

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the)	
Political and Charitable Spending by)	
Ohio Edison Company, The Cleveland)	Case No. 20-1502-EL-UNC
Electric Illuminating Company, and the)	
Toledo Edison Company.)	
)	

**OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON COMPANY’S MEMORANDUM CONTRA
MOTION TO STRIKE BY THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (the “Companies”) moved to protect information¹ expressly designated as confidential by third-parties Daymark Energy Advisors (“Daymark”) and Oxford Advisors LLC (“Oxford”) consistent with O.A.C. 4901-1-24(A) and ¶ 3 of the parties’ Protective Agreement.² While the information the Office of the Ohio Consumers’ Counsel (“OCC”) seeks to make public does not belong to the Companies, the Companies’ motion enables Daymark and Oxford to advocate for its continued confidentiality. Yet, OCC asserts the Companies “oddly” “violated [the Commission’s] rule by not including the sworn affidavit of counsel that the rule requires” and as a result, “[the Companies’] motion should be stricken.”³ OCC’s argument is without merit and its Motion to Strike should be denied.

¹ Specifically, pages 91-93 of Companies-0019393 (also produced as OCC RPD-10-001-Attachment 7) and pages 37-78 of OCC RPD-10-001-Attachment 3.

² See, generally, Case No. 20-1502-EL-UNC, Motion for Protective Order and Memorandum in Support (Apr. 29, 2022) (“Motion” or “Mot.” and “Mem.”); *id.*, Reply in Support of Motion for Protective Order (May 23, 2022).

³ Case No. 20-1502-EL-UNC, Motion to Strike by Office of the Ohio Consumers’ Counsel (May 16, 2022), at 1 (“OCC’s Mot. to Strike” or “OCC Mem.”).

As previously stated, the Companies complied with the terms of the parties' Protective Agreement to the best of their ability—but they cannot submit an affidavit concerning information that is not their own. Doing so would be at odds with the parties' Agreement, which allows *either side* to seek protection for *third-party information*. Any meet and confer between the Companies and OCC would have been futile as the Companies have no independent interest in maintaining these documents' confidentiality and no way to negotiate away rights belonging to the auditors.

“[T]he Companies [we]re not in a position to unilaterally disclose Daymark's and Oxford's commercially sensitive or proprietary information,”⁴ and they have no independent desire to keep it secret.⁵ Rather, the Companies, having produced this information to OCC consistent with Daymark's and Oxford's confidential designations, filed their Motion to give Daymark and Oxford time to support their designation of the information as confidential. Accordingly, the Companies respectfully request that OCC's Motion to Strike be denied.

⁴ Mem. at 2.

⁵ OCC's Mot. to Strike” at 1.

Dated: May 31, 2022

Respectfully submitted,

/s/ Shalini B. Goyal

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On behalf of the Companies

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on May 31, 2022. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ Shalini B. Goyal

Attorney for the Companies

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in

Case No(s). 20-1502-EL-UNC

Summary: Memorandum Contra OCC's Motion to Strike electronically filed by Mrs. Shalini B. Goyal on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company