

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

2020 JUL 13 PM 1:28

In the Matter of the Application of)
Interstate Gas Supply, Inc. for Certification)
as a Competitive Retail Natural Gas)
Service Provider)

Case No. 02-1683-GA-CRS

PUCO

**MOTION FOR PROTECTIVE ORDER AND MEMORANDUM IN SUPPORT OF
INTERSTATE GAS SUPPLY, INC.**

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MOTION FOR PROTECTIVE ORDER

Pursuant to the provisions of Ohio Adm.Code 4901-1-24, Interstate Gas Supply, Inc. ("IGS" or "IGS Energy") requests that the Public Utilities Commission of Ohio ("Commission") issue a Protective Order for the confidentiality of portions of the Notice of Material Change of Interstate Gas Supply, Inc. ("Notice"). Specifically, IGS requests protective treatment with respect to the redacted portions of the Notice for the reasons set forth in the attached Memorandum in Support.

Respectfully,

/s/ Joseph Olikier
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MEMORANDUM IN SUPPORT

Accompanying this Motion, IGS has filed the Notice in a redacted form and in an unredacted form under seal in this proceeding. By this Motion, IGS requests confidential treatment of the unredacted portions filed under seal.

Ohio law and the Commission's rules provide for the protection of confidential and proprietary information. Specifically, R.C. 4905.07 provides that all facts and information in the possession of the Commission shall be public, except as provided in R.C. 149.43, and as consistent with the purposes of Title 49 of the Revised Code. R.C. 149.43 provides an exemption from disclosure for "public records" that may not be released under state or federal law, which includes trade secrets. See *State ex rel. Besser v. Ohio State*, 89 Ohio St.3d 396, 399, 732 N.E.2d 373 (2000).

Similarly, Ohio Adm.Code 4901-1-24(D) allows the Commission to issue an order to protect the confidentiality of information contained in a filed document, "to the extent that state or federal law prohibits release of the information, including where the information is deemed . . . 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."

Ohio law defines a trade secret as "information * * * 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).

IGS submits that the redacted information in the Notice contains proprietary business data regarding a business transaction between IGS and Dominion Energy, Inc. ("Dominion") and Dominion Energy Solutions ("DES"). The redacted information includes specific dates that are not public and information regarding customer counts. IGS submits that the public disclosure of this information will provide existing and potential competitors with an unfair advantage by giving them access to confidential terms of the transaction and proprietary customer data that is not generally known. Public disclosure of this information would jeopardize IGS's business position in negotiations with other parties, and its ability to compete. Competitors could use the information to make strategic decisions whether to enter or exit the markets in the geographic regions in which IGS operates. Indeed, the Commission has already recognized the propriety nature of a competitive energy supplier's customer data by providing automatic confidential treatment when submitted for reporting purposes. See Ohio Adm.Code 4901:1-25-02(A)(2). IGS also notes that the redacted information is competitively sensitive information regarding DES and Dominion, neither of which are a party in this proceeding. Therefore, the redacted information derives independent economic value from not being

generally known to, and not being readily ascertainable by proper means by other persons. Release of the information would harm Dominion, DES, and IGS.

Additionally, substantial efforts have been made to maintain the secrecy of this information. Prior to engaging in discussions regarding the transaction referenced in the Notice, IGS was required to enter into a Confidentiality Agreement ("Agreement") with Dominion regarding the protection of confidential information such as the redacted portions of the Notice. Under this Agreement, IGS is obligated to protect this information, including limiting access to confidential information to only those reasonably having a need to know the information. Therefore, Dominion and IGS have made great efforts to limit the extent to which the information is known.

Lastly, granting confidential treatment to the information will not impair the purposes of Ohio Revised Code Title 49, because the Commission and Staff have full access to the information filed under seal. IGS is also filing a public version of the Notice that contains a great deal of public, non-proprietary information as IGS has redacted the minimal amount necessary to prevent any harm.

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

Respectfully,

/s/ Joseph Olikar

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CERTIFICATE OF SERVICE

I certify that this *Motion for Protective Order and Memorandum in Support of Interstate Gas Supply, Inc.* was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on July 9, 2020. The PUCO's e-filing system will electronically serve notice of the filing of this document on those who have electronically subscribed to the case.

/s/ Joseph Olikar

Joseph Olikar