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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

RECEIVED-DOCKETING DIV

IN THE MATTER OF CHAMPION)
ENERGY SERVICES, LLC'S ANNUAL)
ALTERNATIVE ENERGY)
PORTFOLIO STATUS REPORT)

2011 MAY -2 PM 3:02
Case No. 11-2199-EL-ACP
PUCO

MOTION FOR PROTECTIVE ORDER OF
CHAMPION ENERGY SERVICES, LLC

Pursuant to Rule 4901-1-24(D), Champion Energy Services, LLC ("CES") hereby moves for a protective order to preserve the confidentiality of certain competitively-sensitive information contained in Section B and Exhibit A to its 2010 Alternative Energy Portfolio Status Report filed on this date in the above-captioned proceeding.

The basis for this motion is set forth in the accompanying memorandum in support. As required by Rule 4901-1-24(D)(2), CES has filed under seal three copies of the confidential and unredacted Alternative Energy Portfolio Status Report containing all of Sections A and B and Exhibit A, for which protection is sought.

Dated: May 2, 2011

Respectfully submitted,



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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

IN THE MATTER OF CHAMPION)
ENERGY SERVICES, LLC'S ANNUAL)
ALTERNATIVE ENERGY)
PORTFOLIO STATUS REPORT)

Case No. 11-_____-EL-ACP

**MEMORANDUM IN SUPPORT OF MOTION FOR
PROTECTIVE ORDER OF
CHAMPION ENERGY SERVICES, LLC**

Rule 4901:1-40-05(A)(1) requires jurisdictional electric utilities and electric services companies to submit annual alternative energy portfolio status reports regarding their compliance, for the preceding calendar year, with the advanced and renewable energy benchmarks set forth in R.C. 4928.64(B) and Rule 4901:1-40-03(A). In accordance with this Rule, CES has, as of this date, filed the public and confidential versions of its 2010 Alternative Energy Portfolio Status Report. Exhibit A to the report details how CES plans to meet its alternative energy benchmarks through the purchasing of renewable energy credits ("RECs") and solar renewable energy credits ("SRECs") for the next ten years.

Because these details constitute competitively sensitive information, CES has redacted part of Sections A and B and all of Exhibit A in the public version filed in the public docket, and by this motion seeks a protective order from this Commission to prevent public disclosure of that same information, which is unredacted in the contemporaneously filed confidential version.

In accordance with Rule 4901-1-24(D)(2), CES has filed herewith three copies of the confidential and unredacted version of the Alternative Energy Portfolio Status Report, containing all of Sections A and B and Exhibit A.

Rule 4901-1-24(D) provides, in pertinent part, as follows:

(D) Upon motion of any party or person filing a document with the commission's docketing division relative to a case before the commission, the commission, the legal director, the deputy legal director, or the attorney examiner 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 the information is deemed by the commission, the legal director, or the attorney examiner 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.

CES' Motion for Protective Order is consistent with the criteria governing the issuance of protective orders set forth in the above rule, in that state law prohibits release of the information for which protection is sought and because non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code.

If disclosed to its competitors, the exact amount of CES' calculations of its benchmarks for electricity generated from renewable and solar energy resources for the year 2010 to meet its Non-Ohio Renewable, Ohio Renewable, and Non-Ohio Solar benchmarks, and its plan of acquisition of RECs and SRECs to meet these benchmarks, would damage CES' position in the Ohio retail electric market. Competitively-sensitive information of this type is routinely accorded protected status by the Commission pursuant to Rule 4901-1-24(A)(7) based on its determination that such information constitutes a "trade secret, or other confidential research, development, [or] commercial information under Ohio law." Indeed, the statutory definition of a "trade secret" set out in R.C. 1333.61(D) includes "business information" that "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."

In a competitive environment, disclosure of CES' REC acquisition strategy would disadvantage CES, particularly to the extent that certain types of RECs may be in short supply. Thus, CES treats the information that is the subject of its Motion as proprietary, confidential business information, and does not reveal this information publicly.

The Ohio Supreme specifically cited "the volatility and competitiveness of the electric industry" as a factor in affirming a Commission decision to accord protection to certain business information, stating that "(e)xposing a competitors business strategies and pricing points would likely have a negative impact on that provider's viability."¹ Moreover, in considering similar requests for protection in connection with the filing of the 2009 alternative energy supply portfolio reports, the Commission granted motions for protective orders with respect to the very same information – i.e., the details and sources of RECs retired to meet benchmark obligations – that is the subject of the CES Motion.² The information contained in Section B and Exhibit A is entitled to similar protection here.

Rule 4901-1-24(D)(1) provides that the public version of documents containing information for which protection is requested "should be filed with only such information redacted as is essential to prevent disclosure of the allegedly confidential information." In this instance, CES has redacted its calculations from Sections A and B of the public version of the filing, and has redacted all of Exhibit A from the public version of the filing (as this requirement would entail submitting a blank reporting form).

¹ See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 121 Ohio St.3d 362, at 370, 2009-Ohio-604 (2009).

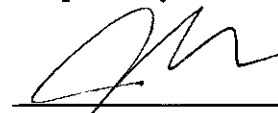
² See, e.g., *In the Matter of the Application of FirstEnergy Solutions Corp. for Approval of its Alternative Energy Annual Status Report*, Case No. 10-467-EL-ACP (Entry dated January 5, 2011).

Finally, because the Commission and its staff will have full access to the information for which protection is requested, the Commission's ability to review this information will in no way be impaired by granting this motion, and no legitimate purpose would be served by public disclosure of the designated information.

CES respectfully requests that part of Sections A and B and all of Exhibit A to its 2010 Alternative Energy Supply Portfolio Status Report be granted protected status and that the Commission grant the Motion.

Dated: May 2, 2011

Respectfully submitted,



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