

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of)
Columbus Southern Power Company)
and Ohio Power Company to Adjust)
Their Economic Development Cost)
Recovery Rider Rates.)

Case No. 11-4570-EL-RDR

MOTION OF GLOBE METALLURGICAL, INC. FOR PROTECTIVE
ORDER AND MEMORANDUM IN SUPPORT

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August 2, 2011

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{C34978: }

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**MOTION OF GLOBE METALLURGICAL, INC.
FOR PROTECTIVE ORDER**

Pursuant to Rule 4901-1-24, Ohio Administrative Code ("O.A.C."), Globe Metallurgical, Inc. ("Globe") respectfully moves the Public Utilities Commission of Ohio ("Commission") to issue a Protective Order to protect the confidentiality and prohibit the disclosure of the confidential information contained in the update to Ohio Power Company's ("OPCo") Economic Development Rider ("EDR") filed by OPCo under seal, which are not subject to disclosure and include competitively sensitive and highly proprietary business information comprising of trade secrets. The grounds for this Motion are set forth in the attached Memorandum in Support.

Respectfully Submitted,



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MEMORANDUM IN SUPPORT

I. INTRODUCTION AND BACKGROUND

On July 16, 2008, OPCo filed an application for approval of a special arrangement with Globe.¹ On November 12, 2010, the parties filed a stipulation for the Commission's approval. Following a filing of a modification to the November 2010 filing on March 21, 2011, the Commission approved the November 2010 stipulation with the March 2011 modification on April 5, 2011.

In the OPCo Electric Security Plan ("ESP") proceeding (Case No. 08-917-EL-SSO, et al.), the Commission authorized OPCo's Economic Development Cost Recovery Rider ("EDR"), as a percentage, initially set at 0%, multiplied by the customers' distribution charges, to recover economic development amounts authorized by the Commission in reasonable arrangement cases.

On August 1, 2011, OPCo filed this case requesting that the Commission adjust OPCo's EDR. Globe's customer-specific information has been clearly marked as

¹ *In the Matter of the Application for Approval of a Contract for Electric Service between Ohio Power Company and Globe Metallurgical, Inc.*, Case No. 08-884-EL-AEC (July 16, 2008).

confidential and was filed under seal, separate from the redacted, public version of the Globe-specific schedule.

For the reasons stated below, Globe respectfully requests that the Commission grant protective treatment of Globe's customer-specific information included to support OP's EDR adjustment filed under seal.

II. ARGUMENT

The billing information of the Globe reasonable arrangement schedule filed concurrently with this Motion contains competitively sensitive and highly proprietary business information that constitutes trade secrets under Ohio law and the Commission's rules.

Rule 4901-1-24(D), O.A.C., provides for the issuance of an 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. State law recognizes the need to protect information that is confidential in nature, as is the actual usage and pricing information contained in the Globe schedule. The Commission has statutory authority to protect trade secrets.² Additionally, non-disclosure of the actual usage and pricing information will not impair the purposes of Title 49 as the Commission and its Staff will have full access to the confidential information in order to complete its review process.

The information for which protective treatment is sought includes Globe's billings paid for electricity based upon the actual and estimated usage. The actual and estimated billings contained within the Globe schedule are competitively sensitive and

² See Sections 4901.12 and 4905.07, Revised Code.

highly proprietary business financial information falling within the statutory characterization of a trade secret, as defined by Section 1333.61(D), Revised Code. The definition of trade secret contained in Section 1333.61(D), Revised Code, is 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.

Section 1333.61(D), Revised Code, (emphasis added).

Clearly, Globe's information contained within the Globe schedule is proprietary data and is confidential. Public disclosure of the pricing information would jeopardize Globe's business position and its ability to compete. Actual customer usage and pricing terms are routinely accorded protected status by the Commission. The actual and projected billing information Globe seeks to protect derives independent economic value from not being generally known and not being readily ascertainable by proper means by Globe's competitors. Further, the efforts to protect the confidential pricing information are reasonable under the circumstances.

Additionally, Rule 4901:1-38-05(D), O.A.C., requires utilities to treat customer information to obtain a unique arrangement as confidential by requesting confidential treatment of customer-specific information that is filed with the Commission, with the

exception of customer names and addresses. It follows that Globe's customer-specific information regarding its unique arrangement should be treated as confidential.

III. CONCLUSION

Globe respectfully requests that this Motion for Protective Order be granted for the reasons set forth herein.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion of Globe Metallurgical, Inc. for Protective Order and Memorandum in Support* was served upon the following parties of record this 2nd day of August 2011, via electronic transmission or first class mail, postage prepaid.



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**ON BEHALF OF AMERICAN ELECTRIC
POWER**