

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
National Energy Group Corp. for) Case No. 13-815-GA-AGG
Certification as a Competitive Natural)
Gas Broker/Aggregator.)

In the Matter of the Application of)
National Energy Group Corp. for) Case No. 13-816-EL-AGG
Certification as a Competitive Retail)
Electric Broker/Aggregator.)

ENTRY

The Commission finds:

- (1) On April 10, 2013, National Energy Group Corp. (National Energy) filed applications for certification as competitive retail natural gas and electric brokers/aggregators (Case Nos. 13-815-GA-AGG (13-815) and 13-816-EL-AGG (13-816), respectively).
- (2) On May 7, 2013, National Energy filed notices stating that it is withdrawing its applications in these cases. Upon consideration of National Energy's notices, the instant cases should be dismissed.
- (3) On April 10, 2013, National Energy filed motions for a protective order, pursuant to Rule 4901-1-24(D), Ohio Administrative Code (O.A.C.), requesting that the financial statements and forecasted financial statements, exhibits C-3 and C-5 of its applications, be kept under seal.
- (4) National Energy submits that the information in exhibits C-3 and C-5 is competitively sensitive and highly proprietary. National Energy contends that public disclosure of this information would jeopardize its business position in negotiations with other parties and its ability to compete.
- (5) Section 4905.07, Revised Code, provides that all facts and information in the possession of the Commission shall be public, except as provided in Section 149.43, Revised Code, and as consistent with the purposes of Title 49 of the Revised Code. Section 149.43, Revised Code, specifies that the term "public

records" excludes information which, under state or federal law, may not be released. The Ohio Supreme Court has clarified that the "state or federal law" exemption is intended to cover trade secrets. *State ex rel. Besser v. Ohio State*, 89 Ohio St.3d 396, 399, 732 N.E.2d 373 (2000).

- (6) Similarly, Rule 4901-1-24, O.A.C., allows the Commission to issue an order to protect the confidentiality of information contained in a filed document, "to the extent that state or federal law prohibits release of the information, including where the information is deemed . . . to constitute a trade secret under Ohio law, and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code."
- (7) Ohio law defines a trade secret as "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." Section 1333.61(D), Revised Code.
- (8) After examining exhibits C-3 and C-5 of National Energy's certification applications, the Commission concludes that the information contained in exhibits C-3 and C-5 constitutes trade secret information. Pursuant to Section 1333.61(D), Revised Code, release of these documents is, therefore, prohibited under state law. Accordingly, the Commission finds that National Energy's motions for a protective order are reasonable with regard to exhibits C-3 and C-5 of its applications and should be granted.
- (9) Rule 4901-1-24(D)(4), O.A.C., provides for protective orders relating to gas and electric marketers' certification applications to expire after 24 months. Therefore, confidential treatment shall be afforded to exhibits C-3 and C-5 for a period ending 24 months from the date of this entry. In accordance with Rule 4901-1-24(F), O.A.C., if National Energy wishes to extend this confidential treatment, it should file an appropriate motion at least 45 days in advance of the expiration date. If no such

motion to extend confidential treatment is filed, the Commission may release this information without prior notice to National Energy.

It is, therefore,

ORDERED, That Case Nos. 13-815 and 13-816 be dismissed. It is, further,

ORDERED, That the motions for a protective order filed by National Energy be granted with regard to the information contained in exhibits C-3 and C-5 of National Energy's applications. It is, further,

ORDERED, That the Commission's docketing division maintain, under seal, the unredacted exhibits C-3 and C-5, which were filed under seal on April 10, 2013, for a period of 24 months from the date of this entry or until June 12, 2015. It is, further,

ORDERED, That a copy of this entry be served upon all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Todd A. Snitchler, Chairman

Steven D. Lesser

Lynn Slaby

M. Beth Trombold

KKS/vrm
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JUN 11 2013

Barcy F. McNeal

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Secretary