

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of )  
ALCO Distribution Corporation for ) Case No. 13-104-GA-CRS  
Certification as a Competitive Retail )  
Natural Gas Supplier. )

ENTRY

The Commission finds:

- (1) On January 4, 2013, ALCO Distribution Corporation (ALCO) filed an application for certification as a competitive retail natural gas supplier. On that same day, ALCO filed a motion for a protective order, pursuant to Rule 4901-1-24(D), Ohio Administrative Code (O.A.C.), requesting that the forecasted financial statements, exhibit C-5 of its application, be kept under seal.
- (2) ALCO submits that the information in exhibit C-5 is competitively sensitive and highly proprietary. ALCO contends that public disclosure of this information would jeopardize its business position in negotiations with other parties and its ability to compete.
- (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 exhibit C-5 of ALCO's certification application, the Commission concludes that the information contained in exhibit C-5 constitutes trade secret information. Pursuant to Section 1333.61(D), Revised Code, release of this document is, therefore, prohibited under state law. Accordingly, the Commission finds that ALCO's motion for protective order is reasonable with regard to exhibit 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 exhibit C-5 for a period ending 24 months from the date of this entry.
- (8) On February 6, 2013, ALCO filed a request to withdraw its application in this case. Further, ALCO requested that this case be closed. Upon consideration of ALCO's request, ALCO'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 ALCO be granted with regard to the information contained in exhibit C-5 of ALCO's application. It is, further,

ORDERED, That the Commission's docketing division maintain, under seal, the unredacted exhibit C-5, which was filed under seal on January 4, 2013, for a period of 24 months from the date of this entry. It is, further,

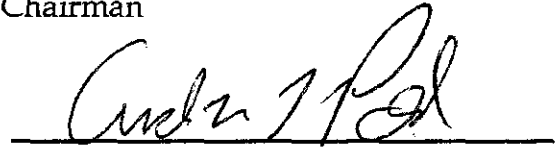
ORDERED, That ALCO's request to withdraw this case be granted, and Case No. 13-104-GA-CRS be dismissed. It is, further,

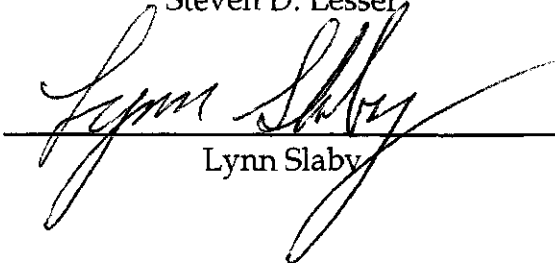
ORDERED, That a copy of this entry be served upon all interested persons of record.

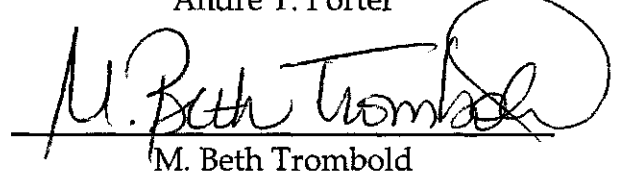
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Todd A. Snitchler, Chairman

  
Steven D. Lesser

  
Andre T. Porter

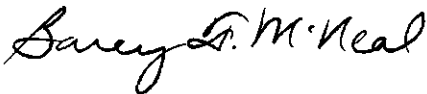
  
Lynn Slaby

  
M. Beth Trombold

KKS/vrm

Entered in the Journal

**MAR 27 2013**

  
Barcy F. McNeal

Barcy F. McNeal  
Secretary