

FILE

3

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

IN THE MATTER OF THE APPLICATION OF
STEP RESOURCES CONSULTING LLC FOR
RENEWAL CERTIFICATION AS
AGGREGATOR/POWER BROKER

DOCKET No.

09-1813-EL-A66

**MOTION FOR PROTECTIVE ORDER
AND MEMORANDUM IN SUPPORT THEREOF**

Renewal Applicant, STEP Resources Consulting LLC ("STEP"), hereby moves the Public Utilities Commission for a Protective Order, pursuant to Section 4901-1-24 of the Ohio Administrative Code. Certain documents submitted by STEP in conjunction with its Renewal Application for Aggregators/Power Brokers are confidential and, if made part of the public record, their disclosure would harm STEP's ability to compete. A memorandum in support of STEP's motion for protective order is attached, and (3) unredacted copies of the documents to be protected from public disclosure are submitted herewith in compliance with O.A.C. 4901-1-24(D).

Respectfully submitted,



Carl D. Ferris

0021523

Attorney at Law

225 Court St.

Hamilton, OH 45011

513/896-7722

RECEIVED-DOCKETING DIV
2015 NOV 13 AM 11:29
PUCO

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician DUT Date Processed NOV 13 2015

MEMORANDUM IN SUPPORT

STEP Resources Consulting LLC ("STEP") has filed a Renewal Application for Aggregators/Power Brokers with the Ohio Public Communities Commission. STEP is submitting copies of its financial statements (Exhibit C-3) and copies of its financial forecasts (Exhibit C-5) with that Renewal Application. Since those documents constitute valuable trade secrets of STEP, their disclosure to the public, and STEP's competitors, would cause harm to STEP by hindering its ability to compete in the energy market. Accordingly, STEP's trade secret must be protected from public disclosure.

The commission has the discretion to issue a protective order to protect an applicant's confidential information where 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." O.A.C. 4901-1-24(D). Exhibits C-3 and C-5 are trade secrets under Ohio law, and should therefore be protected from public disclosure.

Trade secrets are specifically defined by Ohio statute. Under Ohio law, a trade secret is:

[I]nformation, including...any business information or plans, financial 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 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. R.C. 1333.61(D).

In addition to the trade secret law set out in R. C. 1333.61(D), *et seq.*, Ohio courts have consistently applied a six part test for the determination of whether information can be considered to be a trade secret. The six parts of that test are: (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 end expense it would take for others to acquire and duplicate the information. See R & R Plastics, 92 Ohio App.3d789,801,637 N.E.2d332 (1993) (*citing* Pyromatics v. Petruziello (1983), 7 Ohio App.3d 131, 134-135, 454 N.E.2d 588,592 (1983); Procter & Gamble Co. v. Stoneham, 140 Ohio App.3d260, 272,747N.E.2d268,277 (2000). STEP's financial information is not known outside of STEP's business, it is known to select employees, and STEP consistently employs measures to keep its financial information confidential. Applying the statutory definition and the above test, it is clear that STEP's financial information is a trade secret. In addition, keeping STEP's financial information confidential is not inconsistent with Title 49 of the Revised Code. STEP's Motion should be granted and a protective order issued by the Commission keeping Exhibits C-3 and C-5 from public disclosure.

On the basis of the above, STEP Resources Consulting, LLC requests that the Commission grant its Motion for Protective Order and maintain Exhibits C-3 and C-5 to its Renewal Application for Aggregators/Power Brokers under seal.

Respectfully submitted,



Carl D. Ferris

0021523

Attorney at Law

225 Court St.

Hamilton, OH 45011

513/896-7722