

April 15, 2015

Ms. Barcy F. McNeal, Secretary
Public Utilities Commission of Ohio
180 E. Broad St., 11th Floor
Columbus, OH 43215-3793

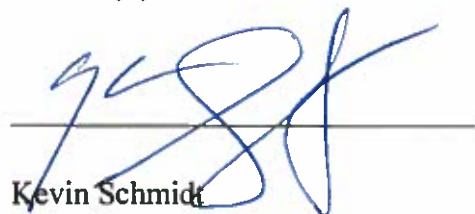
Re: Case No. 15-0749-EL-ACP
Source Power & Gas LLC
Public Version, 2014 AEPS Report

Dear Ms. McNeal,

I am filing a redacted version of the Alternative Energy Portfolio Status Report for Calendar Year 2014 on behalf of Source Power & Gas LLC (CRES Certificate No. 13-753E). This report is redacted because it contains confidential and proprietary information. Pursuant to Rule 4901-1-24(D) of the Ohio Administrative Code, a motion for protective order has been filed and two copies of the confidential version of this report are being submitted under seal.

Thank you for your attention to this matter.

Sincerely yours,



Kevin Schmidt
Counsel for Source Power & Gas LLC

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Columbus, Ohio 43215
Telephone: (614) 507-1050
Email: schmidt@sppgrp.com

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Alternative)	
Energy Portfolio Status Report of)	Case No. 15-0749-EL-ACP
Source Power & Gas LLC)	
)	

MOTION FOR PROTECTIVE ORDER

Source Power & Gas LLC (“Source” or “Company”) by and through counsel, hereby moves pursuant to Ohio Administrative Code 4901-1-24 for the entry of a Protective Order designating as confidential certain responses in its Alternative Energy Portfolio Status Report with accompanying Exhibit A (collectively, “AEPS Report”). As required by Rule 4901-1-24(D)(2), Source has filed under seal two copies of the confidential and unredacted AEPS Report, along with this Motion for Protective Order.

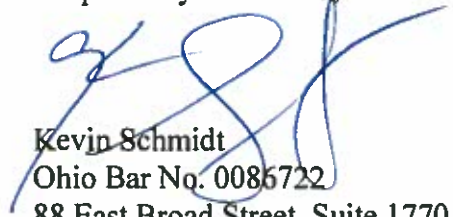
The basis for this Motion is set forth in the accompanying Memorandum in Support of this Motion for Protective Order. In brief, however, Section III, Section IV, Section V and Exhibit A of Source’s AEPS Report provide information which Source considers confidential and proprietary, and which are maintained as confidential by the Company. Public disclosure of this information would harm Source’s competitive position as an energy provider.

Source requests that the Protective Order be effective for a period of twenty-four (24) months from the filing date of the AEPS Report. Source further requests that any responses to subsequent requests for additional information or clarification which the Commission Staff may

make with regard to the same request referenced above also be permitted to be filed under seal, pursuant to the same Protective Order requested herein.

WHEREFORE, Source respectfully requests that its motion be granted.

Respectfully Submitted,



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Counsel for Source Power & Gas LLC

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Alternative)	
Energy Portfolio Status Report of)	Case No. 13-2068-EL-CRS
Source Power & Gas LLC)	
)	

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

Applicant Source Power & Gas LLC (“Source” or “Company”), by and through counsel, hereby files this Memorandum in Support of its Motion for a Protective Order pursuant to Ohio Administrative Code 4901-1-24. The Motion for Protective Order requests that the Commission designate as confidential Source’s responses in Section III, Section IV, Section V, and Exhibit A of Source’s Alternative Energy Portfolio Status Report (“AEPS Report”) to the Commission.

I. Legal Standard

Section 4905.07 of the Ohio Revised Code provides that all facts and information in the possession of the Commission shall be public, except as provided in Section 149.43 of the Revised Code, and as consistent with the purposes of Title 49 of the Revised Code. Section 149.43 of the 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. *See, In the Matter of the Application for North American Power and Gas, LLC for Certification as a Competitive Retail*

Electric Marketer, Case No. 11-5566-EL-CRS, Entry (Dec. 16, 2011) (citing *State ex rel. Besser v. Ohio State*, 89 Ohio St. 3d, 396, 399 (2000)).

Similarly, the Commission's Procedural Rules contemplate that certain information required to be submitted before the Commission which constitutes a trade secret or is otherwise prohibited from release by state or federal law, will need to be protected from public disclosure. Specifically, the Ohio Administrative Code 4901-1-24(D) provides:

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....

Ohio law defines a "Trade Secret" as:

[I]nformation, 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.

Ohio Rev. Code § 1333.61(D). The Commission facilitates the protection of such trade secrets in its Rules in the Administrative Code as well. *See* Ohio Admin. Code 4901-1-24(A)(7).

The Ohio Supreme Court has adopted the following six factor test to analyze whether information is a trade secret under Ohio Revised Code § 1331:

(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 for others to acquire and duplicate the information.

State ex rel. Plain Dealer v. Ohio Dep't of Ins., (1997) 80 Ohio St. 3d 513, 524-525, 687 N.E.2d 661, 672 (citing *Pyromatics, Inc. v. Petruziello*, (1983) 7 Ohio App.3d 131, 134-135, 454 N.E.2d 588, 592).

II. Argument

As described in more detail below, the information that Source requests to be kept confidential in this proceeding is proprietary information that is not publicly available. Source's competitors could gain economic benefit from its disclosure by learning about the extent of Source's Ohio retail electricity operations. Therefore, disclosure of this information would harm Source's competitive position in the marketplace and falls within the statutory characterization of a trade secret.

