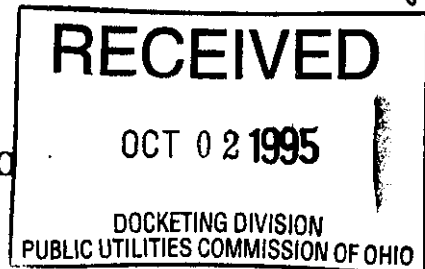


FILE

12 pgs.



BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application)
by Toledo Edison for)
Approval of an)
Economic Development Agreement)
with North Star Steel/BHP Steel)
L.L.C.)

Case No. 95910-EL-AEC

MOTION FOR A PROTECTIVE ORDER

Now comes Toledo Edison ("the Company") and moves the Commission for a protective order providing that the Economic Development Agreement filed with the Commission under seal in the above-captioned proceeding not be disclosed to the public. The reasons for this request are set forth in the accompanying Memorandum in Support, which is hereby incorporated as if fully rewritten herein.

Respectfully submitted,

Mark R. Kempic, Counsel
Centerior Energy
6200 Oak Tree Bv.
Independence, OH 44131

Attorneys for
Toledo Edison

ORIGINAL

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.
Technician Ann M. Wilson Date Processed Oct 3, 1995

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application)		
by Toledo Edison for)		
Approval of an Economic)		
Development Agreement)	Case No. 95-	-EL-AEC
with North Star Steel/BHP Steel)		
L.L.C.)		

MEMORANDUM IN SUPPORT

This case involves the application of Toledo Edison for Commission approval, pursuant to §4905.31 Ohio Rev. Code, of an Economic Development Agreement with a major new industrial customer, North Star - BHP Steel L.L.C. This customer was faced with the option of choosing several states in which to locate its new facility. The purpose of the Economic Development Agreement is to encourage North Star - BHP Steel to invest in and develop facilities in northwest Ohio for the purpose of making steel from recycled materials.

Toledo Edison and the State of Ohio competed intensely with many other utilities and states to secure this investment for northwest Ohio. This 170 mW customer will allow Toledo Edison to use its existing resources more efficiently, to the benefit of its existing customers. The option of increasing the load to 300 mW will add further benefit to customers of Toledo Edison and the citizens of Ohio. The State of Ohio as well as Toledo Edison collaborated to develop a comprehensive package to attract North Star -

BHP Steel; the Economic Development Agreement is an integral component of that package. The collaborative effort successfully persuaded North Star - BHP Steel to locate its plant in Ohio.

Nevertheless, in order to maintain Ohio as a business-friendly location, as well as to enable both North Star - BHP Steel and Toledo Edison to remain competitive, this Economic Development Agreement must be granted trade secret status by the Commission, and it must remain confidential. Ohio Rev. Code §1333.61 defines trade secrets to include any business information or plans, financial information, or listing of names, that derives independent economic value, actual or potential, from not being generally known to and not readily ascertainable by other persons who can obtain economic value from its disclosure or use, and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

As attested to in the attached affidavits of Mr. Michael Sarafolean of North Star Steel and Mr. John Wack of Centerior Service Company on behalf of Toledo Edison, this Economic Development Agreement contains trade secrets of both North Star - BHP Steel and Toledo Edison. If North Star - BHP Steel's competitors were to gain access to this Economic Development Agreement, those competitors will be able to determine the cost of electricity and the types and levels of electric service being provided to North Star - BHP Steel, all of which constitute sensitive operational data about the North Star - BHP

Steel flat-rolled mill. This information is not readily ascertainable by North Star - BHP Steel's competitors and those competitors would gain an economic advantage by gaining access to this information. Access to this significant production cost - indeed the only raw product component cost that may be available to the public, would give North Star - BHP Steel's competitors an economic advantage in selling product in a highly competitive global market. Likewise, if Toledo Edison's competitors, including utilities from other states, or its customers gain access to this Economic Development Agreement, Toledo Edison's ability to compete against those other utilities would be jeopardized, and its ability to negotiate future Economic Development Agreements with its customers will be jeopardized.

The Commission has previously granted confidential trade secret status to certain information submitted by utilities, and has denied public release of cost information that places the utility at a competitive disadvantage. *In re GTE North*, Case No. 89-934-TP-AEC, Finding and Order (December 12, 1989); *Alltel Communication Services., Inc.*, Case No. 86-771-TP-CSS, Entry (May 25, 1989). The Commission also has issued guidelines concerning the confidential treatment of special contract gas transportation rates in Cases No. 93-1636-GA-UNC, 85-800-GA-COI, *Matter of the Implementation of FERC Order 636*, Entry (December 1, 1994).

