

FILE

5

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION )  
OF THE CLEVELAND BOARD OF )  
EDUCATION FOR THE CLEVELAND )  
MUNICIPAL SCHOOL DISTRICT TO )  
ESTABLISH A REASONABLE )  
ARRANGEMENT WITH THE )  
CLEVELAND ELECTRIC )  
ILLUMINATING COMPANY FOR )  
ELECTRICAL SERVICE )  
)  
)  
)  
)

CASE NO. 08-1238-EL-AEC

MOTION FOR PROTECTIVE ORDER

Pursuant to O.A.C. § 4901-1-24(D), the Cleveland Municipal School District ("CMSD") moves for a protective order to protect the confidentiality of certain information contained in Direct Testimony of CMSD witness Mark R. Frye filed herein this date. Three copies of the unredacted version of the testimony have been filed under seal. This motion is accompanied by the attached Memorandum in Support.

Respectfully submitted,



Barth E. Royer (0016999)  
(Counsel of Record)  
Bell & Royer Co., LPA  
33 South Grant Avenue  
Columbus, Ohio 43215-3927  
(614) 228-0704 - Phone  
(614) 228-0201 - Fax  
E-Mail: BarthRoyer@aol.com

RECEIVED-DOCKETING DIV  
2009 APR 30 PM 4:48

PUCO

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business technician \_\_\_\_\_ Date Processed - APR 30 2009

Mark J. Valponi (0009527)  
Taft Stettinius & Hollister LLP  
200 Public Square, Suite 3500  
Cleveland, OH 44114-2302  
(216) 706-3873 – Phone  
(216) 241-3707 – Fax  
E-mail: mvalponi@taftlaw.com

*Attorneys for the Applicant*

## **MEMORANDUM IN SUPPORT OF MOTION FOR PROTECTIVE ORDER**

By its Second Amended Application to Establish a Reasonable Arrangement ("Second Amended Application") filed in this docket on April 29, 2009, the Cleveland Municipal School District ("CMSD") seeks approval of an Electric Service Arrangement ("ESA") pursuant to Section 4905.31, Revised Code. In support of its Second Amended Application, CMSD has this date filed the Direct Testimony of Mark R. Frye. Mr. Frye's testimony includes certain confidential pricing information from three documents that have previously been filed under seal in this case: (1) the 2002 Electric Service Agreement and Amendment thereto filed herein on November 19, 2008 as an attachment to the original Application; (2) Appendix 1 of the January 26, 2009 Electric Service Agreement and Arrangement between CMSD and The Cleveland Electric Illuminating Company filed herein on January 27, 2009 as an attachment to the Amended Application; and (3) Appendix 1 of the Electric Service Arrangement attached as Exhibit A to the Second Amended Application filed herein on April 29, 2009.

CMSD has set forth the basis for its request for confidential treatment of the information contained in each of these documents in motions for protective orders filed, respectively, on November 19, 2008, January 27, 2009, and April 29, 2009. CMSD hereby incorporates the reasons for confidential treatment of each of the identified documents stated in those motions as if fully set forth herein. Accordingly, CMSD now requests that the pricing information from these documents contained in Mr. Frye's testimony also be accorded confidential treatment for those same reasons and that the copies of the unredacted versions of Mr. Frye's testimony remain under seal. The confidential pricing information has been redacted from the public version of Mr. Frye's testimony and is identified in the unredacted version by inclusion between double asterisks.

Wherefore, CMSD respectfully requests that its Motion for a Protective Order be granted.

Respectfully submitted,



---

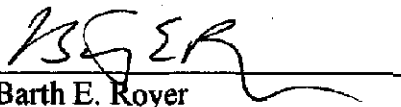
Barth E. Royer (0016999)  
(Counsel of Record)  
Bell & Royer Co., LPA  
33 South Grant Avenue  
Columbus, Ohio 43215-3927  
(614) 228-0704 – Phone  
(614) 228-0201 – Fax  
E-Mail: BarthRoyer@aol.com

Mark J. Valponi (0009527)  
Taft Stettinius & Hollister LLP  
200 Public Square, Suite 3500  
Cleveland, OH 44114-2302  
(216) 706-3873 – Phone  
(216) 241-3707 – Fax  
E-mail: mvalponi@taftlaw.com

*Attorneys for Applicant*

# CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon the following parties by first class mail, postage prepaid, and/or by electronic mail this 30th day of April 2009.

  
Barth E. Royer

David A. Kutik  
Jones Day  
North Point, 901 Lakeside Avenue  
Cleveland, OH 44114

Ebony Miller  
FirstEnergy Service Company  
76 South Main Street  
Akron, OH 44308

Anne L. Hammerstein  
Assistant Attorney General  
Public Utilities Section  
180 East Broad Street, 9th Floor  
Columbus, OH 43215-3793