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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of )  
North American Power and Gas, LLC for ) Case No. 12-1134-GA-CRS  
Certification as a Competitive Retail )  
Natural Gas Supplier )

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MOTION FOR PROTECTIVE ORDER

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Applicant North American Power and Gas, LLC (hereinafter, "NAPG" or "Applicant") by and through counsel, hereby moves pursuant to Ohio Administrative Code 4901-1-24(D), for the entry of a Protective Order to designate as confidential its responses to questions A-17 (Articles of Incorporation and Bylaws), C-3 (Financial Statements), C-4 (Financial Arrangements), C-5 (Forecasted Financial Statements), and C-7 (Credit Report) in the Commission's Certification Application as a Competitive Retail Natural Gas Supplier. These questions seek information and records which NAPG considers confidential and proprietary trade secrets, and which are maintained as confidential by the Company. Public disclosure of this information could be potentially harmful to NAPG's competitive position as an energy supplier. NAPG filed its Application in this proceeding on the date of filing of this Motion.

NAPG requests that the Protective Order be effective for a period of twenty-four (24) months from the effective date of the certificate issued to it in this proceeding. NAPG further asks that its responses to any subsequent requests for additional information or clarification which Staff might make with regard to these same requests also be permitted to be filed under seal, pursuant to the same Protective Order requested herein.

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In accordance with Ohio Admin. Code 4901-1-24(D), three (3) unredacted copies of the confidential documents are submitted under seal with this Motion. The grounds supporting this Motion are more fully explained in the attached Memorandum in Support.

Respectfully submitted,



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## **MEMORANDUM IN SUPPORT OF MOTION FOR PROTECTIVE ORDER**

NAPG is a foreign limited liability company organized under the laws of the State of Delaware. NAPG is registered with the Ohio Secretary of State to do business in the State of Ohio.

NAPG requests that the information designated as confidential (Exhibits A-17, C-3, C-4, C-5 and C-7) to its Application for Certification as a Competitive Retail Natural Gas Supplier be protected from public disclosure. If said information is released to the public, NAPG would suffer substantial harm as its competitors would have access to NAPG's proprietary information.

Ohio Admin. Code 4901-1-24(D) provides:

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

The need to protect the types of information that are the subject of this motion is recognized under Ohio law. The Commission would have full access to the information in order to fulfill its statutory obligations and the nondisclosure of said information will not frustrate the purposes of Title 49 of the Revised Code.

Exhibit A-17 of the Application requests the "articles of incorporation filed with the state or jurisdiction in which the applicant is incorporated and any amendments thereto." Along with this Motion, NAPG has filed under seal unredacted copies of its Limited Liability Company Agreement. While on its face, this document may not appear to contain confidential information, the information contained therein should be protected from public disclosure. The Limited Liability Company Agreement contains information related to the company structure as

well as the structure of internal management of NAPG. This information is not known outside of the company and, if the Commission were to require the disclosure of this document, competitors would have an undue advantage by gaining insight into the structure and internal management of NAPG. Disclosure of this information would not likely assist the Commission in carrying out its duties under the CRGN rules.

Exhibit C-3 requests “copies of the applicant’s two most recent years of audited financial statements (balance sheet, income statement, and cash flow statement)”; Exhibit C-4 requests “copies of the applicant’s current financial arrangements to conduct competitive retail natural gas service (CRNGS) as a business activity (e.g., guarantees, bank commitments, contractual arrangements, credit agreements, etc.)”; Exhibit C-5 requests “two years of forecasted financial statements (balance sheet, income statement, and cash flow statement) for the applicant’s CRNGS operation, along with a list of assumptions, and the name, address, e-mail address, and telephone number of the prepare”; and Exhibit C-7 requests “a copy of applicant’s current credit report from Experian, Dun and Bradstreet, or a similar organization.”

NAPG gladly provides this information to the Commission, but asks that it be subject to Protective Order due to the confidential and proprietary nature of this information and because its public disclosure might be injurious to the Company’s competitive position. Applicant notes that a similar Motion for Protective Order, filed by Constellation New Energy- Gas Division, LLC with respect to its approved Application for certification as a competitive retail natural gas supplier with respect to Exhibits C-3, C-4, and C-5 was granted by Entry dated July 7, 2011, *In the Matter of the Application of Constellation New Energy- Gas Division, LLC, for Certification as a Competitive Retail Natural Gas Supplier*, Case No. 09-459-GA-CRS. NAPG submits that the basis for the Attorney Examiner to grant the Motion with respect to NAPG’s pending

Application is equally compelling here as it was in that proceeding. With respect to Exhibit C-7, NAPG submits that its Credit Report contains confidential financial information of the company and, thus, should not be disclosed.

NAPG is a limited liability company engaged solely as a supplier that helps consumers manage their energy costs through effective energy purchasing strategies and does not make public disclosure of the requested information through SEC filings or otherwise. As such, and given the intense competition in the CRNGS arena, this information is a legitimate trade secret, access to which could negatively affect NAPG's competitive position.

This request for a Protective Order is reasonable, necessary and will not prejudice any other party or individual. In fact, to the extent NAPG's ability to compete effectively is preserved, Ohio consumers will be better served. Fair competition is the philosophical basis for the CRNGS statute and implementing regulations.

For all of the foregoing reasons, North American Power and Gas, LLC respectfully requests that a Protective Order be issued which: (1) permits North American Power and Gas, LLC to file Exhibits A-17, C-3, C-4, C-5 and C-7 to its Certification Application as a Competitive Retail Natural Gas Supplier under seal; and (2) requires those with access to those responses to treat them in a confidential manner for a period of twenty-four (24) months from the effective date of the certificate issued in this proceeding. North American Power and Gas, LLC further requests that should Staff seek any additional information or clarification with respect to its responses to Questions A-17, C-3, C-4, C-5 and C-7, those also be permitted to be filed under seal and subject to the same Protective Order.

In compliance with Ohio Administrative Code 4901-01-24(D)(2), three (3) unredacted copies of the confidential information in response to Questions A-17, C-3, C-4, C-5 and C-7 are being submitted under seal with this Motion.

Respectfully submitted,



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