

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Applications of Ohio)	Case Nos. 12-2210-EL-RDR
Power Company to Adjust The Economic)	13-0325-EL-RDR
Development Cost Recovery Rider Rate.)	14-1329-EL-RDR
)	15-0279-EL-RDR
)	16-0260-EL-RDR

TIMKENSTEEL CORPORATION'S MOTION TO EXTEND PROTECTIVE ORDERS

As allowed under Rule 4901-1-24(F), Ohio Administrative Code (“O.A.C.”), TimkenSteel Corporation (“TimkenSteel”) respectfully moves the Public Utilities Commission of Ohio (“Commission”) to renew and issue protective orders in these dockets for TimkenSteel’s confidential customer-specific information previously given confidential treatment and that has been held under seal. TimkenSteel requests that confidential treatment continue going forward for at least a two-year period from the date of an order approving this Motion. TimkenSteel’s confidential information is in the application materials filed under seal in these dockets by Ohio Power Company (“AEP-Ohio”) when it applied to adjust its Economic Development Cost Recovery rider (“EDR”) rates. TimkenSteel’s confidential information was competitively sensitive and highly proprietary business information that the Commission found to be trade secrets. The information has remained competitively sensitive and highly proprietary trade secrets and will continue to be trade secrets going forward. Protected status should be clearly delineated and should be renewed for a going-forward period.

The grounds for this Motion are set forth in the attached Memorandum in Support.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

I. Introduction and Purpose of this Motion

On April 27, 2011 and December 16, 2015, TimkenSteel Corporation (“TimkenSteel”) received approval from the Public Utilities Commission of Ohio (“Commission”) of two separate unique arrangements for TimkenSteel’s Stark County Facilities.¹ The Commission also granted TimkenSteel’s motion for protective order in each case seeking to protect certain proprietary and confidential information that related to the unique arrangement application.²

During the terms of those unique arrangements, AEP-Ohio requested that the Commission adjust AEP-Ohio’s Economic Development Cost Recovery rider (“EDR”) rates in the dockets listed above, based in part upon delta revenues generated from those unique service arrangements. AEP-Ohio included TimkenSteel’s customer-specific information in the application materials filed in those Commission proceedings.

AEP-Ohio and TimkenSteel filed in the dockets separate motions for protective orders related to TimkenSteel’s customer-specific information and, as summarized in the chart below, the Commission granted protective orders consistently concluding that the TimkenSteel

¹ *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*, Opinion and Order, Case No. 10-3066-EL-AEC (April 27, 2011); *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 (Dec. 16, 2015).

² *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, Opinion and Order, page 3; *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 at 6.

information was a trade secret that should be afforded confidential treatment.

Case No.	Period of Protective Order Issued
12-2210-EL-RDR	Sept 26, 2012 – Mar 26, 2014
13-0325-EL-RDR	Mar 27, 2013 – Sept 27, 2015
14-1329-EL-RDR	Sept 17, 2014 – Sept 17, 2016
15-0279-EL-RDR	Mar 18, 2015 – Mar 18, 2017 *A motion to extend was filed Feb 23, 2017, and remains pending.
16-0260-EL-RDR	Mar 31, 2016 – Mar 31, 2018 *A motion to extend again was filed Feb 14, 2018, and remains pending.

Of the 5 proceedings listed, the first four relate to TimkenSteel’s unique arrangement granted in Case No. 10-3066 and the last relates to TimkenSteel’s unique arrangement granted in Case No. 15-1857. TimkenSteel notes that although other parties have motions pending for extensions of the protective orders issued in Case 12-2210, 13-0325 and 14-1329, TimkenSteel did not do so due to inadvertent oversight and requests through this Motion continued treatment of the information in those three cases.

Thus, through this Motion, TimkenSteel requests that the Commission grant protective orders for the TimkenSteel confidential information going forward for a two-year period from the date of an order approving this Motion. The request seeks to align all cases to provide for administrative efficiency and eliminate the difficulty of tracking the many RDR protective orders separately. There would be one consistent timeframe applicable for the information being protected in these dockets and then, going forward, if TimkenSteel wishes to extend the protective order beyond the two-year deadline, it may file one motion to renew.

As explained below, TimkenSteel’s confidential customer-specific information has been and will continue to be trade secret information that warrants protective status.

II. TimkenSteel's information is trade secrets and its request for protective treatment is reasonable without prejudicing any party.

The billing information of the TimkenSteel unique arrangements filed by AEP-Ohio contains and continues to consist of 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. Trade secrets protected by state law are not considered public records and are therefore exempt from public disclosure.³

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 Commission has the statutory authority to exempt certain documents from disclosure. See Sections 4901.12 and 4905.07, Revised Code. Rule 4901-1-24(D), O.A.C., provides for a Commission 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.

³ 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).

The TimkenSteel-related information contained in the application materials is competitively sensitive and highly proprietary business and financial information falling within the above-quoted statutory definition of a trade secret. It includes prior and recent billings paid for TimkenSteel's electricity based upon its actual and estimated usage. Public disclosure of this recent usage and pricing information would jeopardize TimkenSteel's business position and its ability to compete. Notably, TimkenSteel's historical usage and pricing information is just as confidential today as it was when TimkenSteel applied for protective treatment. A competitor knowing historical usage and pricing can use that information to understand current usage, especially if public information on site improvements is available.

TimkenSteel's billing information, thus, derives independent economic value from not being generally known and not being readily ascertainable by proper means by TimkenSteel's competitors. Disclosure would allow TimkenSteel's competitors throughout the world the opportunity to glean competitively sensitive information regarding its prior and current business operations, including the facilities and its financial status. TimkenSteel's efforts to protect the confidential pricing information are reasonable under the circumstances. Additionally, actual customer usage, billing information and pricing terms are protected from disclosure by AEP-Ohio.⁴ As the Commission is aware, this information is routinely accorded protected status by the Commission, not just for TimkenSteel but other customers too. Finally, as noted by the chart above, the Commission has already found in multiple proceedings that TimkenSteel's customer-specific information filed under seal in the confidential versions of AEP-Ohio's filings was a trade secret and should be afforded protected status.

⁴ See, e.g., Rule 4901:1-37-04(D)(1), O.A.C. (prohibiting disclosure of "proprietary customer information (e.g., individual customer load profiles or billing histories)").

The non-disclosure of the actual usage and pricing information will not impair the purposes of Title 49 of the Revised Code, as the Commission and its Staff have already decided AEP-Ohio's applications and they retain full access to the confidential information. With no appeal pending from the Commission's decisions to approve the applications, no party will be prejudiced by continuing the protective treatment of the TimkenSteel information supporting the applications.

Accordingly, because TimkenSteel's information in the application materials (primarily in Schedules 2 & 4) in each of these cases constitutes a trade secret, it should formally be afforded protected status while held in the past and should likewise be subject to protected status going forward.

III. Conclusion

TimkenSteel respectfully requests that the Commission grant this Motion. For the reasons set forth herein, the Commission should rule that Protective Orders are granted to TimkenSteel's customer-specific information that has been held under seal in each of these

cases and that protective treatment is also being extended in each case going forward for a period of at least 24 months from the date of an order approving this Motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the Commission's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a copy of the foregoing document is being sent to the following counsel for parties of record on January 30, 2020, via electronic transmission.

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Summary: Motion To Extend Protective Orders electronically filed by Mr. Michael J. Settineri on behalf of TimkenSteel Corporation