

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)	
Power Company to Adjust The Economic)	Case No. 16-1684-EL-RDR
Development Cost Recovery Rider Rate.)	

**MOTION FOR PROTECTIVE ORDER
OF TIMKENSTEEL CORPORATION
AND
MEMORANDUM IN SUPPORT**

Pursuant to Rule 4901-1-24(D), Ohio Administrative Code, TimkenSteel Corporation (“TimkenSteel”) moves for a protective order to keep certain confidential information contained in Schedule No. 2 and Schedule No. 5 attached to the August 4, 2016 application of Ohio Power Company (“Ohio Power”) submitted in this case as confidential and not part of the public record.

On August 4, 2016, Ohio Power filed an application in this case to update its Economic Development Cost Recovery Rider rates. Ohio Power also filed a motion for protective order seeking to protect certain load data information that Eramet Marietta, Inc.; Globe Metallurgical, Inc.; and TimkenSteel treat as confidential and proprietary. This information was contained in the confidential/unredacted versions of Schedule Nos. 2-5 supporting the application. TimkenSteel seeks to protect certain information contained in Schedule Nos. 2 and 5 attached to the application.

The reasons underlying this motion are detailed in the attached Memorandum in Support. Consistent with the requirements of the above-cited Rule, two (2) unredacted copies of Schedule Nos. 2 and 5 have been submitted under seal by Ohio Power.

WHEREFORE, TimkenSteel Corporation respectfully requests that this motion for a protective order be granted and that the unredacted versions of Schedule Nos. 2 and 5 remain under seal.

Respectfully submitted,

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

On December 16, 2015, in Case No. 15-1857-EL-AEC, TimkenSteel Corporation received approval from the Public Utilities Commission of Ohio (“Commission”) of a unique arrangement for TimkenSteel’s Stark County facilities. *In the Matter of the Application of TimkenSteel Corporation for Approval of a Unique Arrangement for the TimkenSteel Corporation’s Stark County Facilities*, Case No. 15-1857-EL-AEC, Opinion and Order (December 16, 2015). The Commission also granted TimkenSteel’s motion for protective order seeking to protect certain proprietary and confidential information that related to the unique arrangement application. See the December 16, 2015 Opinion and Order at p. 6.

On August 4, 2016, Ohio Power filed an application, seeking to update its Economic Development Cost Recovery Rider rates. As part of the application, Ohio Power submitted under seal various schedules offered in support of its application. Two of those schedules contain highly proprietary and confidential information as it relates to TimkenSteel:

- Schedule No. 2 contains the actual and estimated delta revenue amounts (by month) for TimkenSteel and monthly carrying charges.
- Schedule No. 5 contains the estimated monthly electric bill information, the estimated monthly discounts and the estimated monthly delta revenues of TimkenSteel.

Schedule Nos. 2 and 5 are confidential, sensitive, and proprietary. They constitute trade secret information for which TimkenSteel Corporation is seeking a motion for a protective order.

TimkenSteel manufactures specialty steel at the Canton, Ohio facility. The specialty steel products are, and will continue to be, sold in an international market that is very competitive. The confidential information contained in Schedule Nos. 2 and 5, if released to the public, would harm

TimkenSteel by providing domestic and international competitors with proprietary information concerning the cost, physical limits, and nature of the manufacturing processes at the Canton facilities.

Rule 4901-1-24(D), Ohio Administrative Code (“O.A.C.”), provides that the Commission or certain designated employees may issue an order 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 their 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 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. *See, e.g.*, Rule 4901-1-24(A)(7), O.A.C.

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.

Section 1333.61(D), Revised Code. 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 v. 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 TimkenSteel seeks to protect, it is clear that a protective order should be granted. The information redacted from Schedule No. 5 contains information regarding the TimkenSteel estimated monthly electric bill, the estimated monthly discounts, and the estimated monthly delta revenues. Schedule No. 2 contains estimated

and actual delta revenue data that reflects usage at TimkenSteel's facilities. Such sensitive information is generally not disclosed. Its disclosure could give competitors an advantage that would hinder TimkenSteel'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. Notably, this Commission previously granted protective treatment of the same type of information provided in the schedules of Ohio Power applications.¹ Also, the Commission has previously granted protective treatment for certain confidential information related to TimkenSteel's Canton Facility, including the cost of electricity. *In the Matter of the Joint Application of The Timken Company and the Ohio Power Company for Approval of a Unique Arrangement for The Timken Company's Canton, Ohio Facilities*, Case No. 10-3066-EL-AEC, Entry at ¶7 (February 11, 2011); *In the Matter of the Application of Ohio Power Company to Adjust Its Economic Development Rider Rate*, Case No. 14-1329-EL-RDR, Finding and Order (September 17, 2014); *In the Matter of the Application of Ohio Power Company to Adjust Its Economic Development Rider*, Case No. 15-279-EL-RDR, Finding and Order (March 18, 2015); and *In the Matter of the Application of Ohio Power Company to Adjust Its Economic Development Rider*, Cases No. 16-260-EL-RDR, Finding and Order (March 31, 2016).

¹ *In re Application of Columbus Southern Power Company and Ohio Power Company to Adjust Their Economic Development Cost Recovery Rider Pursuant to Rule 4901:1-38-08(A)(5), Ohio Administrative Code*, Case No. 11-4570-EL-RDR, Finding and Order at 4 (October 12, 2011); *In re Application of Ohio Power Company to Adjust its Economic Development Cost Recovery Rider Pursuant to Rule 4901:1-38-08(A)(5), Ohio Administrative Code*, Case No. 12-688-EL-RDR, Finding and Order (March 28, 2012); and *In re Application of Ohio Power Company to Adjust its Economic Development Cost Recovery Rider Pursuant to Rule 4901:1-38-08(A)(5), Ohio Administrative Code*, Case No. 13-325-EL-RDR, Finding and Order (March 27, 2013).

WHEREFORE, for the above reasons, TimkenSteel Corporation requests that the Commission grant its motion for protective order and the motion for protective order by Ohio Power (filed August 4, 2016 in this proceeding). The Commission should maintain under seal the confidential information contained in Schedule Nos. 2 and 5 of Ohio Power's application.

Respectfully submitted,

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LIST OF INFORMATION
FOR WHICH PROTECTION IS SOUGHT

INFORMATION

Schedule No. 2: the actual and estimated delta revenue amounts (by month) for TimkenSteel and monthly carrying charges.

Schedule No. 5: the estimated monthly electric bill information, the estimated monthly discounts, and the monthly delta revenues of TimkenSteel.

REASONS JUSTIFYING PROTECTION

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

CERTIFICATE OF SERVICE

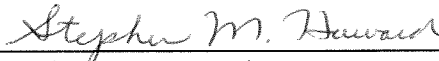
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Summary: Motion Motion for Protective Order and Memorandum in Support electronically filed by Mr. Stephen M Howard on behalf of TimkenSteel Corporation