

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Resource)
Energy Solutions, LLC for Certification as an) 19-1288-EL-AGG
Electric Aggregator/Power Brokers)

**MOTION FOR PROTECTIVE TREATMENT OF
RESOURCE ENERGY SOLUTIONS, LLC**

Pursuant to Ohio Administrative Code (“O.A.C.”) Rules 4901:1-24-08(B) and 4901:1-24-07, Resource Energy Solutions, LLC (“RES”) respectfully moves for an order protecting Exhibit C-5 of RES’s 2021 Renewal Application. Exhibit C-5 contains confidential information, which would constitute a “trade secret” under Ohio Revised Code Section (“R.C.”) 1333.61(D). The reasons supporting this motion are more fully set forth in the attached Memorandum in Support.

Respectfully submitted on behalf of
RESOURCE ENERGY SOLUTIONS, LLC



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MEMORANDUM IN SUPPORT

Pursuant to O.A.C. 4901:1-24-08(B) and 4901:1-24-07, Resource Energy Solutions, LLC (“RES”) respectfully moves for an order protecting Exhibit C-5 of RES’s 2021 Renewal Application because this exhibit contains confidential and proprietary information. The Commission’s Rules allow for protective treatment of certain confidential information filed at the Commission in order to prevent disclosure of such information. *See* O.A.C. 4901:1-24-08(B). The Commission routinely provides protective treatment for information that constitutes a “trade secret”. R.C. 1333.61(D) defines a “trade secret” as:

[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.

Expounding upon the definition of “trade secret,” the Ohio Supreme Court has delineated factors to be considered when analyzing a trade secret claim:

(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 of others to acquire and duplicate information.

State ex. rel. The Plain Dealer v. Ohio Dept. of Ins., 80 Ohio St. 3d 513, 524-525, 687 N.E.2d 661 (1997). The Commission regularly grants motions for protective orders to protect the confidential trade secret status of exhibits to competitive retail service provider applications.

Exhibit C-5 of RES's 2021 Renewal Application contains RES's credit report. Because RES is a private company, information regarding its credit and financial status is not public information. Further, RES does not disclose this type of information in its normal course of business. The financial information contained in the credit report could be used by RES's competitors to gain an unfair advantage over RES. In addition, the information in Exhibit C-5 has independent economic value because it is not generally known by the public, and RES takes all reasonable steps to maintain the confidentiality of this information.

The Commission has provided protective treatment for the same type of information in a number of cases involving other competitive retail suppliers. See *Mid-American Energy Company*, Case No. 00-1796-EL-CRS, Entry at ¶3 (September 11, 2002); *Constellation NewEnergy, Inc.*, Case No. 00-1717-EL-CRS, Entry at ¶3 (October 16, 2002); *T.E.S. Energy Services, L.P.*, Case No. 11-2541-EL-CRS Entry at ¶7 (June 20, 2011); and *Spark Energy Gas, LP*, Case No. 08-638-GA-CRS, *et al.* Entry at ¶11 (August 5, 2008).

Consistent with this precedent, RES requests that the Commission extend the same protection to Exhibit C-5 of its 2021 Renewal Application.

Respectfully submitted on behalf of
RESOURCE ENERGY SOLUTIONS, LLC



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Summary: Motion for Protective Treatment of Resource Energy Solutions, LLC and Memorandum in Support electronically filed by Teresa Orahod on behalf of Dylan F. Borchers