

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Application of Ohio            )     Case No. 18-0191-EL-RDR**  
**Power Company to Adjust The Economic            )**  
**Development Cost Recovery Rider Rate            )**

**In the Matter of the Application of Ohio            )     Case No. 17-295-EL-RDR**  
**Power Company to Adjust The Economic            )**  
**Development Cost Recovery Rider Rate            )**

**In the Matter of the Application of Ohio            )     Case No. 16-1684-EL-RDR**  
**Power Company to Adjust The Economic            )**  
**Development Cost Recovery Rider Rate            )**

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**MOTION OF TIMKENSTEEL CORPORATION  
TO EXTEND PROTECTIVE ORDERS AND MEMORANDUM IN SUPPORT**

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Under Rule 4901-1-24(F), Ohio Administrative Code (“O.A.C.”), TimkenSteel Corporation (“TimkenSteel”) respectfully moves the Public Utilities Commission of Ohio (“Commission”) to extend the Protective Order issued March 28, 2018, in Case No. 18-0191-EL-RDR to keep confidential certain of TimkenSteel's electrical use and billing information contained in Schedule Nos. 2 and 5 filed under seal with the January 30, 2018 application of Ohio Power Company (“Ohio Power”) to adjust its Economic Development Cost Recovery rider (“EDR”) rates.<sup>1</sup> In addition, TimkenSteel moves for an extension of the protective orders issued in Case Nos. 17-295-EL-RDR and 16-1684-EL-RDR which also relate to applications by Ohio Power to adjust its EDR rates. Through inadvertent oversight, extensions for protective orders were not filed in those two matters prior to the end of the 24-month period although a motion for

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<sup>1</sup> *In the Matter of the Application of Ohio Power Company to Adjust The Economic Development Cost Recovery Rider Rates*, Case No. 17-1714-EL-RDR.

extension to extend the protective orders was filed by Eramet in those proceedings and remains pending. The confidential information in all three proceedings includes competitively sensitive and highly proprietary business information comprising trade secrets, and should continue to be kept confidential for a minimum period of 24-months from the date an order issues on this motion. The grounds for this Motion are set forth in the attached Memorandum in Support.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT OF TIMKENSTEEL CORPORATION'S  
MOTION TO EXTEND PROTECTIVE ORDERS**

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On December 16, 2015, TimkenSteel Corporation (“TimkenSteel”) received approval from the Public Utilities Commission of Ohio (“Commission”) of a unique arrangement for TimkenSteel’s Stark County Facilities.<sup>2</sup> The Commission also granted TimkenSteel’s motion for protective order seeking to protect certain proprietary and confidential information that related to the unique arrangement application.<sup>3</sup>

On January 30, 2018, Ohio Power filed an Application, seeking to update its Economic Development Cost Recovery rider (“EDR”) rates.<sup>4</sup> In support and as part of the Application, Ohio Power submitted under seal various schedules. Two of those schedules contain highly proprietary and confidential information as follows:

- Schedule No. 2 contains actual and estimated delta revenue amounts (by month) for TimkenSteel and monthly carrying charges.
- Schedule No. 5 contains detailed information regarding TimkenSteel’s actual and estimated monthly electric bill, monthly discounts and monthly delta revenue.<sup>5</sup>

The same confidential information is included in schedules filed by Ohio Power in its August 4, 2016 application in Case No. 16-1684-EL-RDR (schedules 2 and 4) and its January 27, 2017 application filed in Case No. 17-0295-EL-RDR (schedules 2 and 5). The Commission

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<sup>2</sup> *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 (Dec. 16, 2015).

<sup>3</sup> *Id.*, Opinion and Order at 6.

<sup>4</sup> *In the Matter of the Application of Ohio Power Company to Adjust The Economic Development Cost Recovery Rider Rates*, Case No. 18-0191-EL-RDR, Application (January 30, 2018).

<sup>5</sup> Information in Schedule Nos. 2 & 5 concerns the unique arrangement approved in Case No. 15-1857-EL-AEC.

issued protective orders for all confidential information in those two proceedings on September 22, 2016 and March 29, 2017 respectively.

The customer-specific information in the schedules attached to Ohio Power's applications in these proceedings is confidential, sensitive, and proprietary. The Commission has consistently granted protective treatment for the information in these schedules, doing so by Order dated September 13, 2017 in Case No. 18-0191, by Order dated March 29, 2017 in Case No. 17-0295 and by Order dated September 22, 2016 in Case No. 16-1684. In all proceedings, the Commission found that TimkenSteel's customer-specific information constituted a trade secret.<sup>6</sup> The Commission specified that the protective orders would expire after 24 months but would extend pending a request for an extension of the protective order at least 45 days before the expiration of the respective protective order.

At its Stark County Facilities, TimkenSteel manufactures specialty steel products that are, and will continue to be, sold in a highly competitive international market. The confidential information contained in the applicable schedules in each proceeding (as identified above), if released to the public, would harm TimkenSteel by providing domestic and international competitors with proprietary information concerning the cost and use of electricity at the Stark County Facilities. The need to protect the designated information from public disclosure is clear, and the Commission long recognized its statutory obligations with regard to trade secrets:

The Commission is of the opinion that the "public records" statute must also be read in pari materia with Section 1333.31, Revised Code ("trade secrets" statute). The latter statute must be interpreted as evincing the recognition, on the part of the General Assembly, of the value of trade secret information.

