

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
Starion Energy NY Inc. for Certification) Case No. 13-427-GA-CRS
as a Competitive Retail Natural Gas)
Supplier.)

ENTRY

The Commission finds:

- (1) On February 14, 2013, Starion Energy NY Inc. (Starion) filed an application for certification as a competitive retail natural gas supplier. On that same day, Starion filed a motion for a protective order, pursuant to Rule 4901-1-24(D), Ohio Administrative Code (O.A.C). The information for which protective treatment is sought specifically consists of three financial exhibits to Starion's certification application, namely, exhibit C-3 (Starion's financial statements), exhibit C-4 (Starion's financial arrangements), and exhibit C-5 (Starion's forecasted financial arrangements). All three exhibits were filed in this case, in unredacted form, under seal, on February 14, 2013.
- (2) In support of its motion for a protective order, Starion explains that the involved exhibits contain competitively sensitive and highly proprietary business financial information, which is not generally known or available to the general public. Therefore, Starion requests that the information found in exhibits C-3, C-4, and C-5 of Starion's certification application be treated as confidential.
- (3) Section 4905.07, Revised Code, provides that all facts and information in the possession of the Commission shall be public, except as provided in Section 149.43, Revised Code, and as consistent with the purposes of Title 49 of the Revised Code. Section 149.43, Revised Code, specifies that the term "public records" excludes information which, under state or federal law, may not be released. The Ohio Supreme Court has clarified that the "state or federal law" exemption is intended to cover trade secrets. *State ex rel. Besser v. Ohio State*, 89 Ohio St.3d 396, 399, 732 N.E.2d 373 (2000).

- (4) Similarly, Rule 4901-1-24, O.A.C., allows the Commission to issue an order to protect the confidentiality of information contained in a filed document, "to the extent that state or federal law prohibits release of the information, including where the information is deemed . . . 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."
- (5) Ohio law defines a trade secret as "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 or use. (2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy." Section 1333.61(D), Revised Code.
- (6) After examining exhibits C-3, C-4, and C-5 of Starion's certification application, the Commission concludes that the information contained in each of these three exhibits constitutes trade secret information. Pursuant to Section 1333.61(D), Revised Code, release of these documents is, therefore, prohibited under state law. Accordingly, the Commission finds that Starion's motion for protective order is reasonable with regard to exhibits C-3, C-4, and C-5 of its application and should be granted.
- (7) Rule 4901-1-24(D)(4), O.A.C., provides for protective orders relating to gas marketer's renewal applications to expire after 24 months. Therefore, confidential treatment shall be afforded to exhibits C-3, C-4, and C-5 of Starion's certification application for a period ending 24 months from the date of this entry.
- (8) On March 6, 2013, Starion filed a request to withdraw its application in this case. Further, Starion requested that this case be closed. Upon consideration of Starion's request, Starion's request should be granted and the instant case should be dismissed.

It is, therefore,


ORDERED, That the motion for a protective order filed by Starion be granted with regard to the information contained in the unredacted exhibits C-3, C-4, and C-5 of Starion's certification application, which were filed under seal on February 14, 2013. It is, further,

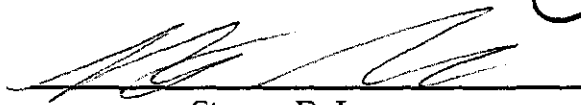
ORDERED, That the Commission's docketing division maintain, under seal, for a period of 24 months from the date of this entry, the unredacted exhibits C-3, C-4, and C-5 of Starion's certification application, which were filed under seal on February 14, 2013. It is, further,

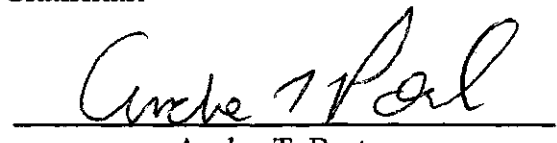
ORDERED, That Starion's request to withdraw this case be granted, and Case No. 13-427-GA-CRS be dismissed. It is, further,

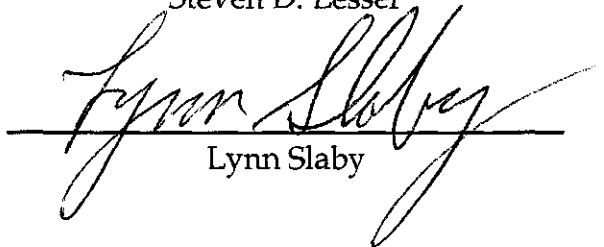
ORDERED, That a copy of this entry be served upon all parties of record.

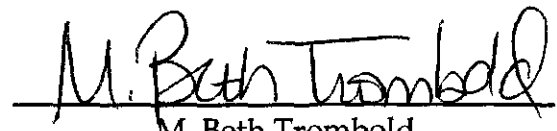
THE PUBLIC UTILITIES COMMISSION OF OHIO



Todd A. Snitchler, Chairman

Steven D. Lesser

Andre T. Porter

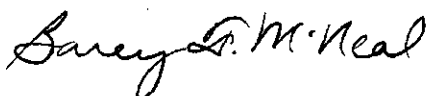
Lynn Slaby

M. Beth Trombold

DEF/sc

Entered in the Journal

MAR 27 2013



Barcy F. McNeal

Secretary