

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Ohio Industrial Energy, LLC for a)	
Certification to Provide Services as)	Case No. 16-1101-EL-AGG
a Competitive Retail Electric Service)	
Provider)	

**MOTION OF OHIO INDUSTRIAL ENERGY, LLC FOR
PROTECTIVE ORDER AND MEMORANDUM IN SUPPORT**

Frank P. Darr (Reg. No. 0025469)
(Attorney of Record)
MCNEES WALLACE & NURICK LLC
21 East State Street, 17th Floor
Columbus, OH 43215
Telephone: (614) 469-8000
Telecopier: (614) 469-4653
fdarr@mwncmh.com
(willing to accept service via email)

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Ohio Industrial Energy, LLC for a)	
Certification to Provide Services as)	Case No. 16-1101-EL-AGG
a Competitive Retail Electric Service)	
Provider)	

**MOTION OF OHIO INDUSTRIAL ENERGY, LLC
FOR PROTECTIVE ORDER**

Pursuant to Rule 4901-1-24, Ohio Administrative Code ("O.A.C."), Ohio Industrial Energy, LLC ("OIE") respectfully moves the Public Utilities Commission of Ohio ("Commission") to issue a Protective Order to protect the confidentiality and prohibit the disclosure of the confidential information contained in its renewal application. The grounds for this Motion are set forth in the attached Memorandum in Support.

Respectfully submitted,

/s/ Frank P. Darr

Frank P. Darr (Reg. No. 0025469)
(Attorney of Record)
MCNEES WALLACE & NURICK LLC
21 East State Street, 17th Floor
Columbus, OH 43215-4228
Telephone: (614) 469-8000
Telecopier: (614) 469-4653
fdarr@mwncmh.com

Attorneys for Ohio Industrial Energy, LLC

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Ohio Industrial Energy, LLC for a)	
Certification to Provide Services as)	Case No. 16-1101-EL-AGG
a Competitive Retail Electric Service)	
Provider)	

MEMORANDUM IN SUPPORT

I. INTRODUCTION AND BACKGROUND

On May 21, 2018, OIE filed an application before the Commission to renew its competitive retail electric service provider certificate. Exhibit C-7 contained confidential credit information that was filed under seal. For the reasons stated below, OIE respectfully requests that the Commission grant protective treatment of the information filed under seal.

II. ARGUMENT

State law recognizes the need to protect information that is confidential in nature. Accordingly, the General Assembly granted the Commission statutory authority to exempt certain documents from disclosure.¹ Pursuant to this statutory grant of authority, the Commission promulgated Rule 4901-1-24, O.A.C. The rule provides for the issuance of an order that is necessary to protect the confidentiality of information contained in documents filed at the Commission to the extent that state and federal law prohibit the

¹ See R.C. 4901.12 and 4905.07.

release of such information and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code.

Trade secrets protected by state law are not considered public records and are therefore exempt from public disclosure.² A trade secret is defined by R.C. 1333.61(D), as follows:

“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, 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.

R.C. 1333.61(D) (emphasis added).

An application for renewal of a certificate requires the applicant to provide credit information. In support of its renewal application, OIE submitted Exhibit C-7. Exhibit C-7 contains credit information of the owners of OIE. The credit information provided by OIE is confidential business information that is valuable to OIE and derives value because it remains confidential. Accordingly, the information contained in Exhibit C-7 falls within the statutory characterization of a trade secret.³

² R.C. 149.43(A)(1)(v); *State ex rel. The Plain Dealer v. Ohio Dept. of Insurance*, 80 Ohio St. 3d 513, 530 (1997).

³ R.C. 1333.61(D).

The non-disclosure of the credit information will not impair the purposes of Title 49 as the Commission and its Staff will have full access to the confidential information in order to complete its review process. Because OIE's information constitutes a trade secret, it should be accorded protected status.

III. CONCLUSION

OIE respectfully requests that this Motion for Protective Order be granted for the reasons set forth herein.

Respectfully submitted,

/s/ Frank P. Darr

Frank P. Darr (Reg. No. 0025469)

(Attorney of Record)

McNEES WALLACE & NURICK LLC

21 East State Street, 17th Floor

Columbus, OH 43215-4228

Telephone: (614) 469-8000

Telecopier: (614) 469-4653

fdarr@mwncmh.com

Attorneys for Ohio Industrial Energy, LLC

CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Motion of Ohio Industrial Energy, LLC for Protective Order and Memorandum in Support* was sent by, or on behalf of, the undersigned counsel to the following parties of record on May 21, 2018, via electronic transmission.

/s/ Frank P. Darr

Frank P. Darr

William L. Wright (Reg. No. 0018010)
Chief, Public Utilities Section
Assistant Attorney General
Office of the Ohio Attorney General
30 E. Broad St., 16th Floor
Columbus, OH 43215
william.wright@ohioattorneygeneral.gov

**COUNSEL FOR THE STAFF OF THE PUBLIC
UTILITIES COMMISSION OF OHIO**

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

5/21/2018 5:45:04 PM

in

Case No(s). 16-1101-EL-AGG

Summary: Motion Motion of Ohio Industrial Energy, LLC for Protective Order and Memorandum in Support electronically filed by Mr. Frank P Darr on behalf of Ohio Industrial Energy, LLC