

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of U.S. Steel)
Seamless Tubular Operations, LLC, Lorain) Case No. 16-2020-EL-AEC
Tubular Operations for Approval of a)
Reasonable Arrangement)

**MOTION OF U.S. STEEL SEAMLESS TUBULAR OPERATIONS, LLC,
LORAIN TUBULAR OPERATIONS TO EXTEND THE
PROTECTIVE ORDER AND MEMORANDUM IN SUPPORT**

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DECEMBER 7, 2018

**ATTORNEYS FOR U.S. STEEL SEAMLESS
TUBULAR OPERATIONS, LLC, LORAIN
TUBULAR OPERATIONS**

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**MOTION OF U.S. STEEL SEAMLESS TUBULAR OPERATIONS, LLC, LORAIN
TUBULAR OPERATIONS TO EXTEND THE PROTECTIVE ORDER**

Pursuant to Rule 4901-1-24, Ohio Administrative Code ("O.A.C."), and the Finding and Order of the Public Utilities Commission of Ohio ("Commission") on February 8, 2017 in this matter, U.S. Steel Seamless Tubular Operations, LLC, Lorain Tubular Operations ("LTO") respectfully moves the Commission to issue an order extending the Protective Order. Extension of the Protective Order is necessary to protect the confidentiality and prohibit the disclosure of the confidential information contained in the application and subsequent filings made under seal. 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/ Matthew R. Pritchard

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MEMORANDUM IN SUPPORT

I. INTRODUCTION AND BACKGROUND

On October 13, 2016, LTO filed an application for approval of a unique arrangement for electric service with the Ohio Edison Company ("OE"). On January 23, 2017, the LTO and the Staff filed a joint stipulation. Portions of the joint stipulation related to usage levels and employment were redacted in the publicly-filed version of the joint stipulation. An unredacted version was filed under seal. With the joint stipulation, LTO filed a motion for a protective order that sought protection from public disclosure or usage and employment related information that was redacted from the public version of the joint stipulation. The motion was unopposed. Following a hearing, the Commission approved the joint stipulation on February 8, 2017.

In the Opinion and Order approving the joint stipulation, the Commission conducted an independent review of the information filed under seal, found that nondisclosure of the information was not inconsistent with the purposes of Title 46 of the Revised Code, and granted the motion for the protective order. Opinion and Order ¶ 29 (Feb. 8, 2017). The Opinion and Order further provided that the protective order had an initial term of 24 months and that a party wishing to extend the order would be required to file a motion to extend the order at least 45 days in advance of the expiration date of the protective order. *Id.*, ¶¶ 30-31.

For the reasons stated below, LTO respectfully requests that the Commission extend the protective order concerning the information filed under seal.

II. ARGUMENT

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, O.A.C. The rule 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.

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.

(emphasis added).

¹ See R.C. 4901.12 and 4905.07.

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

As was the case when the Commission granted the protective order, the usage and employment information included in the joint stipulation is competitively sensitive and highly proprietary business information that constitutes trade secrets under Ohio law and the Commission's rules. The information contained in the joint stipulation relates to operational information as well as employment data and remains competitively sensitive and highly proprietary business and financial information falling within the statutory characterization of a trade secret.³ During the term of the unique arrangement, public disclosure of the redacted information in the joint stipulation would jeopardize LTO's business position and its ability to compete. The redacted information that LTO seeks to protect derives independent economic value from not being generally known and not being readily ascertainable by proper means by LTO's competitors. Further, the efforts to protect the confidential usage and employment data are reasonable under the circumstances. Finally, the Commission has afforded protected treatment to similar information filed under seal in other reasonable arrangement proceedings.⁴

The non-disclosure of the usage and employment related information will not impair the purposes of Title 49 of the Revised Code, as the Commission and its Staff will have full access to the confidential information in order to complete its review process.

³ R.C. 1333.61(D).

⁴ See, e.g., *In the Matter of the Application of the 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); *In the Matter of the Application for Establishment of a Reasonable Arrangement between ASHTA Chemicals Inc. and The Cleveland Electric Illuminating Company*, Case No. 12-1494-EL-AEC, Entry at 3 (Nov. 5, 2012); *In the Matter of the Application of Ormet Primary Aluminum Corporation for Approval of a Unique Arrangement with Ohio Power Company and Columbus Southern Power Company*, Case No. 09-119-EL-AEC, Entry at 4-5 (Oct. 3, 2013); *In the Matter of the Application for Establishment of a Reasonable Arrangement Between Marathon Petroleum Company LP and Ohio Power Company*, Case No. 10-2777-EL-AEC, Entry at 2-3 (Sep. 28, 2011).

Because LTO's information in the joint stipulation constitutes a trade secret, it should remain protected.

III. CONCLUSION

LTO respectfully requests that this Motion to Extend the Protective Order be granted and the Protective Order be extended for a period of 24 months for the reasons set forth herein.

Respectfully submitted,

/s/ Matthew R. Pritchard

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**U.S. STEEL SEAMLESS TUBULAR OPERATIONS,
LLC, LORAIN TUBULAR OPERATIONS**

CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Motion of U.S. Steel Seamless Tubular Operations, LLC, Lorain Tubular Operations to Extend the Protective Order and Memorandum in Support* was sent by, or on behalf of, the undersigned counsel for LTO to the following parties of record this 7th day of December 2018, via electronic transmission.

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Summary: Motion Motion of U.S. Steel Seamless Tubular Operations, LLC, Lorain Tubular Operations to Extend the Protective Order and Memorandum in Support electronically filed by Mr. Matthew R. Pritchard on behalf of U.S. Steel Seamless Tubular Operations, LLC, Lorain Tubular Operations