

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
COLUMBIA GAS OF OHIO, INC. FOR
APPROVAL OF A REASONABLE
ARRANGEMENT.

CASE NO. 15-1417-GA-AEC

ENTRY

Entered in the Journal on October 7, 2021

{¶ 1} On August 7, 2015, Columbia Gas of Ohio, Inc. (Columbia) filed an application for a reasonable arrangement for transporting natural gas to the P.H. Glatfelter Company (Glatfelter) facilities located in Chillicothe, Ohio. Included with the application was a motion for protective order, seeking to protect certain confidential information contained in the reasonable arrangement. The application and the motion for protective order were approved in an October 28, 2015 Finding and Order.

{¶ 2} Columbia filed requests on August 25, 2017, and September 10, 2019, seeking extensions of the protective order. The requests were granted on November 14, 2017, and November 5, 2019, for 24 months from the date of each Entry.

{¶ 3} On September 20, 2021, Columbia filed a motion to extend the protective order for another 24-month period. Columbia contends that the redacted information contained in the agreement with Glatfelter is personal account, pricing, pressure, and consumption information that is of a business and financial nature. Columbia further asserts that the parties to the agreement continue to derive independent economic value from such information that is not readily ascertainable by others. Finally, Columbia emphasizes that it is reasonable under the circumstances to redact the confidential and proprietary pricing, pressure, and consumption information contained within the agreement, given the public nature of proceedings before the Commission.

{¶ 4} R.C. 4905.07 provides that all facts and information in the possession of the Commission shall be public, except as provided in R.C. 149.43, and as consistent with the purposes of R.C. Title 49. R.C. 149.43 specifies that the term “public records” excludes information, which, under state or federal law, may not be released. The Ohio Supreme

Court has clarified that the “state or federal law” exemption is intended to cover trade secrets. *State ex rel. Besser v. Ohio State*, 89 Ohio St.3d 396, 399, 732 N.E.2d 373 (2000).

{¶ 5} Similarly, Ohio Adm.Code 4901-1-24 allows an attorney examiner to issue an order to protect the confidentiality of information contained in a filed document, “to the extent that state or federal law prohibits release of the information, including where the information is deemed * * * to constitute a trade secret under Ohio law, and where nondisclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code.”

{¶ 6} Ohio law defines a trade secret as “information * * * 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.” R.C. 1333.61(D).

{¶ 7} The attorney examiner has reviewed the information included in Columbia’s motion for protective order, as well as the assertions set forth in the supportive memorandum. Applying the requirements that the information have independent economic value and be the subject of reasonable efforts to maintain its secrecy pursuant to R.C. 1333.61(D), as well as the six-factor test set forth by the Ohio Supreme Court,¹ the attorney examiner finds that the redacted account numbers and pricing, pressure, and consumption information contained in the reasonable arrangement constitutes trade secret information. Its release is, therefore, prohibited under state law. The attorney examiner also finds that nondisclosure of this information is not inconsistent with the purposes of Title 49 of the Revised Code. Therefore, the attorney examiner finds that Columbia’s motion for protective order is reasonable and should be granted.

¹ See *State ex rel. the Plain Dealer v. Ohio Dept. of Ins.*, 80 Ohio St.3d 513, 524-525, 687 N.E.2d 661 (1997).

{¶ 8} Ohio Adm.Code 4901-1-24(F) provides that, unless otherwise ordered, protective orders issued pursuant to Ohio Adm.Code 4901-1-24(D) automatically expire after 24 months. Therefore, confidential treatment shall be afforded for a period ending 24 months from the date of this Entry. Until that date, the Commission's docketing division should maintain, under seal, the information filed confidentially by Columbia on August 7, 2015.

{¶ 9} Ohio Adm.Code 4901-1-24(F) requires a party wishing to extend a protective order to file an appropriate motion at least 45 days in advance of the expiration date. If Columbia wishes to extend this confidential treatment, it should file an appropriate motion at least 45 days prior to the expiration date. If no such motion to extend confidential treatment is filed, the Commission may release this information without prior notice to Columbia.

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That the motion for protective order filed by Columbia be granted. It is, further,

{¶ 12} ORDERED, That the Commission's docketing division maintain, under seal, the confidential information filed by Columbia on August 7, 2015, for a period ending 24 months from the date of this Entry. It is, further,

{¶ 13} ORDERED, That a copy of this Entry be served upon Columbia and any other interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/James M. Lynn

By: James M. Lynn
Attorney Examiner

SJP/hac

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Case No(s). 15-1417-GA-AEC

Summary: Attorney Examiner Entry ordering that the motion for protective order filed by Columbia be granted and that the Commission's docketing division maintain, under seal, the confidential information filed by Columbia on August 7, 2015, for a period ending 24 months from the date of this Entry electronically filed by Heather A. Chilcote on behalf of James M. Lynn, Attorney Examiner, Public Utilities Commission