

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application for)
Establishment of a Reasonable)
Arrangement between Presrite Corporation) Case No. 17-1981-EL-AEC
and The Cleveland Electric Illuminating)
Company)

**MOTION FOR PROTECTIVE ORDER AND
MEMORANDUM IN SUPPORT
OF PRESRITE CORPORATION**

RECEIVED-DOCKETING DIV
2018 FEB -9 PM 3:13
PUCO

Frank P. Darr (Reg. No. 0025469)
(Counsel of Record)
Matthew R. Pritchard (Reg. No. 0088070)
MCNEES WALLACE & NURICK LLC
21 East State Street, 17TH Floor
Columbus, OH 43215
Telephone: (614) 469-8000
Telecopier: (614) 469-4653
fdarr@mwncmh.com
(willing to accept service by e-mail)
mpritchard@mwncmh.com
(willing to accept service by e-mail)

FEBRUARY 9, 2018

ATTORNEYS FOR PRESRITE CORPORATION

C0108634:1

This is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business.
Technician M Date Processed 2-9-18

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application for)	
Establishment of a Reasonable)	
Arrangement between Presrite Corporation)	Case No. 17-1981-EL-AEC
and The Cleveland Electric Illuminating)	
Company)	

MOTION FOR PROTECTIVE ORDER

Pursuant to the provisions of Rule 4901-1-24(D), Ohio Administrative Code ("O.A.C."), Presrite Corporation ("Presrite") respectfully requests that the Public Utilities Commission of Ohio ("Commission") issue a protective order to protect the confidentiality and prohibit the disclosure of the confidential information contained in the Joint Stipulation and Recommendation and Testimony of Gary Davis in Support of the Joint Stipulation and Recommendation filed on February 9, 2018 in this proceeding. The confidential information is not subject to disclosure and includes competitively sensitive and highly proprietary business information comprising trade secrets. The grounds for this Motion are set forth in the attached Memorandum in Support.

Respectfully submitted,



Frank P. Darr (Reg. No. 0025469)
(Counsel of Record)
Matthew R. Pritchard (Reg. No. 0088070)
McNEES WALLACE & NURICK LLC
21 East State Street, 17TH Floor
Columbus, OH 43215
Telephone: (614) 469-8000
Telecopier: (614) 469-4653
fdarr@mwncmh.com
mpritichard@mwncmh.com

Attorneys for Presrite Corporation

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application for)	
Establishment of a Reasonable)	
Arrangement between Presrite Corporation)	Case No. 17-1981-EL-AEC
and The Cleveland Electric Illuminating)	
Company)	

MEMORANDUM IN SUPPORT

Presrite has filed a Joint Stipulation and Recommendation and Testimony of Gary Davis in Support of the Joint Stipulation and Recommendation in an unredacted form and under seal. By this Motion, Presrite requests confidential treatment for competitively sensitive and highly proprietary business information that constitutes trade secrets under Ohio law and the Commission's rules.

State law recognizes the need to protect information that is confidential in nature. Accordingly, the General Assembly granted the Commission statutory authority to exempt certain documents from disclosure.¹ Pursuant to this statutory grant of authority, the Commission promulgated Rule 4901-1-24, Ohio Administrative Code ("O.A.C."). Rule 4901-1-24(D), 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 or federal law prohibits 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.

¹ See R.C. 4901.12 and 4905.07.

Trade secrets protected by state law are not considered public records and are therefore exempt from public disclosure.² A trade secret is defined by R.C. 1333.61(D), 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.

R.C. 1333.61(D) (emphasis added).

The redacted information contained within the Joint Stipulation and Recommendation and Testimony of Gary Davis in Support of the Joint Stipulation and Recommendation is competitively sensitive and highly proprietary business and financial information falling within the statutory characterization of a trade secret.³ The confidential information that Presrite seeks to protect relates to employment levels and capital expenditures. Public disclosure of the information would jeopardize Presrite’s business position and its ability to compete. The Commission has previously granted

² R.C. 149.43(A)(1)(v), Revised Code; *State ex rel. The Plain Dealer v. Ohio Dept. of Insurance*, 80 Ohio St. 3d 513, 530 (1997).

³ R.C. 1333.61(D).

protective treatment to similar trade secrets in other reasonable arrangement proceedings.⁴

Non-disclosure of the information will not impair the purposes of Title 49 as the Commission and its Staff will have full access to the confidential information in order to complete its review process. Because Presrite's information constitutes a trade secret, it should be accorded protected status.

Respectfully submitted,



Frank P. Darr (Reg. No. 0025469)
(Counsel of Record)

Matthew R. Pritchard (Reg. No. 0088070)

MCNEES WALLACE & NURICK LLC

21 East State Street, 17TH Floor

Columbus, OH 43215

Telephone: (614) 469-8000

Telecopier: (614) 469-4653

fdarr@mwncmh.com

mpritchard@mwncmh.com

Attorneys for Presrite Corporation

⁴ *In the Matter of the Application of U.S. Steel Seamless Tubular Operations, LLC, Lorain Tubular Operations for Approval of a Reasonable Arrangement*, Case No. 16-2020-EL-AEC, Opinion and Order at 7-8 (Feb. 8, 2017); *In the Matter of the Application of TimkenSteel Corporation for Approval of a Unique Arrangement for the TimkenSteel Corporation's Stark County Facilities*, Case No. 15-1857-EL-AEC, Opinion and Order at 6-7 (Dec. 16, 2015).

CERTIFICATE OF SERVICE

I hereby certify that a service copy of the foregoing *Motion for Protective Order and Memorandum in Support of Presrite Corporation*, as sent by, or on behalf of, the undersigned counsel for Ohio Gas to the following parties of record this 9th day of February 2018, by ordinary mail.

/s/ Frank P. Darr

Frank P. Darr

Christopher Healey (0086027)
65 East State Street, 7th Floor
Columbus, OH 43215-4203
christopher.healey@occ.ohio.gov

**COUNSEL FOR THE OFFICE OF THE OHIO
CONSUMERS' COUNSEL**

Kimberly W. Bojko (0069402)
CARPENTER LIPPS & LELAND LLP
280 North High Street, Suite 1300
Columbus, OH 43215
bojko@carpenterlipps.com

COUNSEL FOR OMAEG

Robert M. Endris
FIRSTENERGY SERVICE COMPANY
76 South Main Street
Akron, OH 44308
cdunn@firstenergycorp.com

**COUNSEL FOR THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY**

William Wright
Thomas McNamee
ATTORNEY GENERAL'S OFFICE
30 East Broad St., 16th Fl.
Columbus, OH 43215
william.wright@ohioattorneygeneral.gov
thomas.mcnamee@ohioattorneygeneral.gov

Patricia Schabo
Legal Department
PUBLIC UTILITIES COMMISSION OF OHIO
180 East Broad Street, 12th Floor
Columbus, OH 43215
patricia.schabo@puc.state.oh.us

ATTORNEY EXAMINER