

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Cleveland-Cliffs Electric Supply LLC for a Renewal Certification as a Competitive Retail Electric Service Provider	: : : : :	Case No. 03-2272-EL-CRS
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**MOTION FOR CLEVELAND-CLIFFS ELECTRIC SUPPLY LLC
FOR PROTECTIVE ORDER**

Pursuant to Ohio Adm. Code 4901-1-24, Cleveland-Cliffs Electric Supply LLC (“Cleveland-Cliffs”) respectfully moves the Public Utilities Commission of Ohio (“Commission”) to issue a Protective Order to protect the confidentiality and prohibit the disclosure of the Confidential Information contained in Cleveland-Cliffs’ March 20, 2023 Renewal Application for Retail Generation Providers and Power Marketers (“Application”). The Confidential Information in the Application is not subject to disclosure and includes competitively sensitive and highly proprietary business information comprising trade secrets. The grounds for this Motion are set forth in the attached Memorandum in Support.

Respectfully submitted,

/s/ Michael L. Kurtz

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**COUNSEL FOR CLEVELAND-CLIFFS
ELECTRIC SUPPLY LLC**

March 20, 2023

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Cleveland-	:	
Cliffs Electric Supply LLC for a Renewal	:	
Certification as a Competitive Retail Electric	:	Case No. 03-2272-EL-CRS
Service Provider	:	

MEMORANDUM IN SUPPORT

Cleveland-Cliffs’ Motion requests that the Confidential Information contained in the Application filed on March 20, 2023 in this docket be exempted from public disclosure as confidential, proprietary, and competitively sensitive. The Confidential Information includes information related to Cleveland-Cliffs’ finances, including financial arrangements and credit reports that, if readily available and in the public record, would be available to competitors and impair competition. Accordingly, Cleveland-Cliffs requests a Protective Order to preserve the confidentiality of the Confidential Information.

State law recognizes the need to protect competitively sensitive and highly proprietary business information.¹ Additionally, Ohio Adm. Code 4901-1-24, provides the Commission authority to issue an order protecting the confidentiality of information filed at the Commission to the extent that state and federal law prohibit the release of such information and where nondisclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code.

¹ See R.C. 149.43(A)(1), 1331.61(D) and 1333.62.

Trade secrets protected by state law are not considered public records and are therefore exempt from public disclosure.² The definition of a “*trade secret*” is set forth in the Uniform Trade Secrets Act: “*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. R.C. § 1333.61(D).*

Cleveland-Cliffs’ Confidential Information in the Application is competitively sensitive and highly proprietary business and financial information falling within the statutory characterization of a trade secret.³ Public disclosure of Cleveland-Cliffs’ Confidential Information would jeopardize Cleveland-Cliffs’ business position and its ability to compete. The Confidential Information that Cleveland-Cliffs’ seeks to protect derives independent economic value from not being generally known and not being readily ascertainable by proper means by Cleveland-Cliffs’ competitors. Further, the efforts to protect the confidential financial statements are reasonable under the circumstances. Finally, Ohio Adm. Code 4901:1-2408(A) provides that financial statements and arrangements contained in a competitive retail electric service certificate renewal application will be afforded protected status if filed under seal with the Commission.

² 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).

³ R.C. 1333.61(D).

The non-disclosure of the actual and forecasted financial statements and will not impair the purposes of Title 49 of the Revised Code, as the Commission and its Staff will have full access to the Confidential Information in order to complete its review process. Because Cleveland-Cliffs' information constitutes a trade secret, it should be accorded protected status.

WHEREFORE, Cleveland-Cliffs respectfully requests that this Motion for Protective Order be granted for the reasons set forth herein.

Respectfully submitted,

/s/ Michael L. Kurtz

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March 20, 2023

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in

Case No(s). 03-2272-EL-CRS

Summary: Motion Cleveland-Cliffs Electric Supply LLC Motion for Protective Order
electronically filed by Mr. Michael L. Kurtz on behalf of Cleveland-Cliffs Electric
Supply LLC.