

ORIGINAL

IN THE SUPREME COURT OF OHIO

In the Matter of the Application of	:	Case No. 2013-0521
Columbus Southern Power Company and	:	
Ohio Power Company for Authority to	:	Appeal from the Public Utilities
Establish a Standard Service Offer	:	Commission of Ohio
Pursuant to §4928.143, Ohio Rev. Code,	:	
in the Form of an Electric Security Plan.	:	Public Utilities Commission of Ohio
	:	Case No. 11-346-EL-SSO
	:	Case No. 11-348-EL-SSO
In the Matter of the Application of	:	Case No. 11-349-EL-AAM
Columbus Southern Power Company and	:	Case No. 11-350-EL-AAM
Ohio Power Company for Approval of	:	
Certain Accounting Authority.	:	
	:	
The Kroger Company,	:	
	:	
and	:	
	:	
Industrial Energy Users-Ohio,	:	
	:	
Appellants,	:	
	:	
v.	:	
	:	
Public Utilities Commission of Ohio,	:	
	:	
Appellee.	:	

**MOTION FOR PROTECTIVE ORDER OF APPELLANT
INDUSTRIAL ENERGY USERS-OHIO**

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 SUPREME COURT OF OHIO

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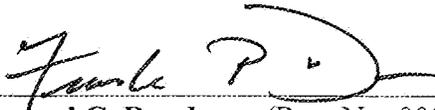
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Industrial Energy Users-Ohio,	:	
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Appellants,	:	
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v.	:	
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Public Utilities Commission of Ohio,	:	
	:	
Appellee.	:	

**MOTION FOR PROTECTIVE ORDER OF APPELLANT
INDUSTRIAL ENERGY USERS-OHIO**

The Industrial Energy Users-Ohio (“IEU-Ohio”) respectfully requests that the Court issue a Protective Order with respect to IEU-Ohio’s Confidential Supplement submitted on December 10, 2013, for the reasons set forth in the attached Memorandum in Support.

Respectfully Submitted,



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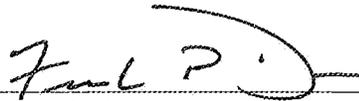
**MEMORANDUM IN SUPPORT OF APPELLANT
INDUSTRIAL ENERGY USERS-OHIO**

Contemporaneous with this Motion, IEU-Ohio has filed its Confidential Supplement. By this Motion, IEU-Ohio requests confidential treatment of its Confidential Supplement. The information for which IEU-Ohio seeks protected treatment has been marked confidential and has been considered confidential by Ohio Power Company. IEU-Ohio takes no position as to

whether the information is a confidential trade secret under Ohio law, but files this Motion for Protective Order and Memorandum in Support pursuant to a Protective Agreement executed by IEU-Ohio and Ohio Power Company. A copy of the protective agreement is attached as Exhibit 1 to this Motion and Memorandum in Support

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

Respectfully Submitted,



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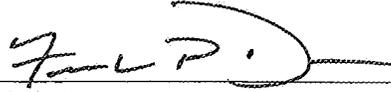
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion for Protective Order of Appellant Industrial Energy Users-Ohio* was served upon the parties of record this 10th day of December 2013 via electronic transmission, hand-delivery, or ordinary U.S. mail, postage prepaid.



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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Columbus Southern Power Company and)	
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In the Matter of the Application of)	
Columbus Southern Power Company and)	Case No. 11-349-EL-AAM
Ohio Power Company for Approval of)	Case No. 11-350-EL-AAM
Certain Accounting Authority.)	

PROTECTIVE AGREEMENT

PROTECTIVE AGREEMENT

1. This Protective Agreement shall govern the use of all Protected Materials produced by, or on behalf of, any Participant. Notwithstanding any order terminating this proceeding, this Protective Agreement shall remain in effect until specifically modified or terminated by the Attorney Examiner or the Public Utilities Commission of Ohio ("Commission").

