

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Campbell    )  
Soup Supply Company LLC for the            )  
Approval of a Reasonable Arrangement for    ) Case No. 21-1047-EL-AEC  
its Napoleon, Ohio Plant                        )  
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**MOTION FOR PROTECTIVE ORDER**

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Pursuant to Ohio Adm.Code 4901-1-02(E), 4901-1-12, and 4901-1-24(D), Campbell Soup Supply Company, LLC (Campbell Supply) hereby files this motion for protective order with the Public Utilities Commission of Ohio (Commission), seeking protective treatment of information asserted to be confidential by the Toledo Edison Company (Toledo Edison), as well as confidential customer information related to Campbell Supply's application for a reasonable arrangement with the Toledo Edison. More specifically, the Testimony of John Seryak contains data and information from Toledo Edison that it asserts constitutes trade secret information under Ohio law, as well as confidential load data for Campbell Supply.

Campbell Supply hereby requests that, in accordance with Ohio Adm.Code. 4901-1-02(E), the Commission issue such order as is necessary to protect the information contained in the redacted portions of the Testimony of John Seryak, which are confidential. Pursuant to Campbell Supply's rights under the protective agreement, Campbell Supply is filing the Testimony of John Seryak under seal, and is also filing a public version of the Testimony of John Seryak which includes all information not claimed to be confidential.

By filing this motion for protective order, Campbell Supply does not concede that all of the information for which protection is sought constitutes trade secret information; however,

Campbell Supply acknowledges that it has obtained some of the information pursuant to a protective agreement with Toledo Edison that provides for such information to be treated as confidential and protected (subject to Campbell Supply's right under the protective agreement to initiate a process by which the Commission may determine whether the information should be afforded confidential treatment under Ohio law). The grounds for this motion are more fully discussed in the accompanying memorandum in support.

Respectfully submitted,

/s/ Kimberly W. Bojko

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**MEMORANDUM IN SUPPORT**

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Campbell Supply files its motion for protective order (“Motion”) contemporaneously with the Testimony of John Seryak in this proceeding. In filing this Motion, Campbell Supply does not concede that all of the information or data in the Testimony of John Seryak is trade secret information pursuant to R.C. 1333.61(D), and further does not concede that the information is deserving of protection from public disclosure under Ohio Adm.Code 4901-1-24(D).

Campbell Supply understands that Toledo Edison considers some of the information contained in the redacted portions of the Testimony of John Seryak to be confidential and deserving of protection as trade secret information pursuant to R.C. 1333.61(D). Campbell Supply’s understanding is based on claims that the information would enable competitors to ascertain the manner in which Toledo Edison plans and manages its Rider NMB Opt-Out Pilot Program and customer data associated therewith.

Under the assertions made by Toledo Edison, at this time, confidential treatment of the information contained in the redacted portions of the Testimony of John Seryak would be appropriate, subject to Campbell Supply’s rights under its protective agreement with Toledo Edison to initiate a process to determine whether the information should be protected. In

addition, Campbell Supply is filing a public version of the Testimony of John Seryak so that all information not claimed to be confidential is accessible to the public.

Additionally, some of the data and customer information concerning Campbell Soup satisfies the standard for trade secrets established in R.C. 1333.61(D), as it is competitively sensitive and proprietary business and financial information. Public disclosure of this information would jeopardize Campbell Supply's ability to compete.

Ohio Adm. Code 4901-1-24(D) provides that the Commission or certain designated Commission employees "may issue any order which is necessary to protect the confidentiality of information contained in the document, to the extent that state or federal law prohibits release of the information." Ohio law protects trade secrets by not considering them public records and exempting them from public disclosure.<sup>1</sup>

Under R.C. 1333.61(D),

"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.<sup>2</sup>

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<sup>1</sup> See R.C. 149.43 (A)(1)(v); *State ex rel. The Plain Dealer v. Ohio Dept. of Insurance*, 80 Ohio St.3d 513, 530 (1997).

<sup>2</sup> R.C. 1333.61(D) (emphasis added).

Moreover, the Commission has previously afforded protective treatment to similar information in other reasonable arrangement proceedings.<sup>3</sup>

Accordingly, for the reasons specified herein, Campbell Supply respectfully requests that the Commission grant this motion for a protective order and maintain the redacted information contained in the Testimony of John Seryak filed in this proceeding in confidential form in order to prevent the public disclosure of trade secrets related to Campbell Supply's operations and Toledo Edison's Rider NMB Opt-Out Pilot Program.

Respectfully submitted,

/s/ Kimberly W. Bojko  
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<sup>3</sup> See, e.g., *In the Matter of the Application for Establishment of a Reasonable Arrangement Between Presrite Corporation and the Cleveland Electric Illuminating Company*, Case No. 17-1981-EL-AEC, Opinion and Order at ¶ 18 (March 14, 2018); *In the Matter of the Application of the 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 6-7 (December 16, 2015).

### **CERTIFICATE OF SERVICE**

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document also is being served via electronic mail on December 6, 2021 upon the parties of record.

/s/ Kimberly W. Bojko  
Kimberly W. Bojko

*Counsel for Campbell Soup Supply  
Company L.L.C.*

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**Case No(s). 21-1047-EL-AEC**

Summary: Motion for Protective Order electronically filed by Mrs. Kimberly W. Bojko  
on behalf of Campbell Soup Supply Company LLC.