

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Columbus Southern Power Company and)	Case No. 05-376-EL-UNC
Ohio Power Company for Authority to)	
Recover Costs Associated with the)	
Ultimate Construction and Operation of)	
an Integrated Gasification Combined)	
Cycle Electric Generating Facility)	

**GENERAL ELECTRIC COMPANY, GE ENERGY (USA), LLC, BECHTEL
CORPORATION, AND BECHTEL POWER CORPORATION'S
MOTION TO EXTEND THIS COMMISSION'S APRIL 29, 2009 PROTECTIVE
ORDER**

General Electric Company, GE Energy (USA), LLC, Bechtel Corporation, and Bechtel Power Corporation (together "GE/Bechtel") hereby request that the Public Utilities Commission of Ohio ("PUCO") extend the protective order issued by the PUCO an additional forty-eight (48) months from October 11, 2010, the date upon which the current protection order entered by the PUCO will expire. The reasons supporting this Motion are provided in the attached Memorandum in Support.

Respectfully Submitted,



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ENERGY (USA), LLC, BECHTEL
CORPORATION, AND BECHTEL
POWER CORPORATION**

MEMORANDUM IN SUPPORT

I. INTRODUCTION

On June 22, 2005, General Electric Company, GE Energy (USA), LLC, Bechtel Corporation, and Bechtel Power Corporation (together "GE/Bechtel") filed a motion to intervene in this matter for the purpose of protecting its confidential information. Opinion and Order, Apr. 10, 2006, at 6 (hereinafter "2006 Opinion and Order"). On August 8, 2005, GE/Bechtel filed a motion for a protective order in an effort to maintain the confidentiality of exhibits submitted in this matter and the testimony deduced there from. On August 9, 2005, after an in camera review of the documents at issue, the Attorney Examiners ruled that certain information provided to the Ohio Consumers' Counsel ("OCC") by GE/Bechtel pursuant to a protective agreement contained trade secrets and/or confidential or proprietary information, the disclosure of which would violate Ohio law. 2006 Opinion and Order at 7. At the conclusion of the hearing, GE/Bechtel was ordered to review the confidential documents admitted into evidence and to redact the portions containing trade secrets and confidential and/or proprietary information and file the redacted documents in the public record. GE/Bechtel filed its redacted version of the documents and transcript on September 1, 2005. 2006 Opinion and Order at 7.

In the 2006 Opinion and Order, the Public Utilities Commission of Ohio ("PUCO") rejected OCC's contention that the unredacted versions of the documents and transcript should be released. Specifically, the PUCO held, "[W]e find that the record in this case supports the Attorney Examiners' ruling that the documents filed under seal included proprietary trade secret information," and that the release of such documents

would violate Ohio law. 2006 Opinion and Order at 10-11. Accordingly, the PUCO held that “the Attorney Examiners’ ruling and the confidential record developed in this case are consistent with the Ohio public records law and Title 49.” 2006 Opinion and Order at 11. As such, the protected documents and transcript were ordered to remain protected from disclosure for a period of eighteen (18) months after the 2006 Opinion and Order was issued.

On October 11, 2007, upon separate motions by GE/Bechtel and AEP, the PUCO ordered an extension of the protective order for an additional eighteen (18) months. (Opinion and Order, October 11, 2007, at 8 (hereinafter “2007 Opinion and Order”). The 2007 Opinion and Order was set to expire on April 11, 2009.

On April 29, 2009, upon separate motions by GE/Bechtel and AEP, the PUCO ordered an extension of the protective order for an additional eighteen (18) months. Opinion and Order, April 29, 2009, at 10 (hereinafter “2009 Opinion and Order”). The 2009 Opinion and Order is now set to expire on October 11, 2010.

II. LAW AND ARGUMENT

Pursuant to Ohio Administrative Code § 4901-1-24(F),

A party wishing to extend a protective order beyond eighteen months shall file an appropriate motion at least forty-five days in advance of the expiration date of the existing order. The motion shall include a detailed discussion of the need for continued protection from disclosure.

