

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF  
THE CLEVELAND ELECTRIC  
ILLUMINATING COMPANY FOR  
APPROVAL OF AN UPDATE TO ITS POLE  
ATTACHMENT TARIFF.

CASE NO. 20-1644-EL-ATA

IN THE MATTER OF THE APPLICATION OF  
THE TOLEDO EDISON COMPANY FOR  
APPROVAL OF AN UPDATE TO ITS POLE  
ATTACHMENT TARIFF.

CASE NO. 20-1645-EL-ATA

### ENTRY

Entered in the Journal on January 20, 2022

{¶ 1} The Cleveland Electric Illuminating Company (CEI) and The Toledo Edison Company (Toledo Edison) are each an electric light company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, are subject to the jurisdiction of the Commission.

{¶ 2} On October 30, 2020, as amended on December 23, 2020, CEI filed an application in Case No. 20-1644-EL-ATA (20-1644) seeking to revise its pole attachment rates utilizing 2019 Federal Energy Regulatory Commission (FERC) Form 1 data.

{¶ 3} On October 30, 2020, as amended on December 23, 2020, Toledo Edison filed an application in Case No. 20-1645-EL-ATA (20-1645) seeking to revise its pole attachment rates utilizing 2019 FERC Form 1 data.

{¶ 4} On November 20, 2020, The Ohio Cable Telecommunications Association (OCTA) filed objections to the applications filed in 20-1644 and 20-1645.

{¶ 5} On November 30, 2020, CEI and Toledo Edison filed joint responses to OCTA's objections in Case Nos. 20-1644 and 20-1645.

{¶ 6} Consistent with the approval process established in the November 30, 2016 Entry in Case No. 13-579-AU-ORD, these cases were automatically approved on December 29, 2020, with an effective date of January 1, 2021.

{¶ 7} On January 28, 2021, OCTA filed an application for rehearing in each of the respective cases.

{¶ 8} On January 28, 2021, OCTA filed motions for protective treatment in Case Nos. 20-1644 and 20-1645 asserting that specified information contained in its applications for rehearing was derived from information that either CEI or Toledo Edison have asserted as being confidential.

{¶ 9} 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 Title 49 of the Revised Code. 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. 396, 399, 732 N.E.2d 373 (2000).

{¶ 10} Similarly, Ohio Adm.Code 4901-1-24 allows the Commission 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.”

{¶ 11} 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).

{¶ 12} The attorney examiner has reviewed the information which is the subject of the motions for protective orders, as well as the assertions set forth in the supporting memoranda. 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,<sup>1</sup> the attorney examiner finds that the motions for protective treatment should be denied. In making this decision, the attorney examiner notes that OCTA has failed to address the specific criteria set forth in Ohio Adm.Code 4901-1-24(D) relative to the need for the requested protective treatment. Accordingly, the Commission's docketing division should move the specified information to the public record ten days from the issuance of this Entry.

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That the motions for protective treatment be denied. It is, further,

{¶ 15} ORDERED, That the docketing division move the information set forth in the motions for protective treatment to the public docket ten days after the issuance of this Entry. It is, further,

{¶ 16} ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Jay S. Agranoff

By: Jay S. Agranoff  
Attorney Examiner

SJP/kck

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<sup>1</sup> 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).

**This foregoing document was electronically filed with the Public Utilities  
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**in**

**Case No(s). 20-1644-EL-ATA, 20-1645-EL-ATA**

Summary: Attorney Examiner Entry denying the motions for protective treatment; and ordering that the docketing division move the information set forth in the motions for protective treatment to the public docket ten days after the issuance of this Entry. electronically filed by Kelli C. King on behalf of Jay Agranoff, Attorney Examiner, Public Utilities Commission of Ohio