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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of )  
Vectren Retail, LLC d/b/a )  
Vectren Source for Certification )  
as a Retail Natural Gas Supplier. )

Case No. 02-1668-GA-CRS

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**MOTION FOR EXTENSION OF  
COMMISSION'S PROTECTIVE ORDER**

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December 20, 2005

Attorneys for Vectren Retail, LLC

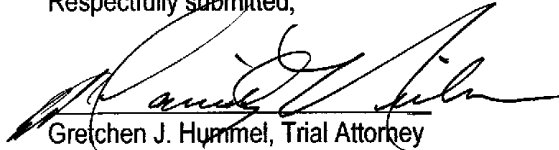
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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gretchen J. Hummel", written over a horizontal line.

Gretchen J. Hummel, Trial Attorney

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Pursuant to the provisions of Rule 4901-1-24(F) of the Ohio Administrative Code ("O.A.C."), Vectren Retail, LLC d/b/a Vectren Source ("Vectren Source") respectfully moves the Public Utilities Commission of Ohio ("Commission") to extend its issuance of the Protective Order initially granted on August 11, 2004 to protect the confidentiality of and prohibit the disclosure of certain documents filed in the above-captioned docket. The documents in Exhibits C-3 Financial Statements ("Exhibit C-3"), C-4 Financial Arrangements ("Exhibit C-4"), and C-5 Forecasted Financial Statements ("Exhibit C-5") were filed under seal with the renewal Application, and contain competitively sensitive and highly proprietary business financial information comprising of trade secrets. The grounds for the instant Motion are detailed in the attached Memorandum in Support.

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**MEMORANDUM IN SUPPORT**

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Contemporaneously with the original Motion for Protective Order and Memorandum in Support ("Motion"), Vectren Source filed its Renewal Application for Certification to become a Retail Natural Gas Supplier on June 10, 2004. The Renewal Application contained all of the required information and materials in accordance with the Commission's Renewal Certification Filing Instructions as well as Rules 4901-1-24 and 4901:1-27-04, O.A.C. As part of the Application materials, Vectren filed under seal information regarding Vectren Source's financial statements ("Exhibit C-3"), financial arrangements ("Exhibit C-4"), and forecasted financial statements ("Exhibit C-5"). Vectren Source submitted this information but asserted that the documents contain competitively sensitive and highly proprietary business financial information which require confidential treatment and thus moved the Commission to maintain the confidential nature of these documents and the information contained therein, and to protect the documents from public disclosure. Consequently, on August 11, 2004, the Attorney Examiner granted in part and denied in part the Motion and protected certain documents and information for eighteen months from the date of the Attorney

Examiner's Entry. To be precise, the Attorney Examiner granted the Motion for exhibits C-3 and C-5 in their entirety, but denied the Motion to protect all of exhibit C-4 and therefore only protected the promissory notes and the entity names in that exhibit. Vectren Source's current Protective Order will expire on February 11, 2006. Despite the expiration of the Protective Order, Vectren Source maintains that the protected information contained in Exhibits C-3, C-4, and C-5 remain competitively sensitive, is highly proprietary business financial information, and continues to qualify for the confidential treatment granted in the original Motion for Protective Order.

Rule 4901-1-24(D), O.A.C., 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 release of such information and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code ("R.C."). State law recognizes the need to protect information that is confidential in nature, as is the protected information contained in Exhibits C-3, C-4, and C-5. Section 4929.23(A), R.C., specifically permits the Commission to grant confidentiality to competitive information.<sup>1</sup> Sections 4901.12 and 4905.07, R.C., facilitate the protection of trade secrets in the Commission's possession.<sup>2</sup> Sections 4901.12 and 4905.07, R.C., reference Section 149.43, R.C.,

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<sup>1</sup> Section 4929.23(A), R.C., provides: "A retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised Code shall provide the public utilities commission with such information, regarding a competitive retail natural gas service for which it is subject to certification, as the commission considers necessary to carry out sections 4929.20 to 4929.24 of the Revised Code. The commission shall take such measures as it considers necessary to protect the confidentiality of any such information."

<sup>2</sup> Section 4901.12, R.C., provides: "Except as provided in section 149.43 of the Revised Code and as consistent with the purposes of Title XLIX [49] of the Revised Code, all proceedings of the public utilities commission and all documents and records in its possession are public records."

and, therefore, incorporate the provision that excepts from the public record information and records of which the release is prohibited by law.<sup>3</sup> State law prohibits the release of information meeting the definition of a trade secret. Additionally, non-disclosure of the information will not impair the purposes of Title 49 as the Commission and its Staff will continue to have full access to the requested information to verify Vectren Source's certification.

The protected documents and information contained in Exhibits C-3, C-4, and C-5 are comprised of competitively sensitive and highly proprietary business financial information falling within the statutory characterization of a trade secret as defined by Section 1333.61(D), R.C. The definition of trade secret contained in Section 1333.61(D) is 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.

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

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Section 4905.07, R.C., provides: "Except as provided in section 149.43 of the Revised Code and as consistent with the purposes of Title XLIX [49] of the Revised Code, all facts and information in the possession of the public utilities commission shall be public, and all reports, records, files, books, accounts, papers, and memorandums of every nature in its possession shall be open to inspection by interested parties or their attorneys."

<sup>3</sup> Section 149.43(A)(1)(v), R.C., provides in part: "Public record" does not mean records the release of which is prohibited by state or federal law."

Clearly, financial statements, financial arrangements, and forecasted financial statements contain proprietary data and are confidential. Public disclosure of this information would jeopardize Vectren Source's business position in negotiations with other parties and its ability to compete. Vectren Source asserts that this information is not generally known by the public and is held in confidence in the normal course of business. Therefore, Vectren Source reasonably requests an extension of the protective order initially granted on August 11, 2004 that prevents public disclosure of the information contained in Exhibits filed under seal on June 10, 2004 (C-3 Financial Statements, C-4 Financial Arrangements, C-5 Forecasted Financial Arrangements).

WHEREFORE, given the highly confidential and proprietary nature of the contents of the information filed under seal, Vectren Source urges the Commission to grant this Motion and issue an appropriate Order to ensure the continued non-disclosure of these proprietary materials.

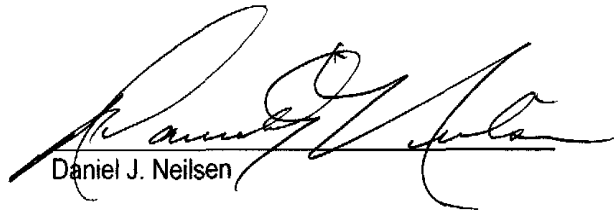
Respectfully submitted,



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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion for Extension of Commission's Protective Order* was served upon the following parties of record this 20<sup>th</sup> day of December 2005, *via* electronic transmission, hand-delivery, or ordinary U.S. mail, postage prepaid.



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