

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of MP2 )  
Energy NE LLC for a Certificate to Provide ) Case No. 13-2211 -EL-CRS  
Competitive Retail Electric Service in Ohio )

---

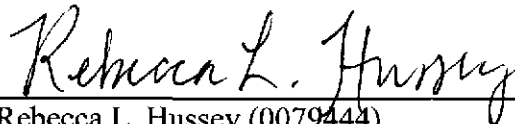
**MOTION FOR PROTECTIVE ORDER**

---

Applicant MP2 Energy NE LLC (MP2 Energy NE), by and through counsel, hereby moves for a protective order pursuant to Rule 4901-1-24, Ohio Administrative Code (O.A.C.), to keep two financial exhibits (Exhibits C-4 and C-5) to its Application for a Certificate to Provide Competitive Retail Electric Service in Ohio (Application) confidential and not part of the public record. The basis for this Motion is set forth in the accompanying Memorandum in Support. Consistent with the requirements of Rule 4901-1-24, O.A.C., three unredacted copies of the exhibits for which the Applicant seeks protection are submitted under seal.

WHEREFORE, MP2 Energy NE respectfully requests that its Motion for Protective Order seeking confidential treatment of Exhibits C-4 and C-5 be granted.

Respectfully submitted,



Rebecca L. Hussey (0079444)  
Carpenter Lipps & Leland LLP  
280 N. High Street, Suite 1300  
Columbus, Ohio 43215  
Telephone: (614) 365-4110  
Email: hussey@carpenterlipps.com

*Counsel for MP2 Energy NE LLC*

RECEIVED-DOCKETING DIV

2013 NOV 14 AM 11:22

PUCO

This is to certify that the above document is a true and accurate and complete reproduction of the original document delivered in the regular course of business  
Technician AD Date Processed 11/14/13

## MEMORANDUM IN SUPPORT

MP2 Energy NE respectfully requests that the Public Utilities Commission of Ohio (Commission) designate as confidential and protect from public disclosure Exhibits C-4 and C-5 to its Application for a Certificate to Provide Competitive Retail Electric Service in Ohio. If released to the public, the information contained in these exhibits would harm MP2 Energy NE, as it would provide its competitors with sensitive, proprietary information which is not generally known or available to the public.

Rule 4901-1-24(D), O.A.C., permits an attorney examiner to issue an order to protect the confidentiality of information contained in a document filed at the Commission "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."

Section 1333.61(D), Revised Code, defines a trade secret as information which "(1) 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[; and] (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy." Further, Section 149.43, Revised Code, states that the term "public records" excludes information which, under state or federal law, may not be released. The