

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
Columbus Southern Power Company	)	Case No. 11-4570-EL-RDR
And the Ohio Power Company to	)	
Adjust Their Economic Development	)	
Cost Recovery Rider Rates	)	

9  
RECEIVED-DOCKETING DIV  
2011 AUG -2 PM 5:12  
PUCO

---

**MOTION FOR PROTECTIVE ORDER**

---

Pursuant to Rule 4901-1-24(D) of the Ohio Administrative Code ("O.A.C."), The Timken Company ("Timken") moves for a protective order to keep certain confidential information contained on Schedule No. 6 attached to the application of Columbus Southern Power Company ("CSP") and Ohio Power Company ("OPC") submitted in this case as confidential and not part of the public record.

On August 1, 2011, CSP and OPC filed an application in this case to adjust their Economic Development Cost Recovery Rider Rates. CSP and OPC also filed a motion for protective order seeking to protect certain information claimed by Eramet, Marietta, Inc.; Globe Metallurgical, Inc.; and The Timken Company to be confidential and proprietary. This information was contained in the confidential/unredacted versions of Schedule Nos. 2, 4, 5 and 6 supporting the application. CSP and OPC submitted three copies of each of these schedules under seal in compliance with Rule 4901-1-24(D) of the Ohio Administrative Code.

The Timken Company has moved for limited intervention in this case for the sole purpose of moving for a protective order to protect certain information contained on Schedule No. 6 attached to the application in this case.

The reasons underlying this motion are detailed in the attached Memorandum in

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 SM Date Processed AUG 03 2011

Support. Consistent with the requirements of the above cited Rule, three (3) unredacted copies of Schedule No. 6 have been submitted under seal by CSP and OPC.

WHEREFORE, Timken respectfully requests that its motion for a protective order be granted and that the unredacted version of Schedule No. 6 remain under seal.

Respectfully submitted,



---

M. Howard Petricoff  
Michael J. Settineri  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street  
P.O. Box 1008  
Columbus, Ohio 43216-1008  
(614) 464-5468  
[mhpetricoff@vorys.com](mailto:mhpetricoff@vorys.com)  
[mjsettineri@vorys.com](mailto:mjsettineri@vorys.com)

Attorneys for The Timken Company

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

---

On April 27, 2011 in Case No. 10-3066-EL-AEC, The Timken Company (“Timken”) and the Ohio Power Company (“Ohio Power”) received approval from the Public Utilities Commission of Ohio (“the Commission”) of a unique arrangement for Timken’s Canton, Ohio facilities. Certain information related to Timken which was proprietary and confidential had been redacted from Timken’s written testimony. The redacted information related to operational data, employment figures, and details of the Application that have been previously found in this proceeding to be worthy of a protective order.

On August 1, 2011, CSP and OPC filed an application seeking to adjust their Economic Development Cost Recovery Rider Rates. As part of this application, CSP and OPC submitted under seal copies of various schedules offered in support of their application. One of those schedules was Schedule No. 6 entitled “Ohio Power-Timken Summary of Delta Revenue”. Schedule No. 6, which was submitted under seal, contains figures relating to the Timken Manufacturing Complex monthly electric bill, the Timken Technology Center monthly electric bill, the Timken Manufacturing Complex discount authorized in the April 27, 2011 Opinion and Order in Case No. 10-3066, the Timken Technology Center discount as per the April 27, 2011 Opinion and Order in Case No. 10-3066, and the monthly Delta Revenue for the Manufacturing Complex and the Technology Center of Timken. This information is confidential, sensitive, and proprietary and constitutes trade secret information for which Timken is seeking a motion for a protective order.

Timken manufactures specialty steel and roller bearings at its Canton, Ohio facility. The specialty steel and roller bearing are sold in an international market that is very

competitive. The confidential information contained on Schedule No. 6, if released to the public, would harm Timken by providing its domestic and international competitors with proprietary information concerning the cost, physical limits and nature of the manufacturing process at the Canton facility. Rule 4901-1-24(D) of the Ohio Administrative Code provides that the Commission or certain designated employees may issue an order which is necessary to protect the confidentiality of 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. State law recognizes the need to protect certain types of information which are the subject of this motion. The non-disclosure of the information will not impair the purposes of Title 49. The Commission and its Staff have full access to the information in order to fulfill its statutory obligations. No purpose of Title 49 would be served by the public disclosure of the information.

