

**BEFORE THE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
American Utility Management, Inc.)	Case No. 12-1925-GA-AGG
For a Certification As A Competitive Retail)	
Natural Gas Broker/Aggregator)	

In the Matter of the Application of)	
American Utility Management, Inc.)	Case No. 12-1926-EL-AGG
For a Certification As A Competitive Retail)	
Electric Broker/Aggregator)	

**AMERICAN UTILITY MANAGEMENT INC.’S
MOTION TO EXTEND PROTECTIVE ORDER**

American Utility Management Inc. (“AUM”), pursuant to O.A.C. 4901-1-24(F), moves for a protective order keeping confidential the financial information in Exhibits C-3 and C-5 associated with its 2012 and 2014 Certification Applications for Aggregators/Power Brokers (the “Applications”). The Attorney Examiner has previously found the information at issue to be confidential. The information in the 2012 and 2014 Applications remains confidential and its disclosure would significantly harm AUM. Therefore, as set forth in further detail in the attached Memorandum in Support, AUM asks that this confidential treatment be continued for an additional 24 months.

Respectfully submitted,

/s/ N. Trevor Alexander

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Inc.*

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**MEMORANDUM IN SUPPORT OF
AMERICAN UTILITY MANAGEMENT INC.'S
MOTION TO EXTEND PROTECTIVE ORDER**

I. Introduction

The Attorney Examiner has previously ruled that certain information provided by American Utility Management Inc. (“AUM”) be designated as confidential pursuant to O.A.C. 4901-1-24(D)(the “2012 Entry”).¹ In 2014, the Attorney Examiner continued the confidentiality protection for the 2012 information, and provided that same protection to the 2014 information.² AUM respectfully requests that the confidentiality designation made in the Entry be extended for an additional 24 months under O.A.C. 4901-1-24(D) and (F). The public release of AUM’s financial statements would cause harm to AUM and its future operations, and so this information should be kept confidential.

II. LAW & ARGUMENT

The Commission has recognized the statutory obligation to protect trade secrets, even in the context of its preference for open proceedings and has previously carried out its obligations

¹ See Entry filed August 23, 2012.

² See Entry filed September 5, 2014.

in this regard in numerous proceedings.³ The Commission has frequently granted protection to the trade secret financial information of potential brokers, rightly recognizing that these prospective brokers could be significantly harmed if their trade secret financial information were disclosed to the general public.⁴ Applying that standard to this case, the Attorney Examiner has already held, with good reason, that the information provided in Exhibits C-3 and C-5 should be treated as confidential.⁵

For the same reasons the Attorney Examiner has previously relied upon, the protective order should be continued for an additional 24 months. AUM is not a publicly traded company, and its confidential financial information is not provided to the public or to third parties. These documents have actual, substantial independent economic value to market participants and are not ascertainable by proper means by persons who would derive economic value from disclosure. AUM would be harmed if these documents were disclosed to the public. These documents constitute trade secrets under Ohio law,⁶ and public disclosure of this financial information

³ See *In re: General Telephone Co.*, Case No. 81-383-TP-AIR (Entry, February 17, 1982) (recognizing necessity of protecting trade secrets); See, e.g., *Elyria Tel. Co.*, Case No. 89-965-TP-AEC (Finding and Order, September 21, 1989); *Ohio Bell Tel. Co.*, Case No. 89-718-TP-ATA (Finding and Order, May 31, 1989); *Columbia Gas of Ohio, Inc.*, Case No. 90-17-GA-GCR (Entry, August 17, 1990).

⁴ See, e.g., *In the Matter of the Application of McEnergy Inc. for Certification as a Competitive Retail Electric Generation Broker*, Case No. 12-825-EL-AGG, April 11, 2012 Entry (protecting financial information); *In the Matter of the Application of T.E.S. Energy Services, L.P. for Certification as a Competitive Retail Electric Service Broker Aggregator*, Case No. 11-2541-EL-AGG, June 20, 2011 Entry (same).

⁵ See Entry dated August 23, 2012; Entry filed September 5, 2014.

⁶ The factors to be considered in recognizing a trade secret include: (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. See *State ex rel. Perrea v. Cincinnati Pub. Sch.*, 123 Ohio St.3d 410, 414, 2009-Ohio-4762 (2009); *Pyromatics, Inc. v. Petruziello*, 7 Ohio App. 3d 131, 134-135 (Cuyahoga App. 1983) citing *Koch Engineering Co. v. Faulconer*, 210 U.S.P.Q. 854, 861 (Kansas 1980).

would jeopardize AUM's business position and ability to compete. By way of example, by reviewing this information potential competitors could reasonably estimate AUM's forecasted growth, market share, and margins. In addition, public disclosure of this financial information is not likely to assist the Commission in carrying out its duties, since the Commission and its Staff will already have access to this information.

The Commission has previously recognized that the confidential information in Exhibits C-3 and C-5 filed by other marketers should remain confidential.⁷ AUM should be treated in the same manner as its competitors and be granted the same protective treatment. Therefore, AUM respectfully requests that the protective order be extended for an additional 24 months.

III. CONCLUSION

The Commission has frequently granted protection to the trade secret financial information of other market participants. AUM requests that the Commission continue this policy and maintain Exhibits C-3 and C-5 of the Application under seal.

Respectfully submitted,

/s/ N. Trevor Alexander

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⁷ See, e.g., Case No. 11-1090-EL-AGG, Entry dated May 10, 2013.

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Summary: Motion Motion to Extend the Protective Order electronically filed by Mr. Nathaniel Trevor Alexander on behalf of American Utility Management, Inc.