Furthermore, Source respectfully submits that public disclosure of this information is not likely to assist the Commission in carrying out its duties pursuant to Title 49 of the Ohio Revised Code. Rather, the protection of this information will better serve Ohio consumers by facilitating fair competition among businesses that provide competitive retail electric service. Finally, the Commission's protection of this information from disclosure would be consistent with prior precedent and would not prejudice any other parties.

Source addresses the specific requests for protection of confidential information as follows:

Section III of the AEPS Report- 2014 Baseline

Rule 4901:1-40-03(B)(2)(b), OAC, requires Source to disclose its actual metered load data as its baseline for purposes of calculating its required 2014 Alternative Energy Benchmark Compliance requirement. Source's actual metered load in Ohio is not a matter of public record and Source goes to reasonable lengths to keep it private. Disclosing this information could discourage potential customers, vendors and brokers from working with Source based on any of their interpretations of Source's metered load size. Source respectfully submits that the release of its actual metered load could harm Source's ability to effectively compete in the marketplace and therefore, Source requests that this information be protected by redacting the portion of Section III of the AEPS Report that discloses Source's metered load.

Section IV of the AEPS Report- 2014 Benchmark Compliance Status

Section 4928.64(B)(2), ORC, and Rule 4901:1-40-3(A)(2), OAC, provides the calculation methodology for determining Source's 2014 Alternative Energy Benchmarks. These benchmarks are based on Source's 2014 Baseline (actual metered load, discussed above), and it is reasonable to assume that one could reverse engineer Source's 2014 Alternative Energy Benchmarks to determine our actual metered load in 2014. As explained above, Source's actual metered load in Ohio is not a matter of public record and Source goes to reasonable lengths to keep it private. Disclosing this information could discourage potential customers, vendors and brokers from working with Source. Source respectfully submits that the disclosure of Source's 2014 Alternative Energy Benchmarks could harm Source's ability to effectively compete in the marketplace and therefore, Source requests that this information be protected by redacting the portions of Section IV of the AEPS Report that discloses Source's 2014 Renewable Energy Benchmarks.

Section V of the AEPS Report- Projected Baseline, Solar REC and Non-Solar REC Projections

Rule 4901:1-40-0(C), OAC, requires Source to file a ten-year Alternative Energy Portfolio Standards compliance plan. In order to comply with the rule, Source has given its actual projected metered load data for 2015 through 2024 and the projected Renewable Energy Benchmark standards based on Source's projected metered load data. Source's projected load data and the associated Renewable Energy Portfolio requirements are highly confidential and proprietary information that is not publicly available. This information could give Source's

competitors an unfair marketing advantage by allowing them to potentially draw comparisons to Source's projections and their own. Disclosure of this information would create an undue hardship on the Company because the disclosure would cause substantial harm to Source's competitive position in the marketplace.

Exhibit A of the AEPS Report- Details of Retired Solar REC and Non-Solar REC details

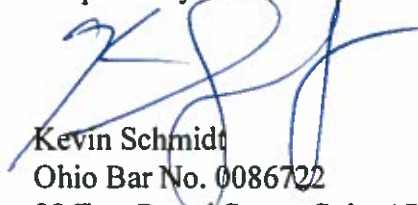
In order to further comply with Rule 4901, OAC, and Section 4928.64, ORC, Source has included in its AEPS Report an Exhibit A, detailing the Solar and Non-Solar Renewable Energy Credits ("RECs") Source retired in order to comply with standards set forth in Rule 4901:1-40-3(A)(2), OAC, and Rule 4928.64(B)(2), ORC. Again, it is reasonable to assume that one could reverse engineer Source's Solar and Non-Solar RECs to determine its actual metered load in 2014. Exhibit A further details the prices Source paid for these RECs that it also requests remain confidential. Source's actual metered load in Ohio and the prices it pays for RECs are not a matter of public record. Source's competitors could gain economic benefit from this disclosure by learning about the extent of Source's Ohio retail electricity operations and the details of its pricing. Source respectfully submits that the disclosure of the number of Solar and Non-Solar RECs set forth on Exhibit A, and the prices paid therefore, could harm Source's ability to effectively compete in the marketplace. Therefore, Source requests that this information be protected by redacting the portions of Exhibit A that discloses Source's 2014 Solar and Non-Solar REC numbers and prices.

III. Conclusion

Therefore, for the reasons stated above confidential treatment of the information contained Section III, Section IV, Section V and Exhibit A of the AEPS Report (all partially redacted) is appropriate and required by Ohio law and the Commission's Rules. *See* Ohio Rev. Code § 1333.61(D); Ohio Admin. Code 4901-1-24(D). Accordingly, Source Power & Gas LLC respectfully requests that a Protective Order be issued which permits Source to file portions of its AEPS Report under seal and requires those with access to those responses to treat them in a confidential manner for a period of twenty-four (24) months from the filing date of the AEPS Report. Source further requests that, should the Commission Staff seek any additional information or clarification with regard to the responses to the AEPS Report, those supplemental responses also be permitted to be filed under seal and subject to the same Protective Order.

In compliance with Ohio Administrative Code 4901-01-24(D)(2), two unredacted copies of the confidential information in Source's AEPS Report submitted in response to Sections III, IV, V and Exhibit A of the AEPS Report are being submitted under seal with this Motion.

Respectfully Submitted,



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Counsel for Source Power & Gas LLC

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Case No(s). 15-0749-EL-ACP

Summary: Motion for Protective Order and Memorandum in Support electronically filed by Mr. Kevin R Schmidt on behalf of Source Power and Gas, LLC