2. A Participant may designate as protected those materials, which customarily are treated by that Participant as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that Participant or its customers to risk of competitive disadvantage or other business injury.

3. Definitions -- For purposes of this Order:
 - (a) The term "Participant" shall mean a Party as defined in Rules 4901-1-10 and 4901-1-05(D), Ohio Administrative Code.

 - (b) (1) The term "Protected Materials" means materials designated as protected in accordance with Paragraph 2 (including depositions and materials submitted in response to discovery requests) (A) filed by, provided by, or relied upon by a Participant; (B) any information contained in or obtained from such designated materials; (C) any other materials which are made subject to this Protective Agreement by the Attorney Examiner, by the Commission, by any court or other body having appropriate authority, or by agreement of the Participants; (D) notes of Protected Materials; and (E) copies of Protected Materials. The Participant producing the Protected Materials shall physically mark them on each page as "PROTECTED MATERIALS" or with words of similar import as long as the term "Protected Materials" is included in that designation to indicate that they are Protected Materials.

- (2) The term "Notes of Protected Materials" means memoranda, handwritten notes, or any other form of information (including electronic form) which copies or discloses materials described in Paragraph 3(b)(1). Notes of Protected Materials are subject to the same restrictions provided in this agreement for Protected Materials except as specifically provided in this agreement.
- (3) Protected Materials shall not include any (A) information or document contained in the files of the Commission, or any other federal or state agency, or any federal or state court, unless the information or document has been determined to be protected by such agency or court, or (B) information that is public knowledge, or which becomes public knowledge, other than through disclosure in violation of this Protective Agreement.
- (c) The term "Non-Disclosure Certificate" shall mean the certificate annexed hereto by which Participants who have been granted access to Protected Materials shall certify their understanding that such access to Protected Materials is provided pursuant to the terms and restrictions of this Protective Agreement, and that such Participants have read the Protective Agreement and agree to be bound by it. All Non-Disclosure Certificates shall be served on all parties on the official service list maintained by the Commission in this proceeding.
- (d) The term "Reviewing Representative" shall mean a person who has signed a Non-Disclosure Certificate and who is:
- (1) An attorney who has made an appearance in this proceeding for a Participant;
 - (2) Attorneys, paralegals, and other employees associated for the purposes of this case with an attorney described in (1);

- (3) An expert or an employee of an expert retained by a Participant for the purpose of advising, preparing for or testifying in this proceeding;
 - (4) A person designated as a Reviewing Representative by order of the Attorney Examiner or the Commission; or
 - (5) Employees or other representatives of Participants appearing in this proceeding with significant responsibility for these dockets.
4. Protected Materials shall be made available under the terms of this Protective Agreement only to Participants and only through their Reviewing Representatives as provided in Paragraphs 6, 7, and 8.
5. All Protected Materials shall be maintained by the Participant in a secure place. Access to those materials shall be limited to those Reviewing Representatives specifically authorized pursuant to Paragraphs 6 and 7.
6. Protected Materials shall be treated as confidential by each Participant and by the Reviewing Representative in accordance with the certificate executed pursuant to Paragraph 9. Protected Materials shall not be used except as necessary for the conduct of this proceeding, nor shall they be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding. Reviewing Representatives may make copies of Protected Materials, but such copies become Protected Materials. Reviewing Representatives may make notes of Protected Materials, which shall be treated as Notes of Protected Materials if they disclose the contents of Protected Materials.
7. Any Reviewing Representative may disclose Protected Materials to any other Reviewing Representative as long as the disclosing Reviewing Representative and the receiving Reviewing Representative both have executed a Non-Disclosure Certificate. In the event that any Reviewing Representative to whom the Protected Materials are disclosed ceases to be engaged in these

proceedings, or is employed or retained for a position whose occupant is not qualified to be a Reviewing Representative under Paragraph 3(d), access to Protected Materials by that person shall be terminated. Even if no longer engaged in this proceeding, every person who has executed a Non-Disclosure Certificate shall continue to be bound by the provisions of this Protective Agreement and the certification.

