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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Renewal Application of )  
IGS Dayton, Inc. for Certification as a ) Case No. 00-2171-EL-CRS  
Retail Electric Service Provider )

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MOTION FOR PROTECTIVE ORDER, MOTION TO EXTEND PROTECTIVE ORDER,  
AND MEMORANDUM IN SUPPORT OF IGS DAYTON, INC.

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Joseph Olikar (0086088)  
Counsel of Record  
Email: joliker@igsenergy.com  
IGS Energy  
6100 Emerald Parkway  
Dublin, Ohio 43016  
Telephone: (614) 659-5000  
Facsimile: (614) 659-5073

**Attorney for IGS Energy**

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**MOTION FOR PROTECTIVE ORDER, MOTION TO EXTEND PROTECTIVE ORDER**

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Pursuant to Ohio Administrative Code ("OAC") 4901-1-24(D), IGS Dayton, Inc. ("IGS" or "IGS Energy") respectfully moves the Public Utilities Commission of Ohio ("Commission") for an order protecting from disclosure certain confidential, proprietary and trade secret documents filed concurrently with this motion in the above-captioned docket. The documents for which protective treatment is sought are Exhibits C-3 Financial Statements, C-4 Financial Arrangements, and C-5 Forecasted Financial Statements (collectively "Confidential Documents") contained in IGS' 2017 Renewal Certification Application for a Certified Retail Electric Supplier ("Renewal Application"), filed simultaneously with this Motion. The information in the Confidential Documents is competitively sensitive and proprietary business and financial information comprising of trade secrets and granting protective treatment to these documents is not inconsistent with the purposes of Title 49 of the Revised Code. In accordance with OAC 4901-1-24(D), the Confidential Documents have been clearly marked as confidential, and are filed under seal, separate from the remainder of the materials that comprise IGS's Renewal Application.

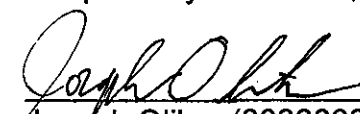
IGS respectfully moves the Commission for an order extending protective treatment of certain confidential, proprietary and trade secret documents filed in the

above-captioned docket related to its 2013 and 2015 Renewal Applications. The documents for which an extension of protective treatment is sought are Confidential Documents (described above as Exhibits C-3, C-4, and C-5) filed with IGS' 2013 and 2015 Renewal Applications.

The information in the Confidential Documents is competitively sensitive and proprietary business and financial information comprising of trade secrets, and the Commission granting protective treatment to these documents is not inconsistent with the purposes of Title 49 of the Revised Code. In accordance with Rule 4901-1-24(D), OAC, the Confidential Documents were clearly marked as confidential, and filed under seal, separate from the remainder of the materials that comprise IGS' 2013, 2015, and 2017 Renewal Applications.

The grounds for this motion are set forth in the memorandum in support. Notably, the Commission has previously granted protective treatment to similar information in connection with IGS' affiliated company (Interstate Gas Supply, Inc.) previous requests to renew its certification and extended protective treatment of such information.<sup>1</sup>

Respectfully submitted,



Joseph Olikar (0086088)

Counsel of Record

Email: joliker@igsenergy.com

IGS Energy

6100 Emerald Parkway

Dublin, Ohio 43016

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<sup>1</sup> See *In the Matter of the Application of Interstate Gas Supply, Inc. for Certification as a Retail Natural Gas Supplier*, Case No. 02-1683-GA-CRS, Entry granting protective treatment (Aug. 11, 2004); Entry granting protective treatment (July 14, 2006); Entry granting protective treatment (June 13, 2007); Entry granting protective treatment (July 28, 2008); Entry granting protective treatment (October 1, 2009); Entry granting and extending protective treatment (Dec. 15, 2010); Entry granting protective treatment (September 6, 2012).

Telephone: (614) 659-5000  
Facsimile: (614) 659-5073

***Attorney for IGS Energy***

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**MEMORANDUM IN SUPPORT**

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The Commission's rules allow for protective treatment of certain confidential information filed at the Commission in order to prevent disclosure of such information.

OAC 4901-1-24(D) states in part:

"(D) 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. Any order issued under this paragraph shall minimize the amount of information protected from public disclosure."

Ohio law recognizes the need to provide protective treatment to information such as the Confidential Documents. Ohio Revised Code ("R.C.") 4929.23(A) specifically permits the Commission to grant protective treatment to confidential information provided by a certificated retail electric supplier. Further, under R.C. 1333.61(D), "Trade secret" means:

[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.

