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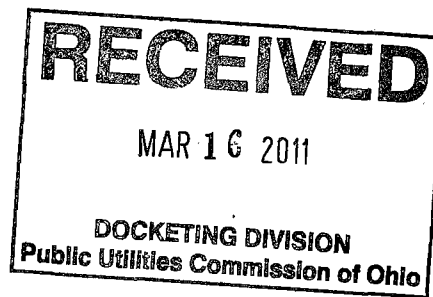
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VIA FACSIMILE (614) 466-0313

March 16, 2011

Public Utilities Commission of Ohio
Docketing Division
180 East Broad Street
Columbus, OH 43215-3793



RE: CRES Case No. 02-1907-EL-CRS / *In the Matter of the Application of Gateway Energy Services Corporation For Certification as a Competitive Retail Electric Supplier*

Dear Sir/Madam:

This office represents Gateway Energy Services Corporation ("Gateway") with respect to the above-referenced application. Enclosed please find a Motion for Protective Order submitted on Gateway's behalf for filing. Please file in your customary manner and return a time-stamped copy to me in the envelope provided. The original and eleven (11) copies are being submitted via overnight delivery.

Please contact me if you have any questions or require any additional information.

Very truly yours,


Leigh A. Maxa

Enclosures

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician AM Date Processed 3/16/11

BEFORE**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Gateway)
Energy Services Corporation for Renewal) Case No. 02-1907-EL-CRS
of its Certification as a Competitive Retail)
Electric Supplier.)

MOTION FOR PROTECTIVE ORDER

Pursuant to the Attorney Examiner's Entry dated March 3, 2011 and Section 4901-1-24(D) of the Ohio Administrative Code, Gateway Energy Services Corporation ("Gateway Energy") respectfully moves the Public Utilities Commission of Ohio for an Order protecting the confidentiality of the information contained in Exhibit C-3 submitted in connection with Gateway Energy's Application for Renewal of its Certification as a Competitive Retail Electric Supplier. The grounds for this Motion are set forth in the attached Memorandum in Support.

Respectfully submitted,



Leigh A. Maxa (#0076847)
BRENNAN, MANNA & DIAMOND, LLC
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Counsel for Gateway Energy Services Corporation

MEMORANDUM IN SUPPORT OF MOTION FOR PROTECTIVE ORDER

I. BACKGROUND

Gateway Energy Services Corporation ("Gateway Energy") seeks an order protecting the confidentiality of the information contained in Exhibit C-3 filed with the Public Utilities Commission of Ohio (the "Commission") in connection with Gateway Energy's Application for the Renewal of its Certification as a Competitive Retail Electric Supplier (the "Electric Renewal Application").¹

On or about October 8, 2010, Gateway Energy filed its Electric Renewal Application with the Commission. Gateway Energy marked Exhibit C-3 to its Electric Renewal Application confidential and filed the same under seal, along with a Motion for Protective Order. Exhibit C-3 contains Gateway Energy's audited financial statements.

On or about October 29, 2010, Gateway Energy filed additional information with the Commission to supplement Exhibit C-5 to its Electric Renewal Application. Although Gateway Energy originally marked the additional Exhibit C-5 information as confidential and filed the same under seal with a second Motion for Protective Order, Gateway Energy is no longer seeking to protect such information as confidential.²

On or about March 3, 2011, the Attorney Examiner for the Commission issued an Entry finding: "The attorney examiner notes that the individual responsible for filing Gateway's motions for protective order does not appear to be an attorney licensed in Ohio. Accordingly, the

¹ Gateway Energy notes that the March 3, 2011 Entry indicates that Gateway Energy seeks to protect as confidential the information contained in Exhibit C-5 to its Electric Renewal Application. However, as set forth herein, Gateway Energy is actually seeking to protect the confidentiality of the information contained in Exhibit C-3 to its Electric Renewal Application.

² On or about November 2, 2010, Gateway Energy filed additional information with the Commission to supplement Exhibit C-4 to its Electric Renewal Application; however, Gateway Energy has not sought (and does not now seek) to protect the contents of Exhibit C-4 to the Electric Renewal Application as confidential.

attorney examiner finds that Gateway's motions for protective order were not properly filed and, thus, cannot be considered by the Commission."

Accordingly, Gateway Energy submits this Motion for Protective Order to satisfy the requirements set forth in Finding (2) of the March 3, 2011 Entry.

