

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the Non-)
Market-Based Services Rider Contained in)
the Tariffs of Ohio Edison Company, The) Case No. 21-1225-EL-RDR
Cleveland Electric Illuminating Company)
and The Toledo Edison Company)

MOTION FOR PROTECTIVE ORDER

Pursuant to Ohio Adm. Code 4901-1-12 and 4901-1-24(D), Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, “Companies”) respectfully move for a protective order regarding confidential information contained in Exhibit A, page 6 of 6, in the Non-Market-Based Services Rider (“Rider NMB”) workpapers supporting each of the Revised Tariff Pages, PUCO Nos. 8, 11, and 13, filed on February 25, 2022 in the above captioned matter. As described in the attached Memorandum in Support of this Motion, each Exhibit A, page 6 of 6 contains highly confidential customer usage information that warrants protection. Accordingly, the Companies request that certain information that has been redacted from each Exhibit A, page 6 of 6, be protected from public disclosure.

Respectfully submitted,

/s/ Christine E. Watchorn
Christine E. Watchorn (0075919)
FIRSTENERGY SERVICE COMPANY
100 E. Broad Street, Suite 2225
Columbus, Ohio 43215
(614) 437-0183
cwatchorn@firstenergycorp.com
(Willing to accept service by email)

*Attorney for Ohio Edison Company, The Cleveland
Electric Illuminating Company, and The Toledo
Edison Company*

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the Non-)	
Market-Based Services Rider Contained in)	
the Tariffs of Ohio Edison Company, The)	Case No. 21-1225-EL-RDR
Cleveland Electric Illuminating Company)	
and The Toledo Edison Company)	

**MEMORANDUM IN SUPPORT OF
MOTION FOR PROTECTIVE ORDER**

The Companies seek to protect certain customer energy usage information contained in each Exhibit A, page 6 of 6, in the Non-Market-Based Services Rider (“Rider NMB”) workpapers supporting revised tariff pages of PUCO Nos. 8, 11, and 13, filed on February 25, 2022. Exhibit A, page 6 of 6, generally contains aggregated or anonymized energy usage information for Rider NMB Opt-Out Pilot participants. However, for some of the Companies’ rate classes, there is only one Rider NMB Opt-Out Pilot participant, and as such, the Companies cannot provide anonymized or aggregated information for pilot participants in these rate classes. This information is energy usage information of commercial and industrial customers that those customers deem confidential and proprietary and that is, therefore, appropriate for protective treatment pursuant to Ohio law.

Ohio Adm. Code 4901-1-24(D) states:

Upon motion of any party or person with regard to the filing of a document with the commission's docketing division relative to a case before the commission, the commission, the legal director, the deputy legal director, or an attorney examiner 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, including where the information is deemed by the commission, the legal director, the deputy legal director, or the attorney examiner 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.

Ohio law defines a “trade secret” as:

[I]nformation, 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.¹

Ohio law grants special protection to such trade secrets, including statutory causes of action for an injunction precluding the misappropriation of trade secrets.² The Commission has recognized the statutory obligation to protect trade secrets.³ Indeed, the Commission's rules provide that it may issue any order "necessary to protect a party or person," including that a "trade secret or other confidential research, development, commercial, or other information not be disclosed or be disclosed only in a designated way."⁴

Customer usage information is subject to this statutory obligation. For example, in *In the Matter of the Application of Ohio Power Company to Adjust its Economic Development Rider Rate*, Case No. 16-1684-EL-RDR, AEP Ohio filed a motion for protective treatment of customer-specific load information of Eramet Marietta, Inc., Globe Metallurgical, Inc. and TimkenSteel Company (the "Customers") contained in certain schedules within AEP Ohio's application to adjust its Economic Development Rider rate.⁵ The Customers filed motions for protective

¹ R.C. 1333.61(D).

² See R.C. 1333.62.

³ See *Gen. Tel. Co.*, Case No. 81-383-TP-AIR, Entry (Feb. 17, 1982) (recognizing necessity of protecting trade secrets); see, e.g., *Elyria Tel. Co.*, Case No. 89-965-TP-AEC, Finding and Order (Sept. 21, 1989); *Ohio Bell Tel. Co.*, Case No. 89-718-TP-ATA (Finding and Order, May 31, 1989); *Columbia Gas of Ohio, Inc.*, Case No. 90-17-GA-GCR, Entry (Aug. 17, 1990).

⁴ Ohio Adm.Code 4901-1-24(A)(7).

⁵ *In re Ohio Power Co.*, Case No. 16-1684-EL-RDR, Finding and Order (Sept. 22, 2016) ¶ 9.

treatment as well, arguing the application included certain “customer-specific information related to electric usage and pricing that is confidential, sensitive, and proprietary trade secret information.”⁶ The motions set forth that, if the customer-specific usage information was released to the public, “it would compromise their business position and ability to compete by disclosing actual customer usage and pricing terms that are not generally known or readily ascertainable by their competitors.”⁷ The Commission agreed, and granted the motions for protective treatment based on those same grounds.⁸

The customer data at issue here is Network Service Peak Load (“NSPL”) values and estimated annual billing demand for the expected Rider NMB Opt-Out Pilot Program participants. If this customer-specific usage information is released to the public, it would compromise the customers’ business positions and ability to compete by disclosing information about their operations and cost of production that is not generally known or readily ascertainable by their competitors. Just as in *In re Ohio Power Co.*, the redacted data is customer-specific information related to electric usage and pricing that is confidential, sensitive, and proprietary trade secret information, therefore warranting protection.

