

ALE

5

RECEIVED-DOCKETING DIV

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO APR 25 PM 3:28

PUCO

In the Matter of the Annual Report of :
The Cincinnati Gas & Electric Company :
Pursuant to Rule 26 of The Electric : Case No. 05-999-EL-UNC
Service and Safety Standards, Ohio :
Administrative Code 4901:1-10-26 :

**THE CINCINNATI GAS & ELECTRIC COMPANY'S
REPLY TO OCC'S MEMORANDUM CONTRA ITS MOTION FOR
PROTECTIVE ORDER TO PROTECT THE CONFIDENTIALITY OF
INFORMATION CONTAINED IN ITS RULE 26 ANNUAL REPORT**

Pursuant to Ohio Admin. Code 4901-1-12(B)(2), the Cincinnati Gas & Electric Company (CG&E) submits this Reply Memorandum in response to the Ohio Consumers' Counsel's (OCC) Memorandum Contra CG&E's Motion for a Protective Order to protect the confidentiality of information contained in its Rule 26 Annual Report, which was filed with the Public Utilities Commission of Ohio (PUCO) on April 4, 2005.

Specifically, the OCC takes issue with CG&E's request for confidential treatment of the dollar amounts it plans to invest in infrastructure improvements for the coming year. CG&E maintains that such information should remain confidential in order to protect its competitive position and business interests.

The information that CG&E requests the Commission to protect as confidential relates to the specific dollars to be spent on maintaining quality,

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business. *[Signature]* Date Processed 4-25-05
Tecnicián

safety, and reliability. The allocation of funds related to specific improvements is a result of assessments made by qualified professionals to determine the most effective way to ensure safe, reliable service during each year. The information that CG&E seeks to protect is in compliance with Ohio law.¹

(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.

This financial information is apart of CG&E's business plans. It derives independent economic value from not being generally known to the public. Therefore, it is reasonable to request that the Commission maintain such proprietary information.

Providing such information will have a negative impact on economic development in CG&E's service territory and adversely effect the very customers that OCC seeks to protect. For example, the choice to allocate specific funds in an area to build a substation or extend electric

¹ Ohio Rev. Code 1333.61(D).

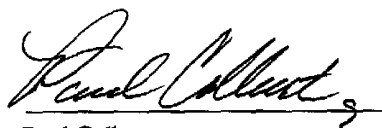
lines, if made public, could escalate the price of the land in those areas, result in right-of-way issues, and/or result in complaints before the Commission from customers in areas not targeted for the year or from customers disadvantaged by the impact of escalated prices (*e.g.*, if CG&E were forced to build elsewhere because of those escalated prices). This negative impact is directly attributable to the "independent economic value" of the information. CG&E, as a for-profit company, reasonably seeks to limit its costs. Needlessly creating unnecessary costs and concerns is not in the best interest of any of the parties; therefore, the information should not be made to the public.

Furthermore, CG&E believes that there is security value in keeping this information confidential. Investments in the creation or expansion of CG&E's distribution system could cause CG&E's distribution system to be vulnerable to potential security breaches. To protect Ohio EDUs from such occurrences, the Commission has removed distribution system mapping information from its public access web information. CG&E asserts that making public the costs and locations associated with CG&E's planned improvements and/or extensions yields a similar result by exposing its distribution system to potential security breaches at locations where improvement dollars are targeted.

CG&E appreciates the OCC's argument that customers are entitled to as much quality and reliability information as possible regarding the distribution facilities of the retail electric service providers in their service territory. As such CG&E has requested confidential treatment of only that information that would: (1) disadvantage CG&E's competitive position and business interests; and (2) have undesirable security implications. The wealth of information available to the public in this case is sufficient and in compliance with statute. CG&E remains committed to providing quality and safe reliable electric service in its service territory.

For the above-stated reasons, CG&E request that the Commission deny the OCC's Memorandum Contra CG&E's Motion for Protective Order. Further, CG&E requests that the Commission grant CG&E's motion for confidential treatment of the specific information in its Rule 26 Report.

Respectfully submitted,



Paul Colbert
Senior Counsel
The Cincinnati Gas & Electric Company
139 East Fourth Street
Cincinnati, Ohio 45202
513-287-3015

CERTIFICATE OF SERVICE

I hereby certify that a copy of CG&E's Reply to OCC's Memorandum Contra was served by first class United States Mail, postage prepaid, to the persons listed below, on this 25th day of April 2005.



Paul Colbert
Senior Counsel

Service List

Duane W. Lucky, Esq.
Assistant Attorney General
Chief, Public Utilities Section
180 East Broad Street, 9th Floor
Columbus, Ohio 43215-3793

Richard C. Reese, Esq.
Janine L. Migden-Ostrander
Consumers' Counsel
The Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485