II. LAW AND ARGUMENT

Under Ohio Administrative Code Section 4901-1-24(D):

Upon motion of any party or person filing a document with the commission's docketing division relative to a case before the commission, the commission, the legal director, the deputy legal director, or the attorney examiner **may issue any order which is necessary to protect the confidentiality of information contained in the document**, to the extent that the state or federal law prohibits release of the information, including where the information is deemed by the commission, the legal director, the deputy legal director, or the attorney examiner assigned to the case to constitute a trade secret under Ohio law, and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code.

(Emphasis added). Gateway Energy seeks to protect the confidentiality of the information contained in Exhibit C-3 filed with the Commission in connection with its Electric Renewal Application.

Ohio Revised Code Section 4928.08(B) provides:

[N]o electric utility, electric services company, electric cooperative, or governmental aggregator shall provide a competitive retail electric service to a consumer in this state on and after the starting date of competitive retail electric service without first being certified by the public utilities commission regarding **its managerial, technical, and financial capability to provide that service** and providing a financial guaranty sufficient to protect customers and electric distribution utilities from default.

(Emphasis added). In keeping with this mandate, the Commission requires an applicant who wishes to serve as a competitive retail electric supplier to provide the Commission with, among

other things, the applicant's two most recent years of audited or officer-certified financial statements (to be attached to the application as Exhibit C-3).

The detailed financial information requested by the Commission is highly proprietary information and constitutes trade secrets under Ohio law. Under Ohio Revised Code Section 1333.61(D):

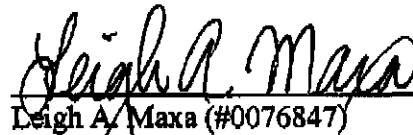
Trade Secret means information, including the whole or any portion or phase of . . . any business information or plans, financial information . . . that satisfies both of the following:

- (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 of use.
- (2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Gateway Energy is a privately held corporation whose financial information is not publicly available and is not generally known. If Gateway Energy's sensitive financial information is disclosed to the public, Gateway Energy's competitors will unjustly benefit therefrom. Accordingly, the information contained in Exhibit C-3 to Gateway Energy's Electric Renewal Application clearly falls within the scope of the Ohio Revised Code's definition of a "trade secret." Under these circumstances, the Commission has the authority to issue a protective order to prevent the public disclosure of Gateway Energy's confidential and trade secret information. See O.A.C. 4901-1-24(D).

WHEREFORE, pursuant to Ohio Administrative Code Section 4901-1-24(D), Gateway Energy respectfully requests that the Commission grant its Motion and issue a Protective Order to maintain the information set forth in Exhibit C-3 of Gateway Energy's Electric Renewal Application under seal and confidential.

Respectfully submitted,

A handwritten signature in cursive script, reading "Leigh A. Maxa". The signature is written in dark ink and is positioned above a horizontal line.

Leigh A. Maxa (#0076847)

BRENNAN, MANNA & DIAMOND, LLC

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Counsel for Gateway Energy Services Corporation

**BRENNAN, MANNA & DIAMOND, LLC**

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FAX COVER SHEET

March 16, 2011

To: Public Utilities Commission of Ohio
Docketing Division

From: Leigh A. Maxa, Esq.
Direct Dial: (330) 374-5184
Direct Fax: (330) 374-5196
E-mail: lamaxa@bmdllc.com

Fax No.: (614)466-0313

Re: CRES Case No. 02-1908-GA-CRS
In the Matter of the Application of Gateway Energy Services Corporation
For Certification as a Competitive Retail Natural Gas Supplier

No. of Pages (Including Cover): 7

Comments: Please see attached Motion for Protective Order for filing in the above referenced matter.

Please notify Jill Woodring at (330) 253-5060 ext. 123 if not received properly.
Our 24-hour automatic fax number is (330) 253-1977.

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HERESY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPY OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

BRENNAN, MANNA & DIAMOND

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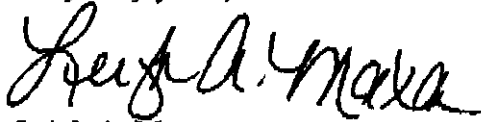
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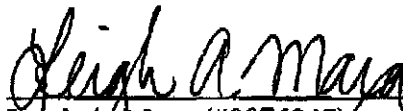
BEFORE**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Gateway)
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Respectfully submitted,



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Counsel for Gateway Energy Services Corporation

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I. BACKGROUND

Gateway Energy Services Corporation ("Gateway Energy") seeks an order protecting the confidentiality of the information contained in Exhibits C-3, C-4 and C-5 filed with the Public Utilities Commission of Ohio (the "Commission") in connection with Gateway Energy's Application for the Renewal of its Certification as a Competitive Retail Natural Gas Supplier (the "Gas Renewal Application").¹

On or about October 8, 2010, Gateway Energy filed its Gas Renewal Application with the Commission. Gateway Energy marked Exhibits C-3 and C-5 to its Gas Renewal Application confidential and filed the same under seal, along with a Motion for Protective Order. Exhibit C-3 contains Gateway Energy's audited financial statements; Exhibit C-5 contains Gateway Energy's forecasted financial statements.

