

FILE

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13-1809-GA-CRS

August 15, 2013

PUCO

2013 AUG 20 PM 12:41

RECEIVED-DOCKETING DIV

**VIA UPS - NEXT DAY AIR**

Public Utilities Commission of Ohio  
Docketing Division 13th Floor  
180 East Broad Street  
Columbus, OH 43215-3793

Re: *Guttman Energy, Inc.'s Motion for Protective Order re: Exhibits C-3, C-4 and C-5 to its Competitive Retail Natural Gas Supplier Application*

Dear Docketing Division:

On behalf of our client, Guttman Energy, Inc. ("Guttman Energy"), enclosed for filing with the Commission are an original and three (3) copies of a Motion for Protective Order relating to the confidentiality of the financial documents filed separately but contemporaneously with Guttman Energy's Competitive Retail Natural Gas Supplier Application ("Gas Application"). The financial documents, marked as Exhibits C-3, C-4 and C-5 of the Gas Application, are labeled "Confidential" and are being filed with the Commission under seal of confidentiality pursuant to Guttman Energy's Motion for Protective Order. Guttman Energy requests that Exhibits C-3, C-4 and C-5 not to be disclosed or disseminated to the public without Guttman Energy's prior written consent.

Please date stamp the extra copies of this transmittal letter and Motion, and return them to me in the self-addressed, stamped envelope. *Please note my new address and update your records as follows:*

Alan M. Seltzer  
Buchanan Ingersoll & Rooney PC  
409 N. Second Street, Suite 500  
Harrisburg, PA 17101-1357

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Public Utilities Commission of Ohio  
Docketing Division 13th Floor  
August 15, 2013  
Page 2

If you have any questions concerning this filing, please contact me at (717) 237-4862.  
Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alan M. Seltzer". The signature is fluid and cursive, with the first name "Alan" being more prominent.

Alan M. Seltzer  
OH Attorney ID No. 0074908

AMS/gm  
Enclosures

FILE

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

RECEIVED-DOCKETING DIV

2013 AUG 20 PM 12:41

In the Matter of Guttman Energy, Inc.'s :  
Application for Certification As A :  
Competitive Retail Natural Gas Supplier :

Case No. 13-1809 PUCO  
-GA-CRS

**MOTION FOR PROTECTIVE ORDER**

Guttman Energy, Inc. ("Guttman Energy"), by and through its attorneys, Buchanan Ingersoll & Rooney, P.C. and Alan Michael Seltzer, respectfully requests that the Public Utilities Commission of Ohio ("Commission") grant this Motion for Protective Order ("Motion") in this matter pursuant to the provisions of Rule 4901-1-24(D) of the Ohio Administrative Code ("O.A.C.") to protect the confidentiality and prohibit public disclosure and dissemination of certain financial documents filed with its Application for Certification as a Competitive Retail Natural Gas Supplier ("Gas Application"). This Motion is being filed separately but contemporaneously with the Gas Application.

The financial documents, marked as Exhibits C-3, C-4 and C-5 and part of the Application, contain competitively sensitive and proprietary business/financial information (individually and collectively, "Confidential Information") falling within the statutory characterization of a trade secret as defined by Section 1333.61(D) of the Ohio Revised Code ("O.R.C."). These documents have been marked as Confidential and are being filed under seal pursuant to this Motion. Guttman Energy believes that the Confidential Information should be treated by the Commission as confidential and held under seal separate and apart from its public files because the documents contain privileged or confidential information not otherwise available to the public. Accordingly, Guttman Energy requests that the Commission maintain

the confidential nature of the Confidential Information and protect the financial documents from public disclosure.

Rule 4901-1-24(D) of the 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 laws prohibit the release of such information and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Ohio Revised Code. Ohio law recognizes the need to protect information that is confidential in nature, as is the information in Exhibits C-3, C-4 and C-5. Section 4929.23(A), O.R.C., specifically permits the Commission to grant confidentiality to competitive information: "The Commission shall take such measures as it considers necessary to protect the confidentiality of any such information." Non-disclosure of the Confidential Information contained in Exhibits C-3, C-4 and C-5 of the Application will not impair the purposes of Title 49 because the Commission and its Staff will have access to the information they need to complete the review process.

Guttman Energy is a privately held business whose financial statements are not publicly available and public disclosure of this information could adversely impact its competitive position with other similar businesses licensed in Ohio.

The Confidential Information marked as Exhibits C-3, C-4 and C-5 of the Application constitute competitively sensitive and highly proprietary business/financial information falling within the statutory characterization of a trade secret as defined by Section 1333.61(D), O.R.C., as follows:

(D) "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 the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Section 1333.61(D), O.R.C. (emphasis added). The financial statements in Exhibits C-3, C-4 and C-5 contain proprietary business data and derive independent economic value from not being generally known to the public. Public disclosure or dissemination of the Confidential Information would jeopardize Guttman Energy's business position and ability to compete. Therefore, Guttman Energy requests that the Confidential Information contained in Exhibits C-3, C-4 and C-5 of the Application be considered trade secrets, and thus, be treated as confidential by the Commission and its Staff. Unredacted copies of the Confidential Information are being filed concurrently with, and separate and apart from, the Application.

Due to the competitively sensitive and proprietary business/financial information and because public disclosure of the Confidential Information would jeopardize Guttman Energy's business position and ability to compete, there is a need for continued and permanent protection from public disclosure. Therefore, Guttman Energy respectfully requests that the Commission issue an Order as provided for in Rule 4901-1-24(F) of the O.A.C. granting permanent protection from public disclosure or dissemination of the Confidential Information and extend such protection beyond the initial 18 months after the date said order has been issued.

WHEREFORE, Guttman Energy respectfully requests that its Motion for Protective Order be granted for the reasons set forth in this Motion.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY, P.C.

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Dated: August 15, 2013

Attorneys for Guttman Energy, Inc.