

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Direct)
Energy Services, LLC for Certification as a) Case No. 02-1829-GA-CRS
Competitive Retail Natural Gas Supplier.)

ENTRY

The attorney examiner finds:

- (1) On August 1, 2010, Direct Energy Services, LLC (Direct Energy) filed an application for renewal of its certification as a competitive retail natural gas supplier. On that same day, Direct Energy also filed a motion for a protective order, pursuant to Rule 4901-1-24(D), Ohio Administrative Code (O.A.C.), requesting that exhibits C-4, C-5, and C-6 of its application be kept under seal. These exhibits contain forecasted financial statements for 2010 and 2011.
- (2) In support of its motion for a protective order, Direct Energy explains that exhibits C-4, C-5, and C-6 contain competitively sensitive and highly proprietary business financial information which is not generally known or available to the general public. Therefore, Direct Energy requests that the information found in exhibits C-4, C-5, and C-6 be treated as confidential.
- (3) The attorney examiner has examined the information covered by the motion for protective order filed by Direct Energy, as well as the assertions set forth in the supportive memorandum. Applying the requirements that the information have independent economic value and be the subject of reasonable efforts to maintain its secrecy pursuant to Section 1333.61(D), Revised Code, as well as the six-factor test set forth by the Ohio Supreme Court,¹ the attorney examiner finds that the information contained in exhibits C-4, C-5, and C-6 of Direct Energy's application constitutes trade secret information. Release of these documents is, therefore, prohibited under state law. The attorney examiner also finds that nondisclosure of this information is not inconsistent with the purposes of Title 49 of the Revised Code. Finally, the attorney examiner

¹ See *State ex rel. The Plain Dealer v. Ohio Dept. of Ins.*, (1997) 80 Ohio St.3d 513, 524-525.

concludes that this document could not be reasonably redacted to remove the confidential information contained therein. Therefore, the attorney examiner finds that Direct Energy's motion for protective order is reasonable with regard to exhibits C-4, C-5, and C-6 of its application and should be granted.

- (4) Rule 4901-1-24(D)(4), O.A.C., provides for protective orders relating to gas marketers' certification renewal applications to expire after 24 months. The attorney examiner finds that the 24-month provision in Rule 4901-1-24(D)(4), O.A.C., is intended to synchronize the expiration of protective orders related to gas marketers' certification applications with the expiration of their certification and that the expiration dates should allow adequate time for consideration of any motion for extension. Therefore, confidential treatment shall be afforded to exhibits C-4, C-5, and C-6 for a period ending 24 months from the effective date of the certificate issued to Direct Energy, or until September 17, 2012. Until that date, the docketing division should maintain, under seal, exhibits C-4, C-5, and C-6, which were filed under seal in this docket on August 11, 2010.
- (5) Rule 4901-1-24(F), O.A.C., requires a party wishing to extend a protective order to file an appropriate motion at least 45 days in advance of the expiration date. If Direct Energy wishes to extend this confidential treatment, it should file an appropriate motion at least 45 days in advance of the expiration date. If no such motion to extend confidential treatment is filed, the Commission may release this information without prior notice to Direct Energy.

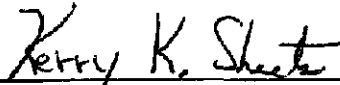
It is, therefore,

ORDERED, That the motion for protective order filed by Direct Energy be granted with regard to the information contained in exhibits C-4, C-5, and C-6 of Direct Energy's application. It is, further,

ORDERED, That the Commission's docketing division maintain, under seal, the unredacted exhibits C-4, C-5, and C-6, which were filed under seal in this docket on August 11, 2010, for a period of 24 months, ending on September 17, 2012. It is, further,

ORDERED, That a copy of this entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



By: Kerry K. Sheets
Attorney Examiner

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Entered in the Journal

OCT 08 2010



Renee J. Jenkins
Secretary