

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Filing by Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company of a Grid Modernization Business Plan)	Case No. 16-481-EL-UNC
In the Matter of the Filing by Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company Application for Approval of a Distribution Platform Modernization Plan)	Case No. 17-2436-EL-UNC
In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company to Implement Matters Relating to the Tax Cuts and Jobs Act of 2017)	Case No. 18-1604-EL-UNC
In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of a Tariff Change)	Case No. 18-1656-EL-ATA

PUCO

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**MOTION FOR PROTECTIVE ORDER BY THE ENVIRONMENTAL LAW & POLICY
CENTER, NATURAL RESOURCES DEFENSE COUNCIL, AND OHIO
ENVIRONMENTAL COUNCIL**

The Environmental Law & Policy Center, Ohio Environmental Council, and Natural Resources Defense Council (collectively, "Environmental Groups"), pursuant to Ohio Adm. Code 4901-1-02(E), 4901-1-12 and 4901-1-24(D), hereby move the Public Utilities Commission of Ohio ("PUCO") for a protective order regarding information asserted to be confidential and/or competitively sensitive by Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company ("FirstEnergy" or "Companies").

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As part of discovery in this proceeding, FirstEnergy provided information to the Environmental Groups, subject to a protective agreement, and FirstEnergy asserts that this information is confidential and/or competitively sensitive under Ohio law. The Direct Testimony of Curt Volkmann filed on behalf of the Environmental Groups discusses information that is deemed by FirstEnergy to be confidential. The Environmental Groups request that, in accordance with Ohio Admin. Code. 4901-1-02(E), the PUCO issue such order as is necessary to protect portions of the Direct Testimony of Curt Volkmann that contains information that is asserted to be confidential and/or competitively sensitive by FirstEnergy. Subject to the Environmental Groups' rights under the protective agreement, they are filing a confidential version of the Direct Testimony of Curt Volkmann under seal.

By filing this Motion, the Environmental Groups do not concede that the information is confidential and/or competitively sensitive. However, the Environmental Groups acknowledge that they have obtained this information under a protective agreement with FirstEnergy. That protective agreement provides for such information to be treated as confidential and/or competitively sensitive and protected (subject to the Environmental Groups' right to initiate a process for the PUCO to rule whether the information deserves confidential treatment under Ohio law). The grounds for this Motion are more fully described in the accompanying Memorandum in Support.

Respectfully submitted,

/s/ Madeline Fleisher

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)	

MEMORANDUM IN SUPPORT

The Environmental Groups file this Motion for Protective Order (“Motion”) contemporaneously with the filing of the Direct Testimony of Curt Volkmann under seal. The Environmental Groups understands that FirstEnergy considers some of the undisclosed information to be confidential and/or competitively sensitive and deserving of protection under Ohio law. The Environmental Groups’ understanding is based on claims by FirstEnergy that some of the information (1) derives economic value, actual or potential, from not being known

to, and not being readily ascertainable by proper means by others, and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. *See* R.C. 1333.61(D).

In filing this Motion, the Environmental Groups do not concede that any of the information in the Direct Testimony of Curt Volkmann is trade secret information under R.C. 1333.61(D). Nor do the Environmental Groups concede that any of the information is deserving of protection from public disclosure under Ohio Adm. Code 4901-1-24(D). Under the assertions made by FirstEnergy, at this time, confidential treatment of some of the information contained in the Direct Testimony of Curt Volkmann could be appropriate, subject to the Environmental Groups' rights under its protective agreement with FirstEnergy to initiate a process to determine whether the information should be protected.

For the foregoing reasons and subject to the foregoing reservations of rights, this Motion should be granted at this time.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion for a Protective Order and Memorandum in Support have been served via electronic mail upon all parties of record on January 17, 2019.

/s/ Madeline Fleisher
Madeline Fleisher