The Confidential Documents consist of financial statements, financial arrangements, and forecasted financial statements that are proprietary, confidential and that constitute trade secrets. Public disclosure of this information would jeopardize IGS' business position in negotiations with other parties and its ability to compete. By examining the Confidential Documents, competitors could reasonably estimate IGS' growth rates, market share and margins. Competitors could use the Confidential Documents to make strategic decisions whether to enter or exit the markets in the geographic regions in which IGS operates. Finally, it is noteworthy that Interstate Gas Supply, Inc. recently acquired IGS Dayton, Inc., and the Confidential Documents may contain information that would reveal competitively sensitive information with respect to both companies. Therefore, the Confidential Documents derive independent economic value from not being generally known to, and not being readily ascertainable by proper means by other persons. Public disclosure of the Confidential Documents will cause substantial harm to IGS' business and competitive interests.

Moreover, the Confidential Documents that were previously granted protective treatment remain competitively sensitive and proprietary. With the exception of the acquisition by Interstate Gas Supply, IGS' business model, including margins, pricing has not changed significantly since 2013. In addition, by comparing IGS' financial results from

year to year, competitors could determine the areas in which IGS' business is expanding and contracting. Accordingly, the Confidential Documents derive independent economic value from not being generally known to, and not being readily ascertainable by proper means by other persons.

The information contained in the Confidential Documents described in this motion is not generally known by the public and is held in confidence in the normal course of business. The Confidential Documents sought to be protected are disclosed to only a few key personnel at IGS. Also, IGS only makes the Confidential Documents available to parties outside of IGS for business purposes and under the protection of a confidentiality agreement.

Finally, IGS and its affiliated companies are privately held, and therefore, would be especially vulnerable if protective treatment were not granted. Indeed, the Commission has previously found the need for protective treatment to be especially "persuasive for the privately held companies."<sup>2</sup> Thus, unlike a publicly held company—with thousands of dispersed and anonymous shareholders—the financial information of IGS has the potential to disclose personal financial data of individuals and not just company data. As

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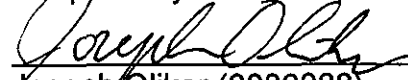
<sup>2</sup> See *In the Matter of the Applications of the Following Entities for a Certificate to Provide Competitive Retail Natural Gas Service in Ohio: NICOR Energy L.L.C, Vectren Retail LLC, d.b.a. Vectren Source, Shell Energy Services Co. L.L.C, Volunteer Energy Services Inc., ACN Energy Inc., Energy America LLC, FirstEnergy Solutions Corp., AEP Ohio Retail Energy LLC, Energy Cooperative of Ohio, MidAmerican Energy Company, ProLiance Energy LLC, Metromedia Energy Inc., and UGI Energy Services Inc., d.b.a. GASMARK*, Case Nos. 02-1654-GACRS, 02-1668-GA-CRS, 02-1680-GA-CRS, 02-1786-GA-CRS, 02-1828-GA-CRS, 02-1829-GA-CRS, 02-1864-GA-CRS, 02-1889-GA-CRS, 02-1891-GA-CRS, 02-1893-GA-CRS, 02-1909-GA-CRS, 02-1926-GA-CRS, 02-1968-GA-CRS, Entry, (June 14, 2003); See *Id.*, at para. 3, p. 2. See also *In the Matter of the Applications of Vectren Retail, LLC, d/b/a Vectren Source, Interstate Gas Supply, Inc., Shell Energy Services Co., L.L.C, and FirstEnergy Solutions Corp. for Certification as Retail Natural Gas Suppliers in the State of Ohio; In the Matter of the Application of Direct Energy Services, LLC for Renewal of Certification as a Competitive Retail Natural Gas Supplier and for Approval to Transfer that Certification*, Case Nos. 02-1668-GA-CRS, 02-1683-GA-CRS, 02-1680-GA-CRS, 02-1864-GA-CRS, 02-1829-GA-CRS, Entry (Aug. 11, 2004).

a matter of public policy, financial data of individuals should receive heightened protection.

Lastly, granting confidential treatment to the information will not impair the purposes of Ohio Revised Code Title 49, because the documents filed under seal will allow the Commission and Staff have full access to the information. IGS is also filing a public version of its 2014 Renewal Application that contains a great deal of public, non-proprietary information about IGS. And, IGS has previously filed public versions of its 2008, 2010, 2012, and 2014 Renewal Applications that contain a great deal of public, non-proprietary information about IGS.

The reasons set forth above demonstrate that the information contained in the Confidential Documents has actual, substantial independent economic value from not being generally known, and not being ascertainable by proper means by persons who would derive economic value from disclosure. Public disclosure of the Confidential Documents will cause substantial harm to IGS' business and competitive interests. Thus, IGS respectfully urges the Commission to grant an order to protect the confidentiality of the Confidential Documents filed herein under seal, and to extend the order of protection related to the Confidential Documents filed as part of IGS' 2013 and 2015 Renewal Applications.

Respectfully submitted,



Joseph Olikar (0086088)

Counsel of Record

Email: [joliker@igsenergy.com](mailto:joliker@igsenergy.com)

IGS Energy

6100 Emerald Parkway

Dublin, Ohio 43016



Telephone: (614) 659-5000  
Facsimile: (614) 659-5073

***Attorney for IGS Energy***