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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

PUCO

In the Matter of the Application of )  
Blitz Ventures LLC for a Certificate to )  
Provide Competitive Retail Natural Gas )  
Service in Ohio )

Case No. 17-2499-GA-AGG

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MOTION FOR PROTECTIVE ORDER

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Pursuant to Rules 4901:1-27-08(B) and 4901:1-24(D) of the Ohio Administrative Code ("O.A.C"), Applicant Blitz Ventures LLC ("Applicant"), hereby moves the Public Utilities Commission ("Commission") for an order granting this motion for protective order designating Applicant's Exhibits A-14, B-1, C-2, C-5, C-6, C-8 and C-10 filed coincident hereto under seal as confidential and not part of the public record.

The reasons underlying this motion are detailed in the attached Memorandum in Support.

Respectfully submitted,



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

Applicant seeks its certification as a power broker for competitive retail natural gas services (“CRNGS”). It requests that the information it designates as confidential – Exhibits A-14, B-1, C-2, C-5, C-6, C-8 and C-10 – to its Application filed contemporaneously herewith be protected from public disclosure. The information for which protection is sought covers the confidential and proprietary corporate structure and financial information identified through these exhibits. If released to the public, such information would harm Applicant by providing its competitors confidential and proprietary information in what is designed by statute to now be a competitive service.

Rule 4901:1-27-08(B) of the O.A.C. provides that an applicant may file a motion for protective order covering exhibits to an application for natural gas aggregators/power brokers under Chapter 4901:1-27. Said motion shall be automatically approved on the thirty-first day after the date of filing and the information shall be afforded protective treatment for a period of six years from the date of the certificate for which the information is being provided, unless the commission or an attorney examiner appointed by the commission rules otherwise.

Rule 4901-1-24(D) of the O.A.C. governs motions for protective orders and provides that the Commission or certain designated employees may issue an order which is necessary to protect the confidentiality of information contained in documents filed with the Commission’s Docketing Division to the extent that state or federal law prohibits the release of the information and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code.

As set forth below, State law recognizes the need to protect certain types of information which are the subject of this motion. The non-disclosure of the designated information will not

impair the purposes of Title 49, and the Commission and its Staff have full access to such information in order to fulfill its statutory obligations.

The need to protect the designated information from public disclosure is clear, and there is compelling legal authority supporting the requested protective order. While the Commission has often expressed its preference for open proceedings, the Commission also long ago recognized its statutory obligations with regard to trade secrets:

The Commission is of the opinion that the “public records” statute must also be read *in pari materia* with Section 1333.61, Revised Code (“trade secrets” statute). The latter statute must be interpreted as evincing the recognition, on the part of the General Assembly, of the value of trade secret information.

*In re: General Telephone Co.*, Case No. 81-838-TP-AIR (Entry, February 17, 1982.) Likewise, the Commission has facilitated the protection of trade secrets in its rules (O.A.C. § 4901-1-24(A)(7)).

The definition of a “trade secret” is set forth in the Uniform Trade Secrets Act:

“Trade secret” means 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, 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.

R.C. § 1333.61(D). This definition clearly reflects the State’s policy of favoring the protection of trade secrets such as the confidential business information that is the subject of this motion.

In *State ex rel. The Plain Dealer v. Ohio Dept. of Ins.* (1997), 80 Ohio St. 3d 513, the Ohio Supreme Court adopted a six factor test to analyze whether information is a trade secret under the statute:

(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..

*Id.* at 524-525.

Applying these factors, Exhibits A-14, B-1, C-2, C-5, C-6, C-8 and C-10 contain confidential business information as defined under State law. Applicant derives independent economic value from the corporate structure identified through the designated exhibits, which information is confidential, proprietary and not otherwise subject to public disclosure in relation to Applicant. The disclosure of the designated information would likely result in a competitive disadvantage for Applicant at this initial stage of seeking a broker license from the Commission. The broker license is a prerequisite to secure valuable retail supplier relationships, and the corporate structure identified through the above-referenced exhibits must remain confidential to avoid an unfair competitive advantage to potential vendors and competitors.

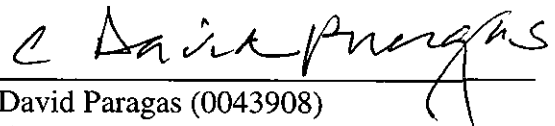
Applicant does not publicly disclose this corporate structure information, and its employees take great care to protect this information. Applicant further takes appropriate precautions to guard this information from public disclosure in the ordinary course of business.

Based on the foregoing, the need to protect the designated information from public disclosure is clear, and there is compelling legal authority supporting the requested protective

order. Furthermore, the public disclosure of this information is not likely to assist the Commission in carrying out its duties under CRNGS rules.

WHEREFORE, for the above reasons Applicant requests the Commission grant its motion for a protective order and to maintain Exhibits A-14, B-1, C-2, C-5, C-6, C-8 and C-10 to its Application for Certification as a Power Broker for competitive retail natural gas services under seal.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "C. David Paragas", is written over a horizontal line.

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