

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>In the Matter of the Application of Ohio</b>	)	
<b>Power Company to Adjust The Economic</b>	)	Case No. 19-232-EL-RDR
<b>Development Cost Recovery Rider Rate</b>	)	

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

Pursuant to Ohio Administrative Code (“Ohio Adm.Code”) 4901-1-24(F), TimkenSteel Corporation (“TimkenSteel”) respectfully moves the Public Utilities Commission of Ohio (“Commission”) to extend the protective order previously granted in this docket for TimkenSteel’s confidential customer-specific information that has been held under seal. TimkenSteel requests that confidential treatment continue going forward for at least a two-year period. TimkenSteel’s confidential information is in the application materials filed on January 29, 2019, under seal in this docket by Ohio Power Company (“AEP-Ohio”) when it applied to adjust its Economic Development Cost Recovery rider (“EDR”) rate. TimkenSteel’s confidential information is competitively sensitive and highly proprietary business information that the Commission previously found to be a trade secret. The information has remained a competitively sensitive and highly proprietary trade secret, and will continue to be a trade secret going forward. Protected status should be extended.

This Motion is supported by the arguments set forth in the attached Memorandum in Support.

Respectfully submitted,

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## **MEMORANDUM IN SUPPORT**

### **I. Introduction**

In 2015, the Commission approved a unique arrangement between AEP-Ohio and TimkenSteel.<sup>1</sup> In January 2019 in this docket, AEP-Ohio requested that the Commission adjust AEP-Ohio's Economic Development Cost Recovery rider ("EDR") rate, based in part upon delta revenues generated from the unique service arrangement. AEP-Ohio included TimkenSteel's customer-specific information in the application schedules (Schedules 2 and 5) filed in this proceeding.

AEP-Ohio and TimkenSteel each requested protective orders related to TimkenSteel's customer-specific information, and the Commission granted a protective order concluding that the TimkenSteel information was a trade secret that should be afforded confidential treatment.<sup>2</sup>

Through this motion, TimkenSteel requests that the Commission extend the prior protective order applicable to the TimkenSteel information currently under seal for at least a two-year period as contemplated by Ohio Adm.Code 4901-1-24(F). As explained below, TimkenSteel's confidential customer-specific information has been and will continue to be trade secret information that warrants protective status and it is reasonable to extend the protective order.

### **II. Argument**

#### **A. TimkenSteel's information continues to be trade secret information.**

The billing information under the TimkenSteel unique arrangement filed by AEP-Ohio continues to consist of competitively sensitive and highly proprietary business information that constitutes a trade secret under Ohio law and the Commission's rules. State law recognizes the

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<sup>1</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>2</sup> Finding and Order at ¶ 13 (March 20, 2019).

need to protect information that is confidential in nature. Trade secrets protected by state law are not considered public records and are therefore exempt from public disclosure.<sup>3</sup> A trade secret is defined in Ohio law 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.

Ohio Revised Code Section ("R.C.") § 1333.61(D), emphasis added.

The Commission has the statutory authority to exempt certain documents from disclosure. See R.C. §§ 4901.12 and 4905.07. Ohio Adm.Code 4901-1-24(D) provides for a Commission order that is necessary to protect the confidentiality of information contained in documents filed at the Commission to the extent that state and federal law prohibit 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.

The TimkenSteel-related information contained in the application materials is competitively sensitive and highly proprietary business and financial information falling within the above-quoted statutory definition of a trade secret. It includes billings paid for TimkenSteel's electricity based upon its actual and estimated usage. Public disclosure of usage and pricing

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

information would jeopardize TimkenSteel's business position and its ability to compete. This billing information derives independent economic value from not being generally known and not being readily ascertainable by proper means by TimkenSteel's competitors. Disclosure would allow TimkenSteel's competitors throughout the world the opportunity to glean competitively sensitive information regarding its prior and current business operations, including the facilities and its financial status. TimkenSteel's prior and current efforts to protect the confidential pricing information are reasonable under the circumstances. Additionally, actual customer usage, billing information and pricing terms are protected from disclosure by AEP-Ohio.<sup>4</sup> As the Commission is aware, this information is routinely afforded protected status by the Commission, not just for TimkenSteel but other customers too. Finally, the Commission has already ruled that TimkenSteel's customer-specific information under seal in the confidential versions of AEP-Ohio's filings is a trade secret. The information should be afforded continued protected status.

**B. TimkenSteel's request to extend the current protective order is reasonable and will not prejudice any party.**

The non-disclosure of the actual usage and pricing information will not impair the purposes of Title 49 of the Revised Code, as the Commission and its Staff have already decided AEP-Ohio's application in this matter, and they retain full access to the confidential information. No other party will be prejudiced by continuing the protective treatment of the TimkenSteel information supporting the application.

**III. Conclusion**

Because TimkenSteel's information in the application materials (in Schedules 2 and 5) still constitutes a trade secret, it should continue to be afforded protected status. TimkenSteel

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<sup>4</sup> See, e.g., Ohio Adm.Code 4901:1-37-04(D)(1), which prohibits disclosure of "proprietary customer information (e.g., individual customer load profiles or billing histories)."

respectfully requests that the Commission grant this request to extend the current protective order applicable to TimkenSteel's customer-specific information in AEP's application for at least a period of 24 months.

Respectfully submitted,

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## **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 parties of record. In addition, I hereby certify that a copy of the foregoing document is being sent to the following counsel for parties of record on January 21, 2021, via electronic transmission.

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**On behalf of Globe Metallurgical, Inc.**

**This foregoing document was electronically filed with the Public Utilities**

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