8. Subject to Paragraph 14, the Attorney Examiner shall resolve any disputes arising under this Protective Agreement. Prior to presenting any dispute under this Protective Agreement to the Attorney Examiner, the parties to the dispute shall use their best efforts to resolve it. Any participant that contests the designation of materials as protected shall notify the party that provided the protected materials by specifying in writing the materials whose designation is contested. This Protective Agreement shall automatically cease to apply to such materials ten (10) business days after the notification is made unless the designator, within said 10-day period, files a motion with the Attorney Examiner, with supporting affidavits, demonstrating that the materials should continue to be protected. In any challenge to the designation of materials as protected, the burden of proof shall be on the participant seeking protection. If the Attorney Examiner finds that the materials at issue are not entitled to protection, the procedures of Paragraph 14 shall apply.

9. All copies of all documents reflecting Protected Materials that Participants file in these dockets, including the portion of the hearing testimony, exhibits, transcripts, briefs and other documents which refer to Protected Materials, shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they are sealed pursuant to this Protective Agreement. Such documents shall be marked "PROTECTED MATERIALS" and shall be filed under seal and served under seal upon the Attorney Examiner and all Reviewing Representatives who are on the service list. For any documents reflecting Protected Materials filed under seal, redacted versions or, where an entire document is protected, a letter indicating such, shall also be filed with the Commission and served on all parties on the service list and the Attorney Examiner. Counsel for the Participant which has designated materials as

Protected Materials shall provide to all Participants who request the same, a list of Reviewing Representatives who are entitled to receive such material. Participants and Reviewing Representatives shall take all reasonable precautions necessary to assure that Protected Materials are not distributed to unauthorized persons. Service of discovery requests will be governed by the applicable provisions of the Ohio Administrative Code.

If any Participant desires to include, utilize or refer to any Protected Materials or information derived therefrom in testimony or exhibits during the hearing in these proceedings in such a manner that might require disclosure of such material to persons other than reviewing representatives, such participant shall first notify both counsel for the disclosing participant and the Attorney Examiner of such desire, identifying with particularity each of the Protected Materials. Thereafter, use of such Protected Material will be governed by procedures determined by the Attorney Examiner.

10. Nothing in this Protective Agreement shall be construed as precluding any Participant from objecting to the use of Protected Materials on any legal grounds.
11. Nothing in this Protective Agreement shall preclude any Participant from requesting the Attorney Examiner, the Commission, or any other body having appropriate authority, to find that this Protective Agreement should not apply to all or any materials previously designated as Protected Materials pursuant to this Protective Agreement. The Attorney Examiner may alter or amend this Protective Agreement as circumstances warrant at any time during the course of this proceeding.
12. Each party governed by this Protective Agreement has the right to seek changes in it as appropriate from the Attorney Examiner or the Commission.
13. All Protected Materials filed with the Commission, the Attorney Examiner, or any other judicial or administrative body, in support of, or as a part of, a motion, other pleading, brief, or other document, shall be filed and served in sealed envelopes

or other appropriate containers bearing prominent markings indicating that the contents include Protected Materials subject to this Protective Agreement.

14. If the Attorney Examiner finds at any time in the course of this proceeding that all or part of the Protected Materials need not be protected, those materials shall, nevertheless, be subject to the protection afforded by this Protective Agreement for five (5) business days from the date of receipt of the Attorney Examiner's decision, and if the Participant seeking protection files an interlocutory appeal or requests that the issue be certified to the Commission, until five (5) business days after the Commission issues its ruling. None of the Participants waives its rights to seek additional administrative or judicial remedies after the Attorney Examiner's decision respecting Protected Materials or Reviewing Representatives, or the Commission's denial of any appeal thereof.
15. In the event that a Participant is a person or entity subject to the Freedom of Information Act, Ohio's Public Records Act, or any similar law, and a person or entity seeks alleged Protected Material by a public records request from such Participant, the Participant will initially refuse to disclose such Protected Material on the basis that disclosure is prohibited by law and by this Protective Agreement. Should the person seeking such Protected Material seek to enforce disclosure, the undersigned will immediately notify the Participant which designated the material as Protected Material ("Designating Participant"), and permit the Designating Participant to resist the disclosure of the Protected Material. The Participant shall cooperate with the Designating Participant in resisting disclosure.
16. Nothing in this Protective Agreement shall be deemed to preclude any Participant from independently seeking through discovery in any other administrative or judicial proceeding information or materials produced in this proceeding under this Protective Agreement.