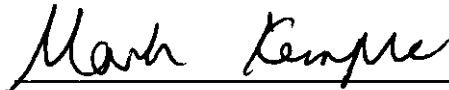
In the guidelines adopted, the Commission determined that in certain circumstances, local gas distribution companies that were filing special contract rates for their customers with the Commission were entitled to confidential treatment of information regarding the transportation rates. The guidelines provide that the rate will be held as confidential upon a showing that disclosure of the rate will impair the utility's ability to compete and jeopardize the utility's ability to optimize revenues in future negotiations. *Entry* at 22. Ohio's gas and telephone utilities are using these to seek confidential treatment of information relating to information filed with the Commission. *See e.g.* Motion for Protective Order, *In Re: Application of Columbia Gas of Ohio for Approval of an Arrangement*, Cases No. 95-750-GA-AEC, 95-751-GA-AEC (August 29, 1995).

While the majority of past Commission action concerning confidential treatment of information has focused on telecommunication and gas utilities, Toledo Edison believes that under certain unique circumstances, the same confidential treatment is appropriately afforded to electric utilities. In this particular situation, Toledo Edison and the State of Ohio were competing with several other states to acquire the North Star - BHP Steel project. Toledo Edison and the State of Ohio were competing with other states that offered complex economic development packages that were specifically crafted *for this particular* steel producer. The level of competition in securing this particular type industry to Ohio is substantially more intensive than the intrastate competition within

Ohio's telecommunication and gas utilities. Consequently, it is consistent, fair and proper for the North Star - BHP Steel Economic Development Agreement be granted trade secret status and remain confidential.

WHEREFORE, the Company prays that the Commission grant the Company's Motion and issue a Protective Order herein to protect the trade secrets contained in the Economic Development Agreement by preventing public disclosure of the Economic Development Agreement.

Respectfully Submitted,

A handwritten signature in black ink that reads "Mark Kempic". The signature is written in a cursive style and is positioned above a horizontal line.

Mark R. Kempic, Counsel

Toledo Edison, a subsidiary of

Centerior Energy Corporation
6200 Oak Tree Boulevard,
Independence, OH 44131.

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

I, John Wack, being first duly sworn, depose and say that my employer is The Centerior Service Company, where my position is the Manager of Rates and Contract Administration. Centerior Service Company provides administrative and other services to the Toledo Edison Company. I am primarily responsible for wholesale and retail rate design and rate administration activities for Toledo Edison. I am responsible for negotiating the economic provisions of Economic Development Agreements with Toledo Edison's customers. I have been involved with rate design and Economic Development Agreements for 9 years. During my tenure, I have been involved in more than 200 service agreements. I am the person primarily responsible for the Economic Development Agreement with North Star - BHP Steel.

It is my firm belief, based upon my general experience with Economic Development Agreements as well as based upon my specific experience with the particular North Star - BHP Steel Economic Development Agreement that this Economic Development Agreement constitutes a trade secret of both North Star - BHP Steel as well as of Centerior and Toledo Edison. Public disclosure of this Economic Development Agreement will cause economic harm to be suffered by North Star - BHP Steel and Centerior/Toledo Edison. Economic harm will be cause to North Star - BHP Steel in the manner attested to by Mr. Sarafolean in his affidavit. Economic harm will be caused to Centerior/Toledo Edison because release of the Economic Development Agreement or even its format will directly impair Centerior/Toledo Edison's ability to negotiate fair Economic Development Agreements with its customers in the future, and therefore, release of it would jeopardize Centerior/Toledo Edison's ability to optimize overall revenue in future negotiations.

In my experience with electric service agreements, I have only encountered a few agreements that would create such severe negative consequences if the contents were released. North Star - BHP Steel is a very unique customer of Toledo Edison. North Star - BHP Steel's electric requirements differ from any other Toledo Edison customer and an economic development package had to be structured to precisely reflect the customer's particular business, which is different than any other business within the Company's service territory. Toledo Edison's customers would be given an unfair advantage in future negotiations if they were provided access to the Economic Development Agreement, because those customers would believe that they would have the terms and conditions that would be used as a starting point for negotiations. To complicate the matter and make it even more disastrous to Centerior/Toledo Edison, those customers would attempt to negotiate the same terms and conditions that were provided to a very large, one-of-a-kind customer for themselves, whether their load characteristics support the terms and conditions or not. Because of this, if the agreement were to be released, it would be impossible to negotiate fair Economic Development Agreements with customers in the

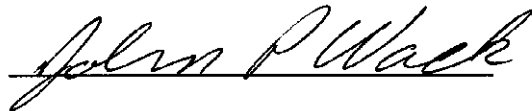
future and it would also be impossible to optimize the Company's overall revenues. Centerior/Toledo Edison's customers as well as its shareowners would be negatively and permanently harmed.

I have already been contacted by representatives from utility companies located in the State of Michigan concerning the contents of this Economic Development Agreement. I have been informed that governmental officials in Michigan are working to ensure that it will not lose another major industrial development to Ohio, as it believes happened with the North Star - BHP Steel facility. Releasing the contents of the North Star - BHP Steel Economic Development Agreement would provide Toledo Edison's competitors in Michigan with the end-product of extensive negotiations which is rightfully the intellectual property of Toledo Edison and North Star - BHP Steel.

