

ZACHARY D. KRAVITZ
DIRECT: 614.334.6117
zkravitz@taftlaw.com

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June 18, 2012

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Betty McCauley
Chief of Docketing
The Public Utilities Commission of Ohio
180 E. Broad Street, 11th Floor
Columbus, Ohio 43215

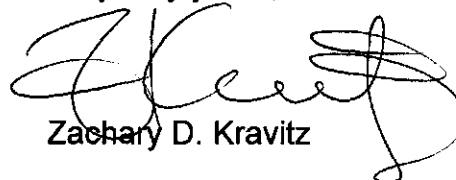
Re: In the Matter of the Application of America Approved Commercial, LLC for
Certification as a Power Broker.
Case No. 12-1749-EL-AAG

Dear Ms. McCauley:

Please find attached for filing in the above-referenced case, America Approved Commercial, LLC's Motion for Protective Treatment and Confidential Exhibit C-5 filed under seal.

Thank you for your assistance. Please do not hesitate to contact me with any questions.

Very truly yours,


Zachary D. Kravitz

Enclosures

31252142.1

CHESTER WILLCOX & SAXBE
Has joined Taft Law

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BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of :
America Approved Commercial, LLC for :
Certification as a Power Broker :

Case No. 12-1749-EL-AAG

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**AMERICA APPROVED COMMERCIAL, LLC'S
MOTION FOR PROTECTIVE TREATMENT**

America Approved Commercial LLC d/b/a America Approved Energy Services ("America Approved Commercial"), by its attorneys and pursuant to Section 4901-1-24(D) of the Public Utilities Commission of Ohio's ("Commission's") Rules, move for a protective order keeping confidential the designated confidential and/or proprietary information concurrently filed under seal with this motion in the above-captioned docket.

The documents for which protective treatment is sought are found in Exhibit C-5 Financial Arrangements ("Confidential Documents") contained in America Approved Commercial's Application for Certification as a Power Broker ("Application"). Exhibit C-5 has been filed concurrently with this motion under seal with the Commission. The reasons underlying this motion are detailed in the attached Memorandum in Support. Consistent with the requirements of Section 4901-1-24(D) of the Commission's Rules, three unredacted copies of the Confidential Documents have been simultaneously filed under seal.

Respectfully submitted,



Zachary D. Kravitz (0084238)

Email: zkravitz@taftlaw.com

Direct Dial: (614) 334-6117

TAFT STETTINIUS & HOLLISTER LLP

65 East State Street, Suite 1000

Columbus, Ohio 43215

Facsimile: (614) 221-2007

Attorney for America Approved
Commercial, LLC

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	:	
America Approved Commercial, LLC for	:	Case No. 12-1749-EL-AAG
Certification as a Power Broker	:	
	:	

**MEMORANDUM IN SUPPORT OF
MOTION FOR PROTECTIVE TREATMENT**

Pursuant to O.A.C. § 4901:1-24(D), America Approved Commercial requests protective treatment of Exhibit C-5 Financial Arrangements contained in America Approved Commercial's Application for Certification as a Power Broker ("Application"), filed simultaneously with this Motion. The information for which protection is sought includes competitively sensitive information and proprietary business and financial information relating to America Approved Commercial's business operations, comprising of trade secrets. The public release of this information would cause harm to America Approved Commercial and its future operations and would compromise its ability to compete with other power brokers on an equal basis.

The Commission's Rules allow for protective treatment of certain confidential information filed at the Commission in order to prevent disclosure of such information. OAC 4901-1-24(D) states in part:

“(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. Any order issued under this paragraph shall minimize the amount of information protected from public disclosure."

(emphasis added).

Ohio law recognizes the need to provide protective treatment to information such as the Confidential Documents. Under R.C. 1333.61(D), "Trade secret" means:

"information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement, or any business information or plans, financial information, or listing of names, addresses, or telephone numbers, 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."

Expounding upon the definition of "trade secret," the Ohio Supreme Court has delineated factors to be considered when analyzing a trade secret claim:

(1) The extent to which the information is known outside the business, (2) the extent to which it is known to those inside the business, *i.e.*, by the employees, (3) the precautions taken by the holder of the trade secret to guard the secrecy of the information, (4) the savings effected and the value to the holder in having the information as against competitors, (5) the amount of effort or money expended in obtaining and developing the information, and (6) the amount of time and expense it would take of others to acquire and duplicate information.