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<sup>6</sup> *In the Matter of the Application of Ohio Power Company to Adjust The Economic Development Cost Recovery Rider Rates*, Case No. 18-0191-EL-RDR, Finding and Order at ¶ 14; *In re Application of Ohio Power Company to Adjust its Economic Development Cost Recovery Rider Rate*, Case No. 17-0295-EL-RDR, Finding and Order at ¶ 13 (Mar. 29, 2017); *In the Matter of the Application of Ohio Power Company to Adjust Its Economic Development Rider Rate*, Case No. 16-1684-EL-RDR, Finding and Order at ¶ 13 (Sep. 22, 2016)

*In re: General Telephone Co.*, Case No. 81-383-TP-AIR, Entry (February 17, 1982). Likewise, the Commission's rules support trade secret protection. *See, e.g.*, Rule 4901-1-24(A)(7), Ohio Administrative Code ("O.A.C").

The Uniform Trade Secrets Act defines a "trade secret":

"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.

Section 1333.61(D), Revised Code. This definition clearly reflects the state policy favoring the protection of trade secrets, such as the sensitive information in Schedules 2 and 5.

The Ohio Supreme Court adopted a six-factor test to analyze whether information is a trade secret under the statute:

- (1) The extent to which the information is known outside the business, (2) the extent to which it is known to those inside the business, *i.e.*, by the employees, (3) the precautions taken by the holder of the trade secret to guard the secrecy of the information, (4) the savings effected and the value to the holder in having the information as against competitors, (5) the amount of effort or money expended in obtaining and developing the information, and (6) the amount of time and expense it would take for others to acquire and duplicate the information.

*State ex rel The Plain Dealer v. Ohio Dept. of Ins.*, 80 Ohio St. 3d 513, 524-525 (1997) (citation and quotation omitted).

Applying these factors to the confidential information TimkenSteel seeks to protect, it is clear that the protective orders should be extended. The information redacted from the schedules contains information regarding the actual monthly electric bill, monthly discounts, and monthly delta revenues for operations at TimkenSteel's Stark County Facilities. Schedule 2 in each proceeding contains actual delta revenue data that reflects usage at TimkenSteel's facilities. Such sensitive information is generally not disclosed. Its disclosure could disadvantage TimkenSteel relative to its competitors.

As well, no party will be prejudiced if the protective treatment is extended in each proceeding. Rule 4901-1-24(D), O.A.C., provides for the protection of confidential information contained in documents filed with the Commission's Docketing Division 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. The non-disclosure of TimkenSteel's customer-specific information in the schedules will not impair the purposes of Title 49. Customer billing information and pricing terms are protected from disclosure by Ohio Power<sup>7</sup> and are regularly accorded protected status by the Commission and the Commission accorded such treatment to TimkenSteel's information in Ohio Power's previous EDR update proceedings.<sup>8</sup> The Commission and its Staff have already decided Ohio Power's

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<sup>7</sup> See, e.g., Rule 4901:1-37-04(D)(1), O.A.C. (prohibiting disclosure of "proprietary customer information (e.g., individual customer load profiles or billing histories)").

<sup>8</sup> See, e.g., *In re Application of Ohio Power Company to Adjust its Economic Development Cost Recovery Rider Rate*, Case No. 17-1714-EL-RDR, Finding and Order at 4 (Sep. 13, 2017); *In re Application of Ohio Power Company to Adjust its Economic Development Cost Recovery Rider Rate*, Case No. 17-0295-EL-RDR, Finding and Order at 4 (Mar. 29, 2017); *In the Matter of the Application of Ohio Power Company to Adjust Its Economic Development Rider Rate*, Case No. 16-1684-EL-RDR, Finding and Order (Sep. 22, 2016); *In the Matter of the Application of Ohio Power Company to Adjust Its Economic Development Rider Rate*, Case No. 16-260-EL-RDR, Finding and Order (Mar. 31, 2016); *In the Matter of the Application of Ohio Power Company to Adjust Its Economic Development Rider*, Case No. 15-279-EL-RDR, Finding and Order (March 18, 2015); *In the Matter of the Application of Ohio Power Company to Adjust Its Economic Development Rider Rate*, Case No. 14-1329-EL-RDR, Finding and Order (September 17, 2014); *In re Application of Ohio Power Company to Adjust its Economic Development Cost Recovery Rider Pursuant to Rule 4901:1-38-08(A)(5), Ohio Administrative Code*, Case No. 13-

Application and retain full access to the confidential information. As well, no party challenged the protective order issuance nor does any party have a right to public access to TimkenSteel's individual customer information.

Accordingly, because TimkenSteel's customer information contained in Schedule Nos. 2 and 5 of the January 30, 2018 application, Schedules Nos. 2 and 5 of the January 27, 20178 application and Schedules Nos. 2 and 4 of the August 4, 2016 application constitutes a trade secret, TimkenSteel respectfully requests that this Motion be granted and protective treatment be afforded to the requested information in each of the three proceedings for a period of at least 24-months from the date of an order approving this Motion.

Respectfully submitted,

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325-EL-RDR, Finding and Order (March 27, 2013); *In re Application of Ohio Power Company to Adjust its Economic Development Cost Recovery Rider Pursuant to Rule 4901:1-38-08(A)(5), Ohio Administrative Code*, Case No. 12-688-EL-RDR, Finding and Order (March 28, 2012); and *In re Application of Columbus Southern Power Company and Ohio Power Company to Adjust Their Economic Development Cost Recovery Rider Pursuant to Rule 4901:1-38-08(A)(5), Ohio Administrative Code*, Case No. 11-4570-EL-RDR, Finding and Order at 4 (October 12, 2011).

## **CERTIFICATE OF SERVICE**

In accordance with Rule 4901-1-05, Ohio Administrative Code, the Commission'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 document is being served or on behalf of the undersigned counsel for TimkenSteel Corporation to the following counsel for parties of record *via* electronic transmission on January 30, 2020.

/s/ Michael J. Settineri

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Summary: Motion To Extend Protective Orders and Memorandum in Support electronically filed by Mr. Michael J. Settineri on behalf of TimkenSteel Corporation