The need to protect the designated information from public disclosure is clear, and there is compelling legal authority supporting the requested protective order. While the Commission has often expressed its preference for open proceedings, the Commission also long ago 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.

In re: General Telephone Co., Case No. 81-383-TP-AIR (Entry, February 17, 1982.) Likewise, the Commission has facilitated the protection of trade secrets in its rules (O.A.C. § 4901-1-24(A)(7)).

The definition of a “trade secret” is set forth in the Uniform Trade Secrets Act:

“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.

R.C. § 1333.61(D). This definition clearly reflects the state policy favoring the protection of trade secrets such as the sensitive information which is the subject of this motion.

In State ex rel The Plain Dealer the Ohio Dept. of Ins. (1997), 80 Ohio St. 3d 513, 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.

Id. at 524-525 (quoting Pyromatics, Inc. v. Petruziello, 7 Ohio App. 3d 131, 134-135 (Cuyahoga County 1983)).

Applying these factors to the confidential information Timken seeks to protect, it is clear that a protective order should be granted.

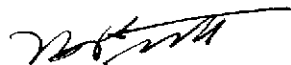
The information redacted from Schedule No. 6 attached to the application of CSP

and OPC contains information regarding the Timken Manufacturing Complex monthly electric bill, the Timken Technology Center monthly electric bill, the Timken Manufacturing Complex discount monthly bill, the Timken Technology Center discount monthly bill, and the monthly Delta Revenues for the Timken Manufacturing Complex and the Timken Technology Center. Such sensitive information is generally not disclosed. Its disclosure could give competitors an advantage that would hinder Timken's ability to compete.

Courts of other jurisdictions have held that not only does a public utilities commission have the authority to protect the trade secrets of the companies subject to its jurisdiction, the trade secrets statute creates a duty to protect them. New York Tel. Co. v. Pub. Serv. Comm. N.Y., 56 N.Y. 2d 213 (1982). Indeed, for the Commission to do otherwise would be to negate the protections the Ohio General Assembly has granted to all businesses, including public utilities, and now the new entrants who will be providing power through the Uniform Trade Secrets Act. This Commission has previously carried out its obligations in this regard in numerous proceedings. See, e.g., Elyria Tel. Co., Case No. 89-965-TP-AEC (Finding and Order, September 21, 1989); Ohio Bell Tel. Co., Case No. 89-718-TP-ATA (Finding and Order, May 31, 1989); Columbia Gas of Ohio, Inc., Case No. 90-17-GA-GCR (Entry, August 17, 1990).

WHEREFORE, for the above reasons Timken requests the Commission grant its motion for a protective order and to maintain the confidential information contained on Schedule No. 6 attached to the CSP and OPC application in this case under seal.

Respectfully submitted,



---

M. Howard Petricoff  
Michael J. Settineri  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street  
P.O. Box 1008  
Columbus, Ohio 43216-1008  
(614) 464-5468  
[mhpetricoff@vorys.com](mailto:mhpetricoff@vorys.com)  
[mjsettineri@vorys.com](mailto:mjsettineri@vorys.com)

Attorneys for The Timken Company

**LIST OF INFORMATION  
FOR WHICH PROTECTION IS SOUGHT**

**INFORMATION**

The information contained under Schedule No. 6 which includes the Timken Manufacturing Complex monthly electric bill, the Timken Technology Center monthly electric bill, the Timken Manufacturing Complex discount as per the April 27, 2011 Opinion and Order in Case No. 10-3066, the Timken Technology Center discount as per the April 27, 2011 Opinion and Order in Case No. 10-3066, and the monthly Delta Revenues for the Timken Manufacturing Complex and the Timken Technology Center.

**REASONS JUSTIFYING PROTECTION**

This information is extremely confidential. Its disclosure would give an undue advantage to competitors and would hinder Timken's ability to compete.



**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing document was served by U.S. Mail and Electronic Mail on the following persons this 2<sup>nd</sup> day of August, 2011.



---

M. Howard Petricoff

Steven T. Nourse  
American Electric Power Service  
Corporation  
1 Riverside Plaza, 29th Floor  
Columbus, OH 43215  
[stnourse@aep.com](mailto:stnourse@aep.com)