GE/Bechtel respectfully files this timely motion for the purpose of extending the protective order issued on April 29, 2009 for an additional forty-eight (48) month period.

GE/Bechtel submits that on September 1, 2005, it filed several exhibits and a portion of the transcript that were redacted to protect its confidential information in

compliance with the PUCO's order. GE/Bechtel respectfully submits that the unredacted versions of its exhibits and transcript continue to contain trade secrets and confidential and/or proprietary information, and that the release of this information would violate Ohio law.

Indeed, as noted by the PUCO in its 2006 Opinion and Order, Ohio's public records law exempts from disclosure "[r]ecords the release of which is prohibited by state or federal law." O.R.C. § 149.43(A)(v). In this case, "the information at issue has already been granted protective treatment in this case and there is no need to review the initial process by which AEP-Ohio and GE/Bechtel were granted protective treatment." 2009 Opinion and Order at 7.

The confidential nature of GE/Bechtel's financial and technical involvement with IGCC remains unchanged. GE/Bechtel continues to stringently guard this information because their competitors' interest in the highly valuable nature of the information. The previously submitted affidavits of Allan J. Connolly, General Manager of GE's gasification and technology division, and Lance Murray, Assistant Project Manager for Bechtel, describes that the protected information encompasses the following:

- a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where GE's and Bechtel's prevention of its use by GE's and Bechtel's competitors without license from GE or Bechtel constitutes a competitive economic advantage over other companies;
- b. Information which, if used by a competitor, would reduce the competitor's expenditure of resources or improve its competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product;
- c. Information which reveals cost or price information, production capacities, budget levels, or commercial strategies of GE and/or Bechtel, their customers, or their suppliers;

- d. Information which reveals aspects of past, present, or future GE and/or Bechtel customer-funded development plans and programs, of potential commercial value of GE and/or Bechtel;
- e. Information which in isolation may not disclose proprietary information, but which, when analyzed in the aggregate by a knowledgeable and skilled party would reveal a significant amount of proprietary information;
- f. Information which discloses patented matters and/or patentable subject matter for which it may be desirable to obtain patent protection.

Pursuant to O.R.C. § 1133.61 (D), “trade secret” is defined as follows:

[I]nformation including the whole or any portion of 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.

As noted by its 2006 Opinion and Order and confirmed in the 2007 Opinion and Order and the 2009 Opinion and Order, GE/Bechtel’s protected information satisfies the mandates of O.R.C. § 1133.61 (D). The previously submitted affidavits of Monte R. Atwell and Amos A. Avidan, state that the technological and financial trade secrets maintained their independent economic value, and GE/Bechtel continued to maintain the secrecy of the information. GE/Bechtel respectfully submits to the PUCO that this information is just as valuable to GE/Bechtel as it was on June 22, 2005 when GE/Bechtel first moved to intervene in this matter.

In the 2007 Opinion and Order, the PUCO denied GE/Bechtel's request for an indefinite extension, choosing instead to review the protected status of the trade secret information after eighteen months had passed.

In the 2009 Opinion and Order, the PUCO denied GE/Bechtel's request for a forty-eight (48) month extension, choosing instead to review the protected status of the trade secret information after eighteen months had passed.

GE/Bechtel respectfully submits to the PUCO that the sealed information remains confidential and the information will continue to be confidential for an indefinite period. Timothy R. Husky of GE and Alasdair Cathcart of Bechtel have sworn to the confidential nature of the information in the attached affidavits. However, in attempting to be consistent with the PUCO's interest in periodically reviewing the status of trade secret information within its possession, GE/Bechtel requests that the PUCO lengthen the period of periodic review to a minimum of forty-eight (48) months, if not longer.

III. CONCLUSION

Pursuant to O.A.C. § 4901-1-24(F), GE/Bechtel respectfully requests the PUCO to extend the protective order issued in its 2009 Opinion and Order for an additional forty-eight (48) months.

Respectfully Submitted,



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Attorneys for
**GENERAL ELECTRIC COMPANY, GE
ENERGY (USA), LLC, BECHTEL
CORPORATION, AND BECHTEL
POWER CORPORATION**

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served electronically upon parties, their counsel, and others through use of the following e-mail addresses this 27 day of August 2010.

