

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

| | | |
|-----------------------------|---|-------------------------|
| I. SCHUMANN & COMPANY, LLC, |) | |
| |) | Case No. 17-0473-EL-CSS |
| Complainant, |) | |
| v. |) | |
| |) | |
| THE CLEVELAND ELECTRIC |) | |
| ILLUMINATING COMPANY, |) | |
| |) | |
| Respondent. |) | |
| |) | |

**MOTION FOR PROTECTIVE ORDER OF
THE CLEVELAND ELECTRIC ILLUMINATING COMPANY**

Pursuant to O.A.C. 4901-1-24(D), The Cleveland Electric Illuminating Company (“CEI”) moves for a protective order keeping confidential the following information, which is contained and/or referenced in CEI’s Post-Hearing Reply Brief, because the information is or may be deemed to be the confidential, proprietary, or trade secret, and/or competitive business information of Complainant, I. Schumann & Company, LLC (“Schumann”).¹

- Information contained in prefiled testimony that has been previously designated by Complainant as confidential; and
- Hearing testimony taken in confidential hearing sessions.

Accordingly, CEI requests that the Commission grant this Motion and protect from disclosure the confidential information. A Memorandum in Support of this Motion is attached hereto and incorporated herein by reference. Consistent with the requirements of O.A.C. 4901-1-24(D), unredacted copies of the confidential information which is the subject of this Motion have been filed under seal.

¹ By filing this Motion, CEI is not agreeing with or acquiescing to Schumann’s determinations regarding the confidentiality of the subject information.

Respectfully submitted,

/s/ Christine E. Watchorn

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ATTORNEYS FOR THE CLEVELAND
ELECTRIC ILLUMINATING COMPANY

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

The Cleveland Electric Illuminating Company (“CEI”) requests that the Commission protect from public disclosure the information designated below as confidential, competitively-sensitive confidential and/or proprietary (along with any and all copies, including electronic copies). The designated information is contained in CEI’s Post-Hearing Reply Brief. CEI has made good faith efforts to limit the amount of information for which confidential treatment is sought.

Ohio law and the Commission’s rules provide for the protection of confidential and proprietary information. Specifically, O.A.C. 4901-1-24(A) provides the Commission may issue:

[A]ny order which is necessary to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. Such a protective order may provide that: . . . (7) A trade secret or other confidential research, development, commercial, or other information not be disclosed or be disclosed only in a designated way.

Pursuant to O.A.C. 4901-1-24(D), the Commission also may issue an order to protect the confidentiality of information contained in documents filed with the Commission 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.

Pursuant to R.C. § 1333.61(D), a “trade secret” is:

[A]ny 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.

Ohio law grants special protections to such trade secrets, including statutory causes of action for an injunction precluding the misappropriation of trade secrets. *See* R.C. § 1333.62. The Commission has recognized the statutory obligation to protect trade secrets, even in the context of its preference for open proceedings, and has previously carried out its obligations in this regard in numerous proceedings. *See In re: General Telephone Co.*, Case No. 81-383-TP-AIR (Entry, February 17, 1982)(recognizing necessity of protecting trade secrets); *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).

Here, CEI is seeking to prevent disclosure of two categories of information. First, information that is contained in Complainant’s prefiled testimony that has been previously designated by Complainant as confidential and for which Complainant sought a protective order. (*See, Schumann’s Motion for Protective Order, 8/3/17.*) It is CEI’s understanding that

Schumann contends that the information designated as confidential includes confidential, sensitive, and proprietary operational and financial data, business forecasts, electric demand and use and pricing information, and employment figures and trade secret information and that in the ordinary course of business, Schumann has treated this information as proprietary and confidential. Second, CEI seeks to prevent disclosure of information that was provided through testimony at the hearing of this proceeding, which testimony was taken in a confidential session for the reasons identified above.

For the forgoing reasons, CEI requests that the designated information be protected from public disclosure.

Respectfully submitted,

/s/ Christine E. Watchorn

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ATTORNEYS FOR THE CLEVELAND
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Protective Order of The Cleveland Electric Illuminating Company was served upon the following by electronic mail on this 10th day of October, 2017:

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*On behalf of The Cleveland Electric Illuminating
Company*

COL1997 274955

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/10/2017 4:16:00 PM

in

Case No(s). 17-0473-EL-CSS

Summary: Motion for Protective Order of The Cleveland Electric Illuminating Company electronically filed by Ms. Christine E. Watchorn on behalf of The Cleveland Electric Illuminating Company