

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
Energy Plus Natural Gas LLC for	)	Case No. 11-4170-GA-CRS
Certification as a Retail Natural Gas	)	
Marketer	)	

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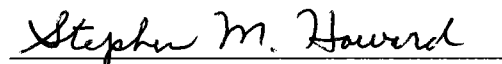
**MOTION TO EXTEND PROTECTIVE ORDER**

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Pursuant to Rule 4901-1-24(D) of the Ohio Administrative Code, Energy Plus Natural Gas LLC ("Energy Plus"), moves to extend the February 15, 2011 protective order to keep three financial exhibits (Exhibits C-3, C-4 and C-5) to its initial application for certification confidential and not part of the public record. Energy Plus submits that Exhibits C-3, C-4 and C-5 (submitted on July 5, 2011) have not yet been released to the public and that good cause exists for extending protective treatment for these three exhibits. The reasons underlying this motion to extend are detailed in the attached Memorandum in Support.

WHEREFORE, Energy Plus Natural Gas LLC respectfully moves that the Commission extend confidential treatment for Exhibits C-3, C-4 and C-5 (submitted on July 5, 2011) in this case.

Respectfully submitted,

  
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Counsel for Energy Plus Natural Gas LLC

**MEMORANDUM IN SUPPORT OF  
MOTION TO EXTEND PROTECTIVE ORDER**

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On July 5, 2011, Energy Plus filed an application seeking to be certified as a competitive retail natural gas service provider in Case No. 11-4170-GA-CRS. Energy Plus filed a motion seeking protective treatment in this case for Exhibits C-3, C-4 and C-5, which were submitted under seal in this case. On September 16, 2011, the Attorney Examiner granted Energy Plus' motion for a protective order indicating that Exhibits C-3, C-4 and C-5 would be protected for twenty-four months. The Attorney Examiner stated that if Energy Plus wished to extend this confidential treatment, it should file an appropriate motion at least forty-five days in advance of the expiration date.

Energy Plus has timely filed this motion to extend the protective order. Energy Plus submits that there are at least two reasons constituting good cause why its motion to extend protective treatment should be granted.

First, in its September 16, 2011 Entry, the Attorney Examiner referenced the six factor test the Ohio Supreme Court has used in determining whether information is a trade secret. See State Ex Rel The Plain Dealer v Ohio Dept. of Ins. (1997) 80 Ohio St. 3d 513, 524-525. Those six factors include:

- (a) The extent to which the information is known outside the business;
- (b) The extent to which it is known to those inside the business, i.e. by the employees;
- (c) The precautions taken by the holder of the trade secret to guard the secrecy of the information;
- (d) The savings affected and the value to the holder in having the information as against competitors;
- (e) The amount of effort or money expended in obtaining and developing the information;
- (f) The amount of time and expense it would take for others to acquire and duplicate the information.

Despite the passage of nearly two years, applying these factors today produces the same conclusion that Exhibits C-3, C-4 and C-5 constitute trade secret information. The financial information is still not known outside the business and is still only known to a few employees. Energy Plus still takes precautions to guard the secrecy of this information. If a competitor had this information, it would still be very valuable to it when it comes to competing against Energy Plus. It took time and effort to develop these financial statements and financial forecasts. Without this information, it would still take time and expense for others to acquire and duplicate this information. Thus, even though approximately twenty months have passed, this information should still be considered as a trade secret.

But there is another reason why the Commission or the Attorney Examiner should extend protective treatment for these exhibits. On August 6, 2012, the Staff conducted workshops to consider amendments of its electric and natural gas certification rules. At least on an informal basis, the Staff has suggested that it might be appropriate to consider extending the initial twenty-four month period that confidential documents are kept under seal to a longer period of time.

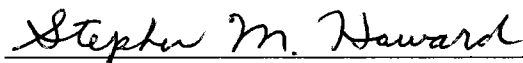
By its November 7, 2012 Entry in Case No. 12-925-GA-COI, the Commission issued Staff proposed amendments to the rules for competitive retail natural gas service contained in Chapters 4901:1-27 through 4901:1-34 of the Ohio Administrative Code. In proposed rule 4901:1-27-08, the Staff has proposed that an applicant who submits financial exhibits under seal be afforded protective treatment for a period of six years from the date of the certificate for which information is being provided. Energy Plus asks that the Commission at least extend confidential treatment to its Exhibits C-3, C-4 and C-5 (submitted on July 5, 2011) to a point in time when the Commission amends its rules and considers lengthening the initial time period that documents are treated as confidential. Energy Plus respectfully requests that if

the Commission ultimately decides that the initial time period for such protection should be six years, then the time period for protection be extended for an additional four years until September 16, 2017. If the Commission ultimately determined a time period different than six years should apply, Energy Plus respectfully requests that such time period be used in determining any period of extension of confidential treatment for the exhibits submitted in this case on July 5, 2011.

In his January 29, 2013 Entry in Case No. 11-625-EL-CRS, the Attorney Examiner granted a similar motion and extended the protective treatment for certain financial exhibits for another two years.

For the foregoing reasons, Energy Plus Natural Gas LLC submits that good cause exists for extending the protective treatment for these three exhibits and respectfully requests that the Commission or an Attorney Examiner extend the protective order with respect to Exhibits C-3, C-4 and C-5 that were submitted on July 5, 2011.

Respectfully submitted,



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Summary: Motion Motion to Extend Protective Order electronically filed by Mr. Stephen M Howard on behalf of Energy Plus Natural Gas LLC