<p>Marvin Resnik, Esq. Sandra K. Williams, Esq. Steven T. Nourse, Esq. American Electric Power Service Corp. 1 Riverside Plaza Columbus, OH 43215</p> <p>Daniel Conway, Esq. Porter Wright Morris & Arthur LLP 41 South High Street Columbus, OH 43215</p> <p>Samuel C. Randazzo, Esq. Lisa McAlister, Esq. McNees, Wallace & Nurick 21 East State Street, 17th Floor Columbus, OH 43215</p> <p>Joseph Condo, Esq. Calpine Corporation 250 Parkway Drive, Suite 380 Lincolnshire, IL 60069</p> <p>Evelyn R. Robinson, Esq. Green Mountain Energy Company 5450 Frantz Road, Suite 240 Dublin, OH 43016</p> <p>David C. Rinebolt, Esq. Ohio Partners for Affordable Energy 337 South Main Street, 4th Floor, Suite 5 P.O. Box 1793 Findlay, OH 45839-1793</p> <p>M. Howard Petricoff, Esq. Vorys, Sater, Seymour & Pease, LLP 52 East Gay Street, P.O. Box 1008 Columbus, OH 43216-1008</p> <p>Jeffrey L. Small, Esq. Kimberly W. Bojko, Esq. Ohio Consumer's Counsel 10 West Broad Street Suite 1800</p>	<p>Thomas McNamee, Esq. Attorney General's Office Public Utilities Section 180 East Broad Street, 9th Floor Columbus, OH 43215</p> <p>Kathy Kolich, Esq. FirstEnergy Corp. 76 South Main Street Akron, OH 44308</p> <p>David Boehm, Esq. Michael Kurtz, Esq. Boehm, Kurtz & Lowery 36 East Seventh Street, Suite 1510 Cincinnati, OH 45202</p> <p>Thomas L. Rosenberg, Esq. Jessica Davis, Esq. Roetzel & Andress LPA National City Center 155 E. Broad Street, 12th Floor Columbus, OH 43215</p> <p>William A. Adams, Esq. Dane Stinson, Esq. Bailey Cavalieri LLC 10 West Broad Street, Suite 2100 Columbus, OH 43215</p> <p>Thomas Lodge, Esq. Carolyn Flahive, Esq. Thompson, Hine LLP One Columbus 10 West Broad Street, Suite 700 Columbus, OH 43215</p> <p>John W. Bentine, Esq. Bobby Singh, Esq. Chester Willcox & Saxbe 65 East State Street, Suite 1000 Columbus, OH 43215</p>
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	<p>Sally W. Bloomfield, Esq. Thomas J. O'Brien, Esq. Bricker & Eckler, LLP 100 South Third Street Columbus, OH 43215</p>
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Michael D. Dortch

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AFFIDAVIT OF TIMOTHY R. HUSKEY

STATE OF TEXAS

SS:

COUNTY OF HARRIS

The undersigned, Timothy R. Huskey, deposes and says that:

1. This affidavit is based upon my personal knowledge.
2. My name is Timothy R. Huskey. I am employed by General Electric Company, by and through its GE Energy Division and GE Energy (USA), LLC (collectively, "GE").
3. I am the Global Director of Sales and Commercial Operations of GE's gasification business, and have been delegated the function of reviewing the information for which a protective order is sought in this proceeding.
4. In making this request for protection from disclosure of proprietary information of which it is the owner or licensee, GE relies upon the exemption from disclosure set forth in the Freedom of Information Act ("FOIA"), 5 USC Sec. 552(b)(4), and the Trade Secrets Act, 18 USC Sec. 1905, for "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (Exemption 4) and under Ohio law in R.C. § 1333.61- .69. The material for which protection from disclosure is here sought is all "confidential commercial information," and some portions also qualify under the narrower definition of "trade secret," within the meanings assigned to those terms for purposes of FOIA Exemption 4, and R.C. § 1333.61(D).
5. I have reviewed the affidavit of Allan J. Connolly, which was submitted to this Commission on behalf of GE with the original Motion for a Protective Order. Mr.