State ex. rel. The Plain Dealer v. Ohio Dept. of Ins. (1997), 80 Ohio St. 3d 513, 524-525. The Commission regularly grants motions for protective orders to protect the

confidential trade secret status of exhibits to competitive retail service provider power broker/aggregator applications. See e.g. *Palmer Energy Corporation*, Case No. 10-1081-EL-AAG (Entry October 21, 2010); *RD Energy, Inc.* Case No. 10-72-EL-AGG (Entry March 26, 2010); see also *Buckeye Energy Brokers, Inc.*, Case No. 02-1676-GA-AGG (Entry July 15, 2003)(explaining that “income statements and balance sheet information can be considered a trade secret and afforded confidential treatment”).

The definition of “trade secret” clearly reflects the state policy favoring the protection of trade secrets such as the financial information which is the subject of this motion. The Confidential Documents consist of forecasted financial statements that are proprietary, confidential and that constitute trade secrets. Public disclosure of this information would jeopardize America Approved Commercial's business position and its ability to compete. By examining the Confidential Documents, competitors could reasonably estimate America Approved Commercial's potential growth, market share and margins. Competitors could use the Confidential Documents to make strategic decisions in response to America Approved Commercial's Application.

The information contained in the Confidential Documents is not generally known by the public, is held in confidence in the normal course of business, and has never appeared in the public record. The Confidential Information sought to be protected is disclosed to only a few key personnel at America Approved Commercial.

America Approved Commercial is a privately-held company and, therefore, would be especially vulnerable if protective treatment was not granted. Indeed, the Commission has previously found the need for protective treatment to be especially

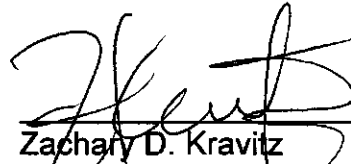
“persuasive for the privately held companies.”¹

Lastly, granting confidential treatment to the information will not impair the purposes of Ohio Revised Code Title 49, because the documents filed under seal will allow the Commission and Staff to have full access to the information.

The reasons set forth above demonstrate that the information contained in the Confidential Documents has actual, substantial independent economic value from not being generally known, and not being ascertainable by proper means by persons who would derive economic value from disclosure. Public disclosure of the Confidential Documents will cause substantial harm to America Approved Commercial's business and competitive interests. Thus, America Approved Commercial respectfully requests the Commission to grant an order to protect the confidentiality of the Confidential Documents.

¹ See *In the Matter of the Applications of the Following Entities for a Certificate to Provide Competitive Retail Natural Gas Service in Ohio: NICOR Energy L.L.C., Vectren Retail LLC, d.b.a. Vectren Source, Shell Energy Services Co. L.L.C., Volunteer Energy Services Inc., ACN Energy Inc., Energy America LLC, FirstEnergy Solutions Corp., AEP Ohio Retail Energy LLC, Energy Cooperative of Ohio, MidAmerica Energy Company, ProLiance Energy LLC, Metromedia Energy Inc., and UGI Energy Services Inc., d.b.a. GASMARK*, Case Nos. 02-1654-GA-CRS, 02-1668-GA-CRS, 02-1680-GA-CRS, 02-1786-GA-CRS, 02-1828-GA-CRS, 02-1829-GA-CRS, 02-1864-GA-CRS, 02-1889-GA-CRS, 02-1891-GA-CRS, 02-1893-GA-CRS, 02-1909-GA-CRS, 02-1926-GA-CRS, 02-1968-GA-CRS, Entry, (June 14, 2003); See *Id.*, at para. 3, p. 2. See also *In the Matter of the Applications of: Vectren Retail, LLC, d/b/a Vectren Source, Interstate Gas Supply, Inc., Shell Energy Services Co., L.L.C., and FirstEnergy Solutions Corp. for Certification as Retail Natural Gas Suppliers in the State of Ohio; In the Matter of the Application of Direct Energy Services, LLC for Renewal of Certification as a Competitive Retail Natural Gas Supplier and for Approval to Transfer that Certification*, Case Nos. 02-1668-GA-CRS, 02-1683-GA-CRS, 02-1680-GA-CRS, 02-1864-GA-CRS, 02-1829-GA-CRS, Entry (Aug. 11, 2004).

Respectfully submitted,

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

Zachary D. Kravitz (0084238)

Email: zkravitz@taftlaw.com

Direct Dial: (614) 334-6117

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65 East State Street, Suite 1000

Columbus, Ohio 43215

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Attorney for America Approved
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