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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application for)
Establishment of a Reasonable) Case No. 12-1494-EL-AEC
Arrangement Between ASHTA)
Chemicals Inc. and The Cleveland)
Electric Illuminating Company.)

MOTION OF ASHTA CHEMICALS INC.
FOR PROTECTIVE ORDER
AND MEMORANDUM IN SUPPORT

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August 20, 2012

Attorneys for ASHTA Chemicals Inc.

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**MOTION OF ASHTA CHEMICALS INC.
FOR PROTECTIVE ORDER**

Pursuant to the provisions of Rule 4901-1-24(D), Ohio Administrative Code ("O.A.C."), ASHTA Chemicals Inc. ("ASHTA") respectfully requests that the Public Utilities Commission of Ohio ("Commission") issue a protective order to protect the confidentiality and prohibit the disclosure of the confidential information contained in the direct testimony of Richard L. Jackson filed on behalf of ASHTA on August 20, 2012 in this proceeding. The confidential information is not subject to disclosure and includes competitively sensitive and highly proprietary business information comprising 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

Contemporaneous with this motion, ASHTA has filed the direct testimony of Richard L. Jackson in an unredacted form and under seal. By this motion, ASHTA requests confidential treatment for competitively sensitive and highly proprietary business information that constitutes trade secrets under Ohio law and the Commission's rules. State law recognizes the need to protect information that is confidential in nature. Accordingly, the General Assembly granted the Commission statutory authority to exempt certain documents from disclosure.¹ Pursuant to this statutory grant of authority, the Commission promulgated Rule 4901-1-24, Ohio Administrative Code ("O.A.C."). 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.

¹ See Sections 4901.12 and 4905.07, Revised Code.

Trade secrets protected by state law are not considered public records and are therefore exempt from public disclosure.² A trade secret is defined by Section 1333.61(D), Revised Code, 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).

The information contained within the testimony of Richard L. Jackson is competitively sensitive and highly proprietary business and financial information falling within the statutory characterization of a trade secret.³ Public disclosure of the information would jeopardize ASHTA's business position and its ability to compete.

Non-disclosure of the 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. Because ASHTA's information constitutes a trade secret it should be accorded protected status.

² Section 149.43(A)(1)(v), Revised Code; *State ex rel. The Plain Dealer v. Ohio Dept. of Insurance*, 80 Ohio St. 3d 513, 530 (1997).

³ Section 1333.61(D), Revised Code.

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

Respectfully submitted,



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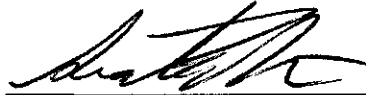
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion of ASHTA Chemicals Inc. for Protective Order and Memorandum in Support* was served upon the following parties of record this 20th day of August 2012, via electronic transmission, hand-delivery, or ordinary U.S. mail, postage prepaid.



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