Connolly's affidavit arises from the same case, and concerns the same proprietary and confidential information, as the current matter before the Commission.

6. After review of Mr. Connolly's affidavit, Mr. Connolly's factual assertions in Paragraphs 5 – 12 regarding the proprietary and confidential nature of the information sought protected from public disclosure remains accurate and truthful. I reiterate Paragraphs 5 – 12 of Mr. Connolly's affidavit into my affidavit. GE remains vigilant in protecting this information from public disclosure.

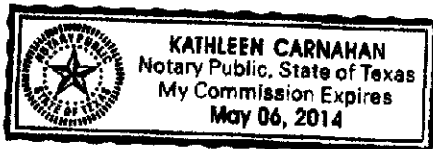
I declare under penalty of perjury that the foregoing affidavit and the matters stated therein are true and correct to the best of my knowledge, information, and belief

By: Timothy R. Huskey
Timothy R. Huskey

Sworn to and subscribed before me this 19th day of August, 2010.

Kathleen Carnahan

Notary Public, State of Texas
Commission Expires: May 6, 2014



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Cycle Electric Generating Facility)	

AFFIDAVIT OF ALASDAIR CATHCART

STATE OF Maryland SS:
COUNTY OF Frederick

The undersigned, Alasdair Cathcart, deposes and says that:

1. This affidavit is based upon my personal knowledge.

2. My name is Alasdair Cathcart. I am employed by Bechtel Power Corporation, an affiliate company of Bechtel Corporation (collectively, "Bechtel"). Bechtel Corporation, together with General Electric Company, through its GE Energy Division ("GE"; GE and Bechtel Corporation are collectively the "Alliance"), continue to work together to develop and construct integrated gasification combined-cycle facilities.

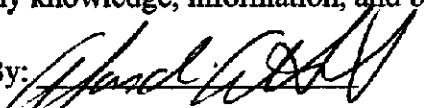
3. I am a Senior Vice President of Bechtel Power Corporation, and have been delegated the function of reviewing the information for which a protective order is sought in this proceeding.

4. In making this request for protection from disclosure of proprietary information of which it is the owner or licensee, Bechtel relies upon the exemption from disclosure set forth in the Freedom of Information Act ("FOIA"), 5 USC Sec. 552(b)(4), and the Trade Secrets Act, 18 USC Sec. 1905, for "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (Exemption 4) and under Ohio law in R.C. § 1333.61- .69. The material for which protection from disclosure is here sought is all "confidential commercial information," and some portions also qualify under the narrower definition of "trade secret," within the meanings assigned to those terms for purposes of FOIA Exemption 4, and R.C. § 1333.61(D).

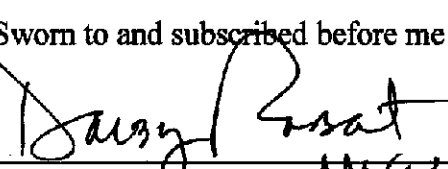
5. I have reviewed the affidavit of Lance Murray, which was submitted to this Commission on behalf of Bechtel with the original Motion for a Protective Order. Mr. Murray's affidavit arises from the same case, and concerns the same proprietary and confidential information, as the current matter before the Commission.
6. After review of Mr. Murray's affidavit, Mr. Murray's factual assertions in Paragraphs 5 – 12 regarding the proprietary and confidential nature of the information sought protected from public disclosure remains accurate and truthful. I reiterate Paragraphs 5 – 12 of Mr. Murray's affidavit into my affidavit. Bechtel remains vigilant in protecting this information from public disclosure.

I declare under penalty of perjury that the foregoing affidavit and the matters stated therein are true and correct to the best of my knowledge, information, and belief

By:


Alasdair Cathcart

Sworn to and subscribed before me this 19th day of August, 2010.


Notary Public, State of Maryland
Commission Expires: April 08, 2013

DARBY RABAT
Notary Public-Maryland
Frederick County
My Commission Expires
April 08, 2013