

FILE

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Alternative Energy                     )  
Resources Report for Calendar Year 2015            )  
From Switch Energy, LLC                                 )      Case No. 16-0810-EL-ACP

---

**MOTION FOR PROTECTIVE ORDER**

---

Applicant Switch Energy, LLC (hereinafter referred to as "Switch" or "Applicant") by and through counsel, hereby moves pursuant to Ohio Administrative Code 4901-1-24(D), for the entry of a Protective Order to keep certain confidential and proprietary information contained in its Alternative Energy Resources Report for Calendar Year 2015 confidential and not part of the public record. The information contained in the report is information which Switch considers confidential and proprietary trade secrets, and which are maintained as confidential by the Company. Public disclosure of this information could be potentially harmful to Switch's competitive position as an energy provider.

Switch further asks that its responses to any subsequent requests for additional information or clarification which Staff might make with regard to these same requests also be permitted to be filed under seal, pursuant to the same Protective Order requested herein. The grounds supporting this Motion are fully explained in the attached Memorandum in Support.

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 Am Date Processed 4/15/16

PUCO

RECEIVED-DOCKETING DIV  
2016 APR 15 PM 4:26

Switch requests that the Protective Order be effective for a period of twenty-four (24) months from the effective date of the filing made in this proceeding.

Respectfully submitted,

/s/ Todd M. Williams

Todd M. Williams (0083647)

Shindler Neff, LLP

300 Madison Avenue

1200 Edison Plaza

Toledo, Ohio 43604

(419) 243-6281

*Special Counsel*

*Feller Energy Law Group, PLLC*

*Counsel, Switch Energy, LLC*

Date: April 15, 2016

THE PUBLIC UTILITIES COMMISSION OF OHIO

## MEMORANDUM IN SUPPORT

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 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.

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 a six factor test to analyze whether information is a trade secret under Rev. 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.*, 80 Ohio St. 3d 513, 687 N.E. 2d 661 (1998) (citations omitted).

Switch gladly provides this information to the Commission, but asks that it be subject to Protective Order due to the confidential, proprietary nature of this information and because its public disclosure might be injurious to the Company's competitive position. Switch does not make public disclosure of the requested information through SEC filings or otherwise. As such, and given the intense competition in the Competitive Retail Electric Service ("CRES") arena, this information is a legitimate trade secret, access to which could negatively affect Switch's competitive position.

This request for a Protective Order is reasonable, necessary and will not prejudice any other party or individual. In fact, to the extent Switch's ability to compete effectively is preserved, Ohio consumers will be better served. Fair competition is the philosophical basis for the CRES statute and implementing regulations.

For all of the foregoing reasons, Switch Energy, LLC respectfully requests that a Protective Order be issued which permits it to file confidentially Exhibit A, Compliance Plan Status Report Summary Sheet, Exhibit B, REC Compliance Data, and Exhibit C, Ten-Year Projections, and requires those with access to these Exhibits treat them in a confidential manner for a period of twenty-four (24) months from the effective date of the order issued in this proceeding. Switch Energy, LLC further requests that should Staff seek any additional information or clarification with respect to the Exhibits, those responses will 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 (2) unredacted copies of Switch's Alternative Energy Resources Report for Calendar Year 2015 are being submitted under seal with this Motion.

Respectfully submitted,

/s/ Todd M. Williams

Todd M. Williams (0083647)  
Shindler Neff, LLP  
300 Madison Avenue  
1200 Edison Plaza  
Toledo, Ohio 43604  
(419) 243-6281

*Counsel for Switch Energy, LLC*

Natara G. Feller  
Feller Energy Law Group, PLLC  
159 20<sup>th</sup> St, Ste 1B  
Brooklyn, New York 11232  
Phone: (212) 590-0145  
Email: [natarafeller@fellerenergylaw.com](mailto:natarafeller@fellerenergylaw.com)

*Advisor to Switch Energy, LLC*

Date: April 15, 2016