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09-0949-EL-AGG

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November 22, 2011

**VIA OVERNIGHT DELIVERY**

Public Utilities Commission of Ohio  
Docketing Division  
180 East Broad Street  
Columbus, OH 43215-3793

RE: Case No. 09-949-EL-AGG *In the Matter of the Application of Reflective Energy Solutions, LLC for Renewal of its Certification as Aggregator/Power Broker*

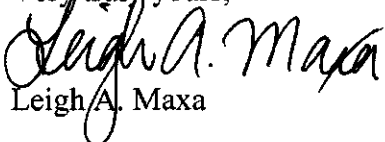
Case No. 09-950-GA-AGG *In the Matter of the Application of Reflective Energy Solutions, LLC for Renewal of its Certification as Retail Natural Gas Aggregator/Broker*

Dear Sir/Madam:

This office represents Reflective Energy Solutions, LLC with respect to the above-referenced applications. Enclosed please find the original and ten (10) copies each of two (2) Motions for Protective Order for filing on behalf of Reflective Energy Solutions, LLC in the above-referenced cases. Also, enclosed please find two (2) envelopes, each containing the original and three (3) copies of Exhibits C-3 and C-5, for filing under seal in the respective cases pursuant to the Motions. Please file in your customary manner and return a time-stamped copy to me in the envelope provided.

Please contact me if you have any questions or require any additional information.

Very truly yours,

  
Leigh A. Maxa

Enclosures

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**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Application of )  
Reflective Energy Solutions, LLC for )  
Renewal of its Certification as Aggregator )  
and Power Broker )**

**Case No. 09-0949-EL-AGG**

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**MOTION FOR PROTECTIVE ORDER**

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Pursuant to Section 4901-1-24(D) of the Ohio Administrative Code, Reflective Energy Solutions, LLC ("RES") respectfully moves the Public Utilities Commission of Ohio for an Order protecting the confidentiality of the information contained in Exhibits C-3 and C-5 submitted in connection with RES's Renewal Application for Aggregators/Power Brokers. The grounds for this Motion are set forth in the attached Memorandum in Support.

Dated: November 22, 2011

Respectfully submitted,



John B. Schomer (#0055640)

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## MEMORANDUM IN SUPPORT OF MOTION FOR PROTECTIVE ORDER

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### I. BACKGROUND

Reflective Energy Solutions, LLC (“RES”) seeks an order protecting the confidentiality of the information contained in Exhibits C-3 and C-5 filed with the Public Utilities Commission of Ohio (the “Commission”) in connection with RES’s Renewal Application for Aggregators/Power Brokers (the “Electric Renewal Application”).

On or about November 4, 2011, RES filed its Electric Renewal Application with the Commission, with Exhibits C-3 and C-5 thereto in redacted form. On or about November 15, 2011, RES was informed that its Electric Renewal Application was deficient for failing to include content in Exhibits C-3 and C-5.

RES is contemporaneously filing un-redacted copies of Exhibits C-3 and C-5 to its Electric Renewal Application under seal pursuant to this Motion, with each page marked as “Confidential”. Exhibit C-3 contains RES’s officer certified financial statements, and Exhibit C-5 contains RES’s forecasted financial statements.

### II. LAW AND ARGUMENT

Under Ohio Administrative Code Section 4901-1-24(D):

Upon motion of any party or person with regard to the filing of 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 an attorney examiner **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, the deputy legal director, or the attorney examiner to constitute a trade secret under Ohio law, and where nondisclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code.

(Emphasis added). RES seeks to protect the confidentiality of the information contained in Exhibits C-3 and C-5 filed with the Commission in connection with its Electric Renewal Application.

Ohio Revised Code Section 4928.08(B) provides:

No electric utility, electric services company, electric cooperative, or governmental aggregator shall provide a competitive retail electric service to a consumer in this state on and after the starting date of competitive retail electric service without first being certified by the public utilities commission regarding **its managerial, technical, and financial capability to provide that service and providing a financial guarantee** sufficient to protect customers and electric distribution utilities from default.

(Emphasis added). In keeping with this mandate, the Commission requires an applicant who wishes to serve as an aggregator and power broker to provide the Commission with, among other things, the applicant's two (2) most recent years of audited or officer-certified financial statements (attached to the Electric Renewal Application as Exhibit C-3) and two (2) years of forecasted financial statements for the applicant (attached to the Electric Renewal Application as Exhibit C-5).

The detailed financial information requested by the Commission is highly proprietary information and constitutes trade secrets under Ohio law. Under Ohio Revised Code Section 1333.61(D):

"Trade Secret" means information, including the whole or any portion or phase of...any business information or plans, financial information...that satisfies both of the following:

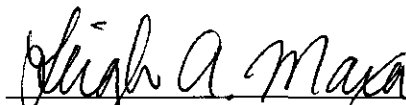
- (1) It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.
- (2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

RES is a privately held limited liability company whose financial information is not publicly available and is not generally known. If this sensitive information is disclosed to the public, RES's competitors will unjustly benefit therefrom. Accordingly, the information contained in Exhibits C-3 and C-5 to RES's Electric Renewal Application clearly falls within the scope of the Ohio Revised Code's definition of a "trade secret." Under these circumstances, the Commission has the authority to issue a protective order to prevent the public disclosure of RES's confidential and trade secret information. See O.A.C. 4901-1-24(D).

WHEREFORE, pursuant to Ohio Administrative Code Section 4901-1-24(D), Reflective Energy Solutions, LLC respectfully requests that the Commission grant its Motion and issue a Protective Order to maintain the information set forth in Exhibits C-3 and C-5 of RES's Electric Renewal Application under seal and confidential.

Dated: November 22, 2011

Respectfully submitted,



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