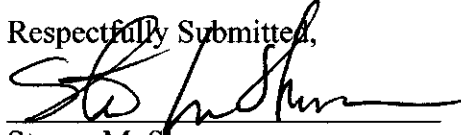


The grounds for the instant Motion are set forth in the attached Memorandum in Support.

Respectfully Submitted,



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Attorneys for ProLiance Energy, LLC

**Before
The Public Utilities Commission of Ohio**

In the Matter of the Application of)	
ProLiance Energy, LLC for)	Case No. 02-1909-GA-CRS
Renewal of Certification)	
as a Retail Natural Gas Supplier)	

MEMORANDUM IN SUPPORT

Contemporaneously with this Motion for Protective Order and Memorandum in Support, ProLiance Energy, LLC (“ProLiance”) has filed its Application for Renewal Certification as a Retail Natural Gas Supplier. The Application contains all of the required information and materials in accordance with the Commission’s Rules for Renewal Certification for Retail Natural Gas Suppliers. A certificate was originally issued to ProLiance on August 27, 2002, and Renewal Certificates issued August 26, 2004, October 24, 2006, October 3, 2008, and October 13, 2010.

As part of the Application materials, the Commission requested information regarding ProLiance’s “Financial Statements” (“Exhibit C-3”), “Financial Arrangements” (“Exhibit C-4”), and “Forecasted Financial Statements” (“Exhibit C-5”). ProLiance has provided the information under seal in an unredacted form because the documents contain competitively sensitive and highly proprietary financial information, which require confidential treatment. ProLiance requests that the Commission maintain the commercially sensitive and confidential nature of the information contained within the portion of the Application filed under seal.

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.”). Ohio law recognizes the need to protect information that is confidential in nature, as is the 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.¹ Sections 4901.12 and 4905.07, R.C., facilitate the protection of trade secrets in the Commission’s possession.² Sections 4901.12 and 4905.07, R.C., which reference Section 149.43, R.C., enable the Commission to except from the public record information and records of which the release is prohibited by law.³

¹R.C. Section 4929.23(A) 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.”

²R.C. Section 4901.12, provides: “Except as otherwise 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.”

R.C. Section 4905.07, 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.”

³R.C. Section 149.43(A)(1)(v), provides in part: “ ‘Public record’ does not mean records the release of which is prohibited by state or federal law.”

The information contained in Exhibits C-3, C-4, and C-5 contain competitively sensitive and proprietary business and financial information within the statutory definition of trade secret as defined in Section 1333.61(D), R.C. Section 1333.61(D) defines trade secret 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 subject of efforts that are reasonable under the circumstances to maintain its secrecy.

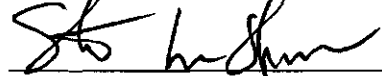
Financial statements, financial arrangements, and forecasted financial statements clearly fall within the definition of “Trade Secret.” Public disclosure of such information will injure ProLiance and will allow competitors to gain access to sensitive data.

ProLiance asserts that the information filed under seal is not generally known by the public and is confidential. Therefore, ProLiance requests that the financial information contained in Exhibits C-3, C-4, and C-5 be deemed to contain trade secrets, and thus, be treated as confidential by the Commission and its Staff.

The Commission has previously granted protected treatment of confidential information in ProLiance’s original application and renewals. The Commission has also approved protected treatment in similar applications. *See 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.

WHEREFORE, ProLiance respectfully requests that this Motion for Protective Order be granted for the reasons set forth herein.

Respectfully submitted,



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