

FILE

4

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

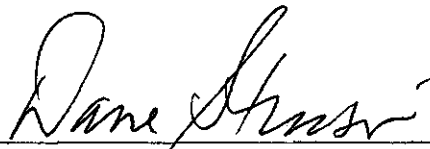
In the Matter of the Application of Spark Energy, L.P. )  
for a Renewal Certificate as a Competitive Retail ) Case No. 10-622-EL-CRS  
Electric Service Provider in Ohio. )

**MOTION FOR PROTECTIVE ORDER**

Pursuant to Rule 4901-1-24(D) of the Ohio Administrative Code (the "O.A.C."), Spark Energy, L.P., ("Spark") respectfully moves the Public Utilities Commission of Ohio (the "Commission") to issue a protective order to protect the confidentiality and prohibit disclosure of certain highly confidential and proprietary information filed in connection with Spark's application for authority to operate as a competitive retail electric service provider. The documents in Exhibit C-3 ("Financial Statements"), Exhibit C-4 ("Financial Arrangements"), and Exhibit C-5 ("Forecasted Financial Statements") contain competitively sensitive and highly proprietary business financial information composed of trade secrets. Pursuant to the requirements of 4091-1-24(D) of the O.A.C., Spark hereby files under seal three unredacted copies of the confidential information sought to be protected by this Motion.

The grounds for the instant Motion are set forth in the attached Memorandum in Support.

Respectfully Submitted,



Dane Stinson, Esq.  
BAILEY CAVALIERI LLC  
One Columbus  
10 West Broad Street, Suite 2100  
Columbus, Ohio 43215  
(614) 221-3155 (telephone)  
(614) 221-0479 (fax)

Counsel for Spark Energy, LP

RECEIVED-DOCKETING DIV

2012 JUN 22 PM 12:15

PUCO

---

**MEMORANDUM IN SUPPORT OF SPARK ENERGY'S  
MOTION FOR PROTECTIVE ORDER**

---

Contemporaneously with this Motion for Protective Order and Memorandum in Support, Spark files its Renewal Application for Certification as a Competitive Retail Electric Service ("CRES") Provider. The Application contains certain information and materials required in accordance with the Commission's certification filing instructions for CRES providers and Rule 4901-1-24, O.A.C. As part of the Application, the Commission requests information regarding Spark's financial statements, filed as Exhibit C-3 to the Application, Spark's financial arrangements, filed as Exhibit C-4 to the Application, and Spark's forecasted financial statements, filed as Exhibit C-5 to the Application (the "Confidential Information"). Spark has submitted the Confidential Information as exhibits to the Application under seal because they contain competitively sensitive and highly proprietary business financial information that requires confidential treatment. Therefore, Spark requests that the Commission issue an order to protect the confidentiality and prohibit the disclosure of the Confidential Information.

Rule 4901-1-24(D), O.A.C., provides for the issuance of an order to protect the confidentiality of information contained in documents filed at the Commission to the extent that state and federal laws prohibit the release of such information and where nondisclosure of the information is not inconsistent with the purpose of Title 49 of the Revised Code ("R.C."). State law recognizes the need to protect information that is confidential in nature, as is the Confidential Information. Section 4928.06(F) specifically permits the Commission to grant confidentiality to competitive information.<sup>1</sup> Sections 4901.12 and 4905.07, R.C., facilitate the

---

<sup>1</sup> Section 4928.06(F), R.C., provides: "(F) An electric utility, electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code shall provide the commission with such information, regarding a competitive retail electric service for which it is subject to

protection of trade secrets in the Commission's possession.<sup>2</sup> Both Sections 4901.12 and 4905.07, R.C., reference Section 149.43, R.C., thereby incorporating the provision that excepts from the public record information and records the release of which is prohibited by law.<sup>3</sup>

State law also prohibits the release of information meeting the definition of a trade secret.<sup>4</sup> The Confidential Information includes competitively sensitive and highly proprietary business financial information falling within the statutory characterization of a trade secret as defined by Section 1333.61(D).

Spark is not a public company. Spark asserts that the Confidential Information is not generally known by the public, is held in confidence in the normal course of business, and that any public dissemination of such information or any portion thereof would harm Spark and give an undue advantage to Spark's retail electric competitors in Ohio. Additionally, the non-disclosure of the information will not impair the purposes of Title 49, as the Commission and its

---

certification, as the commission considers necessary to carry out this chapter. An electric utility shall provide the commission with such information as the commission considers necessary to carry out divisions (B) to (E) of this section. The Commission shall take such measures as it considers necessary to protect the confidentiality of any such information."

<sup>2</sup>Section 4901.12, R.C., provides: "Except as provided in section 149.43 of the Revised Code and as consistent with the purpose of Title XLIX [49] of the Revised Code, all proceedings of the public utilities commission and all documents and records in its possession are public records."

Section 4905.07, R.C., provides: "Except as provided in section 149.43 of the Revised Code and as consistent with the purpose of Title XLIX [49] of the Revised Code, all facts and information in the possession of the public utilities commission shall be public, and all reports, records, files, books, accounts, papers and memorandums of every nature in its possession shall be open to inspection by interested parties or their attorneys."

<sup>3</sup>Section 149.43(A)(1)(v), R.C., provides, in part: "Public Record" does not mean records the release of which is prohibited by state or federal law."

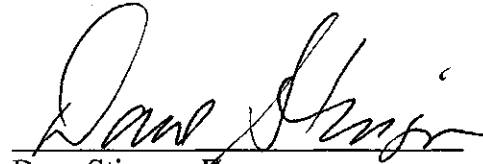
<sup>4</sup>Section 1333.61(D), R.C., defines trade secret to mean "information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique or improvement, or any business information or plans, financial information, or listing of names, addresses, or telephone numbers, that satisfies both 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.

staff will have full access to the requested information. For the foregoing reasons, the Confidential Information contained in Exhibit C-3, Exhibit C-4, and Exhibit C-5, filed in connection with Spark's Renewal Application, clearly constitutes confidential and proprietary information and a trade secret pursuant to the foregoing requirements and authorities and should be afforded confidential treatment by the Commission.

WHEREFORE, Spark Energy, L.P., respectfully requests that its Motion for Protective Order be granted for the reasons set forth herein.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Dane Stinson", is written over a horizontal line.

Dane Stinson, Esq.

BAILEY CAVALIERI LLC

One Columbus

10 West Broad Street, Suite 2100

Columbus, Ohio 43215

(614) 221-3155 (telephone)

(614) 221-0479 (fax)

Counsel for Spark Energy, LP