

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of :  
KNG Energy, Inc. for Approval of a : Case No. 11-3152-GA-AEC  
Natural Gas Transportation Service :  
Agreement with Ohio Gas Energy Service. :

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MOTION OF KNG ENERGY, INC.  
FOR  
EXTENSION OF PROTECTIVE ORDER

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Pursuant to Rule 4901-1-24, Ohio Administrative Code, KNG Energy, Inc. ("KNG"), hereby moves for an extension of the protective order issued by the Commission in its June 15, 2011 finding and order in this docket for those reasons set forth in the accompanying memorandum.

WHEREFORE, KNG respectfully requests that its motion be granted.

Respectfully submitted,



Barth E. Royer  
Bell & Royer Co., LPA  
33 South Grant Avenue  
Columbus, Ohio 43215-3900  
(614) 228-0704 - Telephone  
(614) 228-0201 - Fax  
[BarthRoyer@aol.com](mailto:BarthRoyer@aol.com)

Attorney for KNG Energy, Inc.

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MEMORANDUM IN SUPPORT  
OF  
MOTION OF KNG ENERGY, INC.  
FOR  
EXTENSION OF PROTECTIVE ORDER

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By its May 23, 2011 application in this case, KNG Energy, Inc. ("KNG") sought Commission approval of a natural gas transportation service agreement ("Agreement") between KNG and Ohio Gas Energy Service ("OGES") pursuant to Section 4905.31, Revised Code. In conjunction with its application, KNG filed a motion for a protective order with respect to certain competitively-sensitive price and price-related information contained in said Agreement. In accordance with Rule 4901-1-24, Ohio Administrative Code ("OAC"), KNG filed a redacted version of the Agreement in the public docket as Attachment A to the application and filed the complete, unredacted version of the Agreement under seal.

The Commission granted KNG's application and motion for a protective order by its entry in this docket of June 15, 2011. In accordance with Rule 4901-1-24, Ohio Administrative Code ("OAC"), the Commission's entry provided that the protective order prohibiting disclosure of the information filed under seal would automatically expire eighteen (18) months from the date of said entry, and that any party wishing to extend this confidential treatment should file an appropriate motion at least forty-five (45) days in advance of the expiration date setting forth the

need for continued protection from disclosure. Consistent with this directive, KNG now requests an extension of the protective order, which would otherwise automatically expire December 15, 2012.

Rule 4901-1-24(D), OAC, 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.

In its initial motion for a protective order, KNG argued that, consistent with the criteria set forth in the above rule, state law prohibited the release of the terms redacted from the public version of the Agreement submitted as Attachment A to the application, that non-disclosure of said information was not inconsistent with the purposes of Title 49 of the Revised Code, and that, because the information for which protection was sought was limited to the price and price-related terms of the Agreement, the amount of information protected from public disclosure would be minimized.

The specific information for which continued protection is now being sought is, again, limited to the price and price-related terms of the Agreement. As noted in KNG's initial motion for a protective order, such terms are routinely accorded protected status by the Commission based on a determination that competitively-sensitive information of this type constitutes a "trade secret, or other confidential research, development, (or) commercial information under Ohio

law.”<sup>1</sup> Indeed, the statutory definition of a “trade secret” 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.”<sup>2</sup>

In granting KNG’s initial motion for a protective order, the Commission recognized that price and price-related terms of a natural gas transportation agreement fall within the above statutory definition, stating that the information KNG sought to protect constituted trade secret information under 1333.61(D), Revised Code, as well as the applicable judicial precedent, and that nondisclosure of this information is not inconsistent with the purposes of Title 49 of the Revised Code.”<sup>3</sup> The information for which continued protection is sought is no less competitively sensitive than it was at the time the application was filed, and will remain competitively sensitive as long as the Agreement remains in effect. Moreover, because the Commission and its staff have full access to the information for which continued protection is requested, the Commission’s ability to perform its statutory obligations will in no way be impaired by granting this motion. Thus, no legitimate public purpose would be served by disclosure of the designated information. Finally, KNG has limited the information for which continued protection is sought so as to minimize the information that will not be publicly disclosed.

WHEREFORE, KNG respectfully requests that the Commission grant its motion to extend the protection of the information filed under seal in connection with its May 23, 2011 application in this docket for an additional eighteen months, recognizing KNG’s right to again

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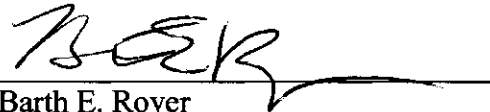
<sup>1</sup> See Rule 4901-1-24(A)(7), OAC.

<sup>2</sup> See Section 1333.61(D), Revised Code.

<sup>3</sup> See June 15, 2011 Finding and Order, 3.

apply to extend this protection not less than forty-five days from the date the protection would otherwise expire.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'BER', followed by a horizontal line.

Barth E. Royer  
Bell & Royer Co., LPA  
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Columbus, Ohio 43215-3900  
(614) 228-0704 - Telephone  
(614) 228-0201 - Fax  
[BarthRoyer@aol.com](mailto:BarthRoyer@aol.com)

Attorney for KNG Energy, Inc.