

FILE

BEFORE
THE OHIO POWER SITING BOARD

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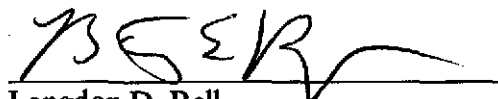
In the Matter of the Application of Norton :
Energy Storage, LLC for a Certificate of :
Environmental Compatibility and Public :
Need for an Electric Power Generating :
Facility in Norton, Ohio. :

Case No. 99-1626-EL-BGN

MOTION FOR PROTECTIVE ORDER
OF
NORTON ENERGY STORAGE, LLC

Norton Energy Storage, LLC, pursuant to Rule 4906-7-07(H)(4), Ohio Administrative Code (OAC), hereby moves for a protective order to preserve the confidentiality of certain information contained in the Annual Project Progress Status Report to OPSB Staff filed herein this date. The basis for this motion is set forth in the accompanying memorandum in support. As required by Rule 4901-7-07(H)(4)(b), OAC, three unredacted copies of the document containing the information for which protection is sought have been filed under seal.

Respectfully submitted,



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BEFORE
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MEMORANDUM IN SUPPORT
OF
MOTION FOR PROTECTIVE ORDER
OF
NORTON ENERGY STORAGE, LLC

By its entry in this docket of March 20, 2006, the Board directed Norton Energy Storage, LLC (NES) to provide Board staff with an annual update of the progress of the project that is the subject of this proceeding. In accordance with this requirement, NES has prepared such an update, and has, this date, submitted the update to the Board. Although the Board's entry appears to contemplate that the update be provided directly to Board staff, because the update contains certain competitively-sensitive information, NES has filed the update in the formal docket to permit it to seek a protective order to preserve the confidentiality of this information. Thus, in accordance with Rule 4906-7-07(H), Ohio Administrative Code (OAC), NES has filed three copies of the confidential, unredacted version of the update under seal, and a public, redacted version of the update in the public docket. By the foregoing motion, NES requests that the information redacted from the public, redacted version of the update be protected from public disclosure pursuant to said rule.

Rule 4906-7-07(H) provides, in pertinent part, as follows:

(4) Upon motion of any party or person filing a document with the board's docketing division relative to a case before the board, the board or the administrative law judge assigned to the case may issue any order which is necessary to protect the confidentiality of information contained in the document, to the extent that state or federal law prohibits release of the information, including where it is determined that both of the following criteria are met: The information is deemed by the board or administrative law judge assigned to the case to constitute a trade secret under Ohio law, and where non-disclosure of the information is not inconsistent with the purpose of Title 49 of the Revised Code. Any order issued under this paragraph shall minimize the amount of information protected from public disclosure.

NES submits that, in accordance with the criteria set forth in this rule, state law prohibits release of the information for which protection is sought and that non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code. As is clear from the context in the redacted version of the update, the redacted information is the identity of a party with whom NES is engaged in on-going business negotiations. This information is competitively-sensitive trade secret information, the public disclosure of which could compromise these negotiations. Further, because the Board and its staff will have full access to the information for which protection is requested, the Board's ability to perform its statutory obligations in connection with the subject project will in no way be impaired by granting this motion. Indeed, no legitimate purpose would be served by public disclosure of the designated information.

WHEREFORE, NES respectfully requests that the information that has been redacted from the public, redacted version of the update filed this date be granted protected status and that the Commission grant its motion for a protective order.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'LDB', is written over a horizontal line.

Langdon D. Bell

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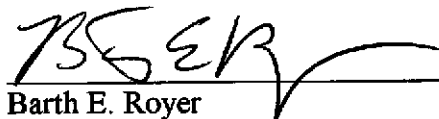
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Attorneys for

Norton Energy Storage, LLC

CERTIFICATE OF SERVICE

I hereby certify that that a copy of the foregoing has been served upon the parties listed below by first-class U.S. mail, postage prepaid, this 22nd day of February 2007.


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