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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Application of )  
Worthington Energy Consultants, LLC for )  
Certification as an Aggregator/Power Broker )

Case No. 14 0077-EC. A66UCO

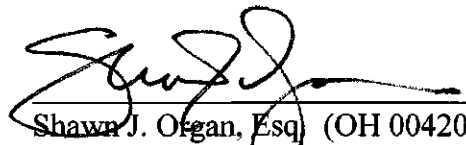
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**WORTHINGTON ENERGY CONSULTANTS LLC'S  
MOTION FOR A PROTECTIVE ORDER**

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Worthington Energy Consultants, LLC ("Worthington") respectfully moves the Public Utilities Commission of Ohio, pursuant to Rule 4901-1-24(D) of the PUCO Administrative Provisions and Procedures, for a protective order to keep Worthington's Financial Statements (Exhibit C-3), submitted as part of its application as a competitive retail electric service power broker/aggregator, confidential and not part of the public record. The reasons underlying this motion are detailed in the attached Memorandum in Support and, consistent with the requirements of the above-cited Rule, three (3) unredacted copies of the exhibit are submitted under seal.

Respectfully submitted,

  
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*Counsel for Worthington Energy  
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## **MEMORANDUM IN SUPPORT**

Worthington Energy Consultants, LLC (“Worthington”) is not a publicly traded company and, accordingly, its financial information is not publicly available. Therefore, as set forth in greater detail below, Worthington respectfully requests that the information designated as confidential, Exhibit C-3, in its application to provide aggregation and power broker services, filed under seal contemporaneously with this Motion, be protected from public disclosure (the “Designated Confidential Information”). The Designated Confidential Information for which protection is sought covers financial statements (C-3). If the Designated Confidential Information is released to the public it would harm Worthington by providing its competitors proprietary information in what is designated by statute to now be a competitive service.

Rule 4901-1-24(D) of the PUCO Administrative Provisions and Procedure provides that the Commission or certain designated employees may issue an order which is necessary to protect the confidentiality of information contained in documents filed with the Commission’s Docketing Division to the extent that state or federal law prohibits the release of the information and where non-disclosure of the information is not inconsistent with the purposes of Title 59 of the Revised Code. State law recognizes the need to protect certain types of information which are the subject of this Motion. However, as set forth in greater detail below, the non-disclosure of the subject information will not impair the purposes of Title 49 as applied to Worthington. Likewise, the Commission and its Staff have full access to the information in order to fulfill its statutory obligations. Thus, no purpose of Title 49 would be served by public disclosure of the information.

This would not be inconsistent with state law as Ohio law recognizes the need to protect certain types of information which are the subject of this Motion. Further, as set forth in greater detail below, the non-disclosure of the subject information will not impair the purposes of Title 49 as applied to Worthington. Likewise, the Commission and its Staff have full access to the information in order to fulfill its statutory obligations. Thus, no purpose of Title 49 would be served by public disclosure of the information.

The need to protect the designated information from public disclosure is clear, and there is compelling legal authority supporting the requested protective order. While the Commission has often expressed its preference for open proceedings, the Commission also long ago recognized its statutory obligations regarding trade secrets.

The Commission is of the opinion that the “public records” statute must also be read *in pari materia* with Section 1333.31, Revised Code (“trade secrets” statute). The latter statute must be interpreted as evincing the recognition, on the part of the General Assembly, of the value of trade secret information.

*In re: General Telephone Co.*, Case No. 81-383-TP-AIR (February 17, 1982). Similarly, the Commission has promulgated and facilitated the protection of trade secrets in its rules (O.A.C. § 4901-1-24(A)(7)).

The information in Exhibit C-3 contains competitively sensitive and highly proprietary business financial information falling within the statutory characterization of a trade secret as defined by Section 1333.61(D), Ohio Revised Code.

“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 person 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.

The above definition clearly reflects the codified policy favoring the protection of trade secrets such as the financial information which is the subject of this Motion.

*In State ex rel The Plain Dealer v. The Ohio Department of Ins.* (1977) 80 Ohio St. 3d 513, the Ohio Supreme Court adopted a six factor test to analyze whether information is a trade secret under the statute:

- (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 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

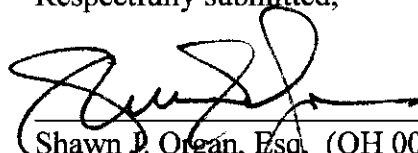
information as against competitors, (5) the amount of effort or money expended in obtaining and developing the information, and (6) the amount of time and expense it would take for others to acquire and duplicate the information.

*Id.* at 524-525 (quoting *Pyromatics, Inc. v. Petruziello*, 7 Ohio App. 3d 131, 134-135 (8<sup>th</sup> App. Dist. 1983)).

In the instant case, the two financial exhibits Worthington seeks to protect contain confidential trade secrets, the information of which has not previously been disclosed to the public. Considering the competitive environment in which Worthington operates, the financial information requested in Exhibit C-3 of the application is highly proprietary, confidential and commercially sensitive. Such sensitive financial information is generally not disclosed in cases such as the one *sub judice*. Its disclosure could give competitors an advantage that would hinder Worthington's ability to compete. On the other hand, public disclosure of this financial information is not likely to further assist the Commission in carrying out its duties under the CRES rules. Applying the above factors to such exhibits, it is clear that a protective order should be granted.

For the foregoing reasons, Worthington Energy Consultants, LLC respectfully request that the Commission grant the Motion for a Protective Order to maintain Exhibit C-3 of its application to provide aggregation power broker services under seal.

Respectfully submitted,

  
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