Centerior/Toledo Edison has taken unprecedented internal efforts to keep this information confidential. The negotiations were structured on an issue-by-issue basis, so that company personnel involved in portions of the negotiations would not be privy to the entire Economic Development Agreement - in either concept or written form. Only limited key personnel have had access to the Economic Development Agreement. Draft copies of the Economic Development Agreement have been destroyed. Copies of the final Economic Development Agreement have been prohibited internally and the master agreement is kept under my personal and direct supervision and control.

This Economic Development Agreement is a trade secret of Centerior/Toledo Edison as well as of North Star - BHP Steel. Release of this document would cause Centerior/Toledo Edison and North Star - BHP Steel to suffer economic harm.

Further, affiant saith not.



Sworn to before me and subscribed in my presence, this 29 th day of September, 1995.



Notary Public

BRUCE T. ROSENBAUM, Attorney At Law
Notary Public - State of Ohio
My commission has no expiration date.
Section 147.03 R. C.

STATE OF MINNESOTA)
)
) SS:
COUNTY OF HENNEPIN)

I, Michael Sarafolean, being first duly sworn, depose and say that I am the Manager of Energy Procurement for North Star Steel Company of 15407 McGinty Road, Wayzata, MN 55391. I have been engaged in negotiating and structuring energy service agreements between large industrial customers and their respective utilities for 5 years. I am the North Star Steel employee ultimately responsible for negotiating and arranging the energy purchases for all of North Star Steel's facilities worldwide. I was the North Star Steel employee responsible for negotiating and developing the Economic Development Agreement between Toledo Edison and the North Star - BHP Steel recycled-steel flat-rolled mill in Delta, Ohio.

It is my firm belief that the Commission should consider this entire Economic Development Agreement to be a confidential trade secret, the release of which would seriously jeopardize North Star - BHP Steel's ability to compete in national and international markets.

I have extensive expertise in negotiating energy service agreements in the steel industry and in the recycled-steel industry, and I know about the types of energy service agreements in the recycled-steel industry. The entire Economic Development Agreement between North Star - BHP Steel and Toledo Edison contains proprietary and competitively sensitive business information of North Star - BHP Steel. This Economic Development Agreement contains valuable trade secrets and financial information which are not readily available nor ascertainable to North Star - BHP Steel's competitors or to the general public. North Star - BHP Steel's competitors would derive economic value from the disclosure of this Economic Development Agreement. Providing North Star - BHP Steel's competitors with access to the Economic Development Agreement would be providing them with one of North Star - BHP Steel's most significant raw material costs.

The contents of the Economic Development Agreement have such substantial economic consequences that North Star - BHP Steel has taken extraordinary internal efforts to maintain this information as confidential. In the entire North Star - BHP Steel organization, only 3 persons engaged in negotiating and structuring the Economic Development Agreement. Only those 3 persons are privy to the information contained in the Economic Development Agreement or its format. North Star - BHP Steel's internal procedures for dealing with confidential information include placing stringent restrictions on access to or discussions about the agreement.

Release of this Economic Development Agreement would enable North Star - BHP Steel's competitors to gain valuable knowledge of North Star - BHP Steel's operation and it would have irreparable negative consequences on North Star - BHP Steel's ability to compete in the global marketplace. The recycled-steel flat-rolled industry is a relatively new and therefore close-knit industry. Industry analysts are well aware of

the fact that energy currently comprises about 30% of the total cost of the final product. Industry analysts are also aware of the opening of all new recycled-steel flat-rolled mills worldwide, and are familiar with the electric service agreements for recycled-steel flat-rolled mills. These analysts, as well as North Star - BHP Steel's competitors have the ability to extrapolate costs and operating information about this mill by studying the format as well as the contents of the Economic Development Agreement. Gaining knowledge of the contents of the Economic Development Agreement provides these industry analysts with the ability to influence the market and thereby influence North Star - BHP Steel's ability to compete in that market. Because the disclosure of the format or the contents of the Economic Development Agreement would cause North Star - BHP Steel to suffer a competitive disadvantage, the entire Economic Development Agreement should be accorded confidential treatment.

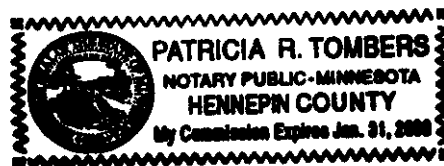
Further, affiant saith not.

Michael Saroflean

Sworn to before me and subscribed in my presence, this 29th day of September, 1995.

Patricia R. Tombers
Notary Public

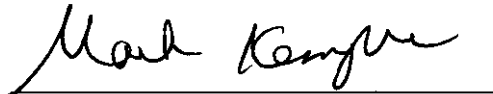
My Commission Expires:



CERTIFICATE OF SERVICE

I, Mark Kempic, do hereby certify that a copy of the foregoing Motion for a Protective Order has been served on the following parties, by first class mail, prepaid, this 2nd day of October, 1995:

Duane Luckey
Assistant Attorney General
Chief - Public Utilities Section
180 East Broad Street, 7th Floor
Columbus, OH 43215



Mark R. Kempic, Esq.