

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
CleanChoice Energy, Inc. dba CleanChoice)	
Energy for Certification as a Competitive)	Case No. 13-1210-EL-CRS
Retail Electric Service Provider.)	

**MOTION FOR PROTECTIVE TREATMENT OF
CLEANCHOICE ENERGY, INC.**

Pursuant to Ohio Administrative Code (“O.A.C.”) 4901-1-12, 4901:1-24-08(B) and 4901:1-24-07, CleanChoice Energy, Inc. (“CleanChoice”) respectfully moves for an order providing protective treatment for Exhibit B-3 to CleanChoice’s Renewal Application for Certification as a Competitive Retail Electric Service Provider (“Renewal Application”). The Renewal Application has been filed contemporaneously with this motion. Exhibit B-3 contains confidential information that 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
CLEANCHOICE ENERGY, INC.



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MEMORANDUM IN SUPPORT

Pursuant to O.A.C. 4901-1-12, 4901:1-24-08(B) and 4901:1-24-07, CleanChoice Energy, Inc. (“CleanChoice”) respectfully moves for an order providing protective treatment for Exhibit B-3 to CleanChoice’s Renewal Application for Certification as a Competitive Retail Electric Service Provider (“Renewal Application”). Exhibit B-3 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.

CleanChoice submits that Exhibit B-3 contains competitively sensitive and confidential information pertaining to legal matters that are not generally known or available to the public. The inquiry at issue is in its infancy and not otherwise disclosed to the public. CleanChoice does not disclose this type of information in its normal course of business and takes all reasonable steps to maintain the confidentiality of this non-public information. The information contained in this exhibit could be used by CleanChoice’s competitors to gain an unfair advantage over CleanChoice.

The Commission has afforded similar treatment for the same type of information involving other competitive retail suppliers. See, e.g., *In re Diamond Energy East LLC*, Case No. 21-0629-EL-CRS; *In re Freepoint Energy Solutions*, Case No. 16-1904-EL-CRS.

Consistent with this precedent, CleanChoice requests that the Commission extend the same protection to Exhibit B-3 of its Renewal Application.

Respectfully submitted on behalf of
CLEANCHOICE ENERGY, INC.



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**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

5/18/2023 3:36:30 PM

in

Case No(s). 13-1210-EL-CRS

Summary: Motion for Protective Order of CleanChoice Energy, Inc. and
Memorandum in Support electronically filed by Teresa Orahood on behalf of Dylan
F. Borchers.