On or about October 29, 2010, Gateway Energy filed additional information with the Commission to supplement Exhibit C-5 to its Gas Renewal Application. Gateway Energy marked the additional Exhibit C-5 information as confidential and filed the same under seal with a second Motion for Protective Order.

On or about November 2, 2010, Gateway Energy filed additional information with the Commission to supplement Exhibit C-4 to its Gas Renewal Application. Gateway Energy again marked the additional Exhibit C-4 information as confidential and filed the same under seal

¹ Gateway Energy notes that the March 3, 2011 Entry indicates that Gateway Energy seeks to protect as confidential the information contained in Exhibits C-4 and C-5 to its Gas Renewal Application. However, as set forth herein, Gateway Energy is actually seeking to protect the confidentiality of the information contained in Exhibits C-3, C-4 and C-5 to its Gas Renewal Application.

along with a third Motion for Protective Order. Exhibit C-4 contains information concerning Gateway Energy's financial arrangements.

On or about March 3, 2011, the Attorney Examiner for the Commission issued an Entry finding: "The attorney examiner notes that the individual responsible for filing Gateway's motions for protective order does not appear to be an attorney licensed in Ohio. Accordingly, the attorney examiner finds that Gateway's motions for protective order were not properly filed and, thus, cannot be considered by the Commission."

Accordingly, Gateway Energy submits this Motion for Protective Order to satisfy the requirements set forth in Finding (2) of the March 3, 2011 Entry.

II. LAW AND ARGUMENT

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(Emphasis added). Gateway Energy seeks to protect the confidentiality of the information contained in Exhibits C-3, C-4 and C-5 filed with the Commission in connection with its Gas Renewal Application.

Ohio Revised Code Section 4929.20(A) provides:

[N]o retail natural gas supplier shall provide a competitive retail natural gas service to a consumer on or after thirteen months following the effective date of this section to a consumer in this state without first being certified by the public utilities commission regarding its managerial,

technical, and financial capability to provide that service and providing reasonable financial assurances sufficient to protect customers and natural gas companies from default.

(Emphasis added). In keeping with this mandate, the Commission requires an applicant who wishes to serve as a competitive retail natural gas supplier to provide the Commission with, among other things, the applicant's two most recent years of audited or officer-certified financial statements (to be attached to the application as Exhibit C-3), the applicant's financial arrangements (to be attached to the application as Exhibit C-4), and the applicant's forecasted financial statements (to be attached to the application as Exhibit C-5).

The detailed financial information requested by the Commission is highly proprietary information and constitutes trade secrets under Ohio law. Under Ohio Revised Code Section 1333.61(D):

Trade Secret means information, including the whole or any portion or phase of . . . any business information or plans, financial information . . . that satisfies both of the following:

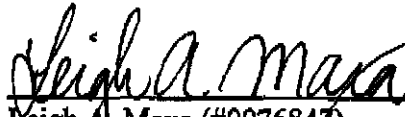
- (1) It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure of use.
- (2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Gateway Energy is a privately held corporation whose financial information is not publicly available and is not generally known. If this sensitive information is disclosed to the public, Gateway Energy's competitors will unjustly benefit therefrom. Accordingly, the information contained in Exhibits C-3, C-4 and C-5 to Gateway Energy's Gas Renewal Application clearly falls within the scope of the Ohio Revised Code's definition of a "trade secret." Under these circumstances, the Commission has the authority to issue a protective order to prevent the public

disclosure of Gateway Energy's confidential and trade secret information. See O.A.C. 4901-1-24(D).

WHEREFORE, pursuant to Ohio Administrative Code Section 4901-1-24(D), Gateway Energy respectfully requests that the Commission grant its Motion and issue a Protective Order to maintain the information set forth in Exhibits C-3, C-4 and C-5 of Gateway Energy's Gas Renewal Application under seal and confidential.

Respectfully submitted,



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