The Commission has previously granted similar motions to protect confidential customer information.⁹ Further, all of the redacted information at issue is confidential customer information and subject to efforts that are reasonable under the circumstances to maintain its secrecy. All of the redacted information in the public versions of these tariffs will be available for review by the

⁶ *Id.* at ¶ 11.

⁷ *Id.*

⁸ *Id.* at ¶ 13.

⁹ See, e.g., *In the Matter of the Petition of Harry W. Schmidt and numerous Other subscribers of the New London Exchange of GTE North Incorporated*, Case No. 98-1481-TP-PEX, Supplemental Opinion and Order, (Dec. 21, 1999), *7; *In the Matter of the Application of Major Energy Services, LLC for Certification as a Competitive Retail Natural Gas Supplier*, Case No. 15-1405-GA-CRS, Entry, (Dec. 20, 2021), *3.

Commission and the Commission's Staff, pursuant to Ohio Adm. Code 4901-1-24(D)(2), which requires that two unredacted copies of the confidential information be filed under seal along with the motion for protection of the information.

Accordingly, the Companies respectfully request that the redacted customer usage information in the filed workpapers supporting their respective tariffs be kept confidential.

Respectfully submitted,

/s/ Christine E. Watchorn

Christine E. Watchorn (0075919)
FIRSTENERGY SERVICE COMPANY
100 E. Broad Street, Suite 2225
Columbus, Ohio 43215
(614) 437-0183
cwatchorn@firstenergycorp.com
(Willing to accept service by email)

*Attorney for Ohio Edison Company, The Cleveland
Electric Illuminating Company, and The Toledo
Edison Company*

CERTIFICATE OF SERVICE

I certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 15th day of March, 2022. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ Christine E. Watchorn
Christine E. Watchorn (0075919)

**Affidavit of Juliette Lawless - Motion for Protective Order - Rider NMB.pdf**

DocVerify ID: B2422BCD-9D00-41EB-87D9-7E1A0FA679B5
Created: March 15, 2022 07:34:07 -8:00
Pages: 1
Remote Notary: Yes / State: OH

This document is a DocVerify VeriVaulted protected version of the document named above. It was created by a notary or on the behalf of a notary, and it is also a DocVerify E-Sign document, which means this document was created for the purposes of Electronic Signatures and/or Electronic Notary. Tampered or altered documents can be easily verified and validated with the DocVerify veriCheck system. This remote online notarization involved the use of communication technology.

Go to www.docverify.com at any time to verify or validate the authenticity and integrity of this or any other DocVerify VeriVaulted document.

E-Signature Summary**E-Signature 1: Juliette Lawless (JL)**

March 15, 2022 07:48:22 -8:00 [2565761529CA] [8.40.67.222]
jlawless@firstenergycorp.com (Principal) (Personally Known)

E-Signature Notary: Jaime E. Hudson (jeh)

March 15, 2022 07:48:22 -8:00 [67B24AD963AF] [173.90.206.50]
jehudson@firstenergycorp.com
I, Jaime E. Hudson, did witness the participants named above electronically sign this document.



AFFIDAVIT OF JULIETTE LAWLESS

I, Juliette Lawless, being first duly cautioned and sworn, swear as follows:

1. I am employed by FirstEnergy Service Company as an Analyst IV, Rates & Regulatory Affairs—Ohio. I have been employed by FirstEnergy Service Company since December 2015. My responsibilities include serving as the analyst for preparation of various riders, including the Non-Market Based Services Rider (“Rider NMB”). I have personal knowledge of the matters set forth herein based upon my review of documents and records kept in the course of regularly conducted business activity.

2. I submit this affidavit in support of the Companies’ Motion for Protective Order and believe the facts contained in this affidavit and in the Motion for Protective Order to be true.

3. I have reviewed the unredacted versions of Exhibit A, page 6 of 6, within the workpapers supporting the Revised Tariffs, PUCO Nos. 8, 11, and 13. I understand that the customer-specific energy usage information is subject to trade secret protections.

4. Specifically, I believe that publishing the customer-specific usage information would compromise the customers’ business positions and ability to compete by disclosing information about their operations and cost of production that is not generally known or readily ascertainable by their competitors.

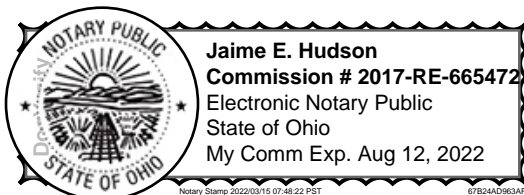
FURTHER AFFIANT SAYETH NAUGHT.

Juliette Lawless

Signed on 2022/03/15 07:48:22 -8:00

Juliette Lawless

Sworn to and subscribed in my presence this 15th day of March, 2022.



Jaime E. Hudson

NOTARY PUBLIC

Notarial act performed by audio-visual communication

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

3/15/2022 11:23:34 AM

in

Case No(s). 21-1225-EL-RDR

Summary: Motion for Protective Order electronically filed by Ms. Christine E. Watchorn on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company