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BEFORE  
THE PUBLIC UTILITY COMMISSION OF OHIO

PUCO

IN THE MATTER OF CHAMPION	)	
ENERGY SERVICES, LLC'S ANNUAL	)	Case No. 12- <u>1260</u> -EL-ACP
ALTERNATIVE ENERGY	)	
PORTFOLIO STATUS REPORT AND PLAN	)	
FOR COMPLIANCE WITH FUTURE ANNUAL	)	
ADVANCED AND RENEWABLE ENERGY	)	
BENCHMARKS	)	

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MOTION FOR PROTECTIVE ORDER OF  
CHAMPION ENERGY SERVICES, LLC

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Pursuant to Rule 4901-1-24(D), Ohio Administrative Code ("O.A.C."), Champion Energy Services, LLC ("Champion") hereby moves for a protective order to preserve the confidentiality of certain competitively-sensitive information contained in Section II and Exhibit A to its alternative energy portfolio status report for calendar year 2011 and plan for compliance with future annual advanced and renewable energy benchmarks ("Annual 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), O.A.C., Champion has filed under seal three copies of the confidential and unredacted Annual Report.

WHEREFORE, Champion respectfully requests that its motion be granted.

Respectfully submitted,



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April 17, 2012

**BEFORE  
THE PUBLIC UTILITY COMMISSION OF OHIO**

IN THE MATTER OF CHAMPION	)	
ENERGY SERVICES, LLC'S ANNUAL	)	Case No. 12-____-EL-ACP
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ADVANCED AND RENEWABLE ENERGY	)	
BENCHMARKS	)	

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

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Rule 4901:1-40-05(A)(1), Ohio Administrative Code ("O.A.C."), requires jurisdictional electric utilities and electric services companies to submit annual alternative energy portfolio status reports regarding their compliance with the advanced and renewable energy benchmarks set forth in Section 4928.64(B), Revised Code, and Rule 4901:1 -40-03(A), O.A.C., for the preceding calendar year. In accordance with these provisions, Champion Energy Services, LLC ("Champion") has, this date, filed its alternative energy portfolio status report for calendar year 2011 and plan for compliance with future annual advanced and renewable energy benchmarks ("Annual Report") in the above-captioned proceeding.

Because the Annual Report contains competitively sensitive information, Champion has redacted portions of Section II and Exhibit A from the version that Champion filed publicly, and seeks a protective order from the Commission to prevent public disclosure of the redacted information. In accordance with Rule 4901-1-24(D)(2), O.A.C., Champion has filed three copies of the confidential and unredacted version of the Annual Report under seal.

Rule 4901-1-24(D), O.A.C., 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.

Champion submits that its Motion for Protective Order is consistent with the criteria governing the issuance of protective orders set forth in the above rule, in that protection is sought for information that constitutes a trade secret under Ohio law and because non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code.

Champion redacted information from Section II and Exhibit A of its Annual Report that included projected annual retail electric sales and calculations based on those projections. Disclosure of this information, especially to competitors, would damage Champion's position in the Ohio retail electric market. The Ohio Supreme Court has specifically cited the "the volatility and competitiveness of the electric industry" as a factor in affirming a Commission decision to accord protection to certain business information, stating in pertinent part that "(e)xposing a competitors business strategies [ ] would likely have a negative impact on that provider's viability."<sup>1</sup>

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

Competitively-sensitive information of this type is protected from disclosure because it constitutes a “trade secret, or other confidential research, development, commercial, or other information.” The statutory definition of a “trade secret” set out in Section 1333.61(D), Revised Code, includes “business information” that satisfies both of the following: “(1) [i]t 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[;]” and (2) [i]t is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” Champion’s competitors can obtain economic value from disclosure of Champion’s sales projections, meaning Champion itself derives independent economic value from these projections not being generally known, and Champion has taken all reasonable measures to maintain the secrecy of this information, including that these projections are not known outside of Champion.

Rule 4901-1-24(D)(1), O.A.C., 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, Champion has redacted only its projected sales and calculations based thereon from the publicly-filed version of its Annual Report.

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.

WHEREFORE, Champion respectfully requests that the information redacted from Section II and Exhibit A to its Annual Report be granted protected status and that the Commission grant its Motion.

Respectfully submitted,



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