

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Filing by Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company of a Grid Modernization Business Plan)	
)	
)	Case No. 16-481-EL-UNC
)	
)	
In the Matter of the Filing by Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company Application for Approval of a Distribution Platform Modernization Plan)	
)	
)	Case No. 17-2436-EL-UNC
)	
)	
)	
In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company to Implement Matters Relating to the Tax Cuts and Jobs Act of 2017)	
)	
)	Case No. 18-1604-EL-UNC
)	
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)	
In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of a Tariff Change)	
)	
)	Case No. 18-1656-EL-ATA

**MOTION FOR PROTECTIVE ORDER OF
OHIO EDISON COMPANY,
THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, AND
THE TOLEDO EDISON COMPANY**

Pursuant to O.A.C. 4901-1-24(D), Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the “Companies”) move for a protective order keeping confidential certain information of the Companies, which is contained in the Direct Testimony of Curt Volkmann filed on behalf of the Environmental Law & Policy Center, Ohio Environmental Council, and Natural Resources Defense Council

(collectively, “Environmental Groups”) and Exhibit CV-4 thereto, because the information is or relates to the confidential and infrastructure security information of the Companies. The Environmental Groups properly filed portions of Mr. Volkmann’s testimony under seal. The Companies have reviewed Mr. Volkmann’s original testimony and have determined that some, but not all, of the portions redacted can be made public for purposes of this proceeding.

Accordingly, the Companies request that the Commission grant this Motion and protect from disclosure the confidential information in Mr. Volkmann’s testimony, as revised. A Memorandum in Support of this Motion is attached hereto and incorporated herein by reference. Unredacted copies of the confidential information, which is the subject of this Motion, were filed under seal by the Environmental Groups.

Respectfully Submitted,

/s/ James F. Lang

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ATTORNEYS FOR OHIO EDISON
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MEMORANDUM IN SUPPORT OF MOTION FOR PROTECTIVE ORDER

Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (collectively, the “Companies”) request that the Commission protect from public disclosure certain information designated on Attachment A hereto as confidential and related to infrastructure security (along with any and all copies, including electronic copies). The designated information is contained in the Direct Testimony of Curt Volkmann and Exhibit CV-

4 attached thereto. The Companies have made good faith efforts to limit the amount of information for which confidential treatment is sought.

Ohio law and the Commission's rules provide for the protection of confidential and proprietary information. Specifically, O.A.C. 4901-1-24(A) provides the Commission may issue:

[A]ny order which is necessary to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. Such a protective order may provide that: . . .

(7) A trade secret or other confidential research, development, commercial, or other information not be disclosed or be disclosed only in a designated way.

Pursuant to O.A.C. 4901-1-24(D), the Commission also may issue an order to protect the confidentiality of information contained in documents filed with the Commission to the extent that state or federal law prohibits the release of the information and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code.

Pursuant to R.C. § 1333.61(D), a "trade secret" is:

[A]ny 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. [And]

(2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Ohio law grants special protections to such trade secrets, including statutory causes of action for an injunction precluding the misappropriation of trade secrets. *See* R.C. § 1333.62. The Commission has recognized the statutory obligation to protect trade secrets, even in the context of its preference for open proceedings, and has previously carried out its obligations in this

regard in numerous proceedings. *See In re: General Telephone Co.*, Case No. 81-383-TP-AIR (Entry, February 17, 1982) (recognizing necessity of protecting trade secrets); *See, e.g., Elyria Tel. Co.*, Case No. 89-965-TP-AEC (Finding and Order, September 21, 1989); *Ohio Bell Tel. Co.*, Case No. 89-718-TP-ATA (Finding and Order, May 31, 1989); *Columbia Gas of Ohio, Inc.*, Case No. 90-17-GA-GCR (Entry, August 17, 1990).

Here, the Companies are seeking to prevent disclosure of the proprietary, confidential business information of the Companies. This information was provided to the Environmental Law & Policy Center, Ohio Environmental Council, and Natural Resources Defense Council (collectively, “Environmental Groups”) pursuant to a nondisclosure agreement solely for purposes of providing information in discovery to facilitate the resolution of the above-captioned cases. The Companies consider and have treated the information as a trade secret and related to infrastructure security. Further, in the ordinary course of business of the Companies, this information is treated as proprietary and confidential by the Companies and their employees. It is not disclosed to anyone without proper safeguards. Mr. Volkmann’s testimony includes non-public outage data and calculations that could be used to identify specific circuit information and, thus, it should be protected from public disclosure.

Attachment A to this Memorandum in Support lists the information which has been redacted from the associated filing. For the foregoing reasons, the Companies request that the designated information be protected from public disclosure.

Respectfully Submitted,

/s/ James F. Lang

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ATTORNEYS FOR OHIO EDISON
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CERTIFICATE OF SERVICE

I certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 5th day of February, 2019. The PUCO's e-filing system will electronically serve notice of the filing of this document on all parties of record.

/s/ Mark T. Keaney
One of the Attorneys for Ohio Edison Company,
The Cleveland Electric Illuminating Company, and
The Toledo Edison Company

Attachment A

Testimony of Curt Volkmann

<i>page</i>	<i>Description</i>
12, 14-16	Information about customer minutes interrupted for specific storm events
19	Calculation based on specific customer per circuit data
Ex. CV-4	Companies' confidential responses to ELPC data requests concerning the Companies' cost-benefit analysis.

4819-0110-6567, v.1

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Case No(s). 16-0481-EL-UNC, 17-2436-EL-UNC, 18-1604-EL-UNC, 18-1656-EL-ATA

Summary: Motion for Protective Order re Testimony of Curt Volkmann electronically filed by Mr. James F Lang on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company