

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Review of the
Commission's Alternative Energy Portfolio
Standard Report to the General Assembly
for the 2011 Compliance Year**

Case No. 12-2668-EL-ACP

**OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON COMPANY'S
MOTION FOR A PROTECTIVE ORDER**

Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the "Companies"), pursuant to Rule 4901-1-24(D), Ohio Administrative Code, move for a protective order to protect from public disclosure the average annual cost data for the renewable energy credits that they retired in 2011 that was ordered to be filed on October 18, 2012. As discussed in the attached Memorandum in Support, this information is a trade secret and must not be disclosed in the public record. The requested cost data is being filed under seal contemporaneously with this Motion.

Respectfully submitted,

/s/ Carrie M. Dunn

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MEMORANDUM IN SUPPORT

On October 18, 2012, the Attorney Examiner directed that each electric distribution utility and electric services company with a 2011 Alternative Energy Portfolio Standard (“AEPS”) compliance requirement file, by November 1, 2012, the average annual cost data for the renewable energy credits that it has retired or will retired to comply with 2011 AEPS obligations. The Entry directed Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the “Companies”) to provide the cost data as an average cost for each of the following four categories: Ohio Solar, Other Solar, Ohio Non-Solar and Other Non-Solar.¹ In that Entry, the Attorney Examiner also indicated that if any reporting company believes that its average renewable energy credit cost data for the 2011 compliance year should be protected from public disclosure as a trade secret, it should file the information under seal pursuant to Rule 4901-1-24, Ohio Administrative Code

Similar to other parties² subject to the October 18, 2012 Entry, the Companies believe that their average annual cost data for renewable energy credits must be protected from public disclosure as a trade secret.³ The average cost data included in this table would reveal the Companies’ purchase information (and the pricing information of third

¹ The Companies note that this level of detail exceeds what is needed in order for the Commission to fulfill its statutory reporting requirement under R.C. 4928.64(D)(1)

² For example, Duke Energy Ohio, Inc., among other parties, has also filed a Motion for Protective Order in this case.

³ 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; and (2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. R.C. § 1333.61(D).

party suppliers) which they consider proprietary and confidential. Such information if released to the public would harm the Companies by disclosing to the public what the Companies did and perhaps are willing to pay for renewable energy credits. This information is neither generally known to others nor readily ascertainable by proper means. Moreover, as discussed above, suppliers could use this information to obtain economic value in their dealings with the Companies during the purchase of renewable energy credits. Lastly, the Companies take efforts to maintain its confidentiality as evidenced by the steps they have taken to protect similar information in other proceedings before the Commission.

Rule 4901-1-24(D), 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. The Commission recognizes its statutory obligations with regard to trade secrets. *See In the Matter of the Application of Santanna Natural Gas Corporation d/b/a/ Santanna Energy Services for Certification as a Competitive Retail Natural Gas Supplier*, Case No. 10-1283-GA-CRS, Entry (October 16, 2012) (granting protective order to protect financial statements and financial arrangement information). Disclosing this information will harm the Companies, while, on the other hand, public disclosure of this average cost data information is not likely to assist the Commission in carrying out its duties under Section 4928.64(D)(1), Revised Code. In fact this statutory provision requires neither the detail required by the

Commission's October 18, 2012 Entry nor the filing of any information. Finally, the Commission and its Staff have full access to the information in order to fulfill its statutory obligations.

Pursuant to Rule 4901-1-24(D) of the Ohio Administrative Code and the October 18, 2012 Entry in this matter, the Companies have filed a redacted version of the table (attached as Exhibit A.) Moreover, three unredacted copies have been filed under seal. For all of the foregoing reasons, the Companies respectfully request that the Commission grant their Motion for Protective Order and maintain Exhibit A under seal.

Respectfully submitted,

/s/ Carrie M. Dunn

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CERTIFICATE OF SERVICE

I hereby certify that the Motion for Protective Order was electronically filed with the Public Utilities Commission of Ohio Docketing Information System on November 1, 2012.

/s/ Carrie M. Dunn
Carrie M. Dunn

EXHIBIT A
REDACTED

Case No. 12-2668-EL-ACP

Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo
Edison Company's Average Annual Cost of Renewable Energy Credits for 2011

Category	\$/REC (average)
Ohio Solar	\$
Other Solar	\$
Ohio Non-Solar	\$
Other Non-Solar	\$

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Case No(s). 12-2668-EL-ACP

Summary: Motion for Protective Order electronically filed by Ms. Carrie M Dunn on behalf of The Cleveland Electric Illuminating Company and Ohio Edison Company and The Toledo Edison Company