17. None of the Participants waives the right to pursue any other legal or equitable remedies that may be available in the event of actual or anticipated disclosure of Protected Materials.

18. The contents of Protected Materials or any other form of information that copies or discloses Protected Materials shall not be disclosed to anyone other than in accordance with this Protective Agreement and shall be used only in connection with this proceeding. Any violation of this Protective Agreement and of any Non-Disclosure Certificate executed hereunder shall constitute a violation of an order of the Commission.

On behalf of Industrial Energy Users-Ohio

Date

Date

NON-DISCLOSURE CERTIFICATE

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By: Jerome O'Donnell

Title: Partner

Representing: EDP Renewables/
Paddling Wind Farm LLC

Date: 5/17/12

Case No.: 11-346-EL-SSO
11-348-EL-SSO
11-349-EL-AAM
11-350-EL-AAM

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By: Matthew W. Wae

Title: Attorney at Bricker & Eckler, LLP

Representing: Paulding Wind Farm, LLC

Date: 5-18-12

Case No.: 11-346-EL-550, et. al.

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By: 
Chris Montgomery

Title: Attorney, Broker: Edler LLP

Representing: Palding Wind Farm II LLC

Date: 5/17/2012

Case No.: 11-346-EL-550, et al.

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By: Matt Ritchard

Title: Associate

Representing: IEU-Ohio

Date: 5-17-12

Case No.: 11-346-Eh-SSD, et. al.

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By:



Title:

OF Counsel

Representing:

IEU - Ohio

Date:

5-18-12

Case No.:

11-346 et al

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By:

Joseph Oliva / Joseph Oliva

Title:

Attorney

Representing:

IEU-Ohio

Date:

5/21/12

Case No.:

11-346-EL-SSO, et al.

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By: Frank Derr FRANK DERR

Title: Of Counsel

Representing: 18U-Intro

Date: 5/17/12

Case No.: 11-346

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By: Ed Hess Ed Hess

Title: Technical Specialist

Representing: TEU - Ohio

Date: 5/18/2012

Case No.: 11-346-PL-550
11-348-PL-550

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By: Joseph G Bowers

Title: TECHNICAL SPECIALIST

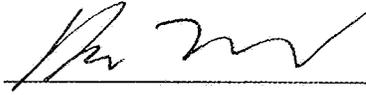
Representing: IEU-Ohio

Date: 5/18/12

Case No.: 11-346

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By:  Kevia Murray

Title: Executive Director

Representing: IEU-Ohio

Date: May 18, 2012

Case No.: 11-346-EL-550

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By: Karen Bowman

Title: Adm. Asst.

Representing: McNees Wallace + Turick

Date: 5/22/12

Case No.: 11-346-EL-550, et al.

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By: Vicki Beaulieu Payne

Title: Admin Asst.

Representing: 1211-Ohio

Date: May 18, 2012

Case No.: 11-348-ET-SSO, et al.

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By: Lillian Rene Cannon

Title: Admin Secretary

Representing: TEU-Ohio

Date: 5/18/12

Case No.s: 11-346-EL-SSO, et al

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By: Debbie Ryan
Debbie Ryan

Title: Admin. Asst.

Representing: McNees Wallace & Stenck |
IEU-Ohio

Date: 5-18-12

Case No.: 11-346-EL-SSD et. al.