

**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**

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FEBRUARY 20, 2018

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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 Exhibit 1C, Joint Exhibit 2C, and Joint Exhibit 3C marked for the record on February 20, 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,

/s/ Frank P. Darr

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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. This matter was set for hearing on February 20, 2018. Three exhibits, Joint Exhibit 1C, Joint Exhibit 2C, and Joint Exhibit 3C, that Presrite submits for the record contain confidential information. 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

¹ See R.C. 4901.12 and 4905.07.

information and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code.

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 three exhibits 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

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).

to compete. The Commission has previously granted 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,

/s/ Frank P. Darr

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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 20th day of February 2018, by ordinary mail.

/s/ Frank P. Darr

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ATTORNEY EXAMINER

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Summary: Motion Motion for Protective Order and Memorandum in Support of Presrite Corporation electronically filed by Mr. Frank P Darr on behalf of Presrite Corporation