3</sup> See R.C. 1333.61(D).

redacted information in OCC's Initial Post-Hearing Brief 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.

In addition, OCC is filing a public version of its Initial Post-Hearing Brief 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

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## **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 8<sup>th</sup> day of January 2014.

/s/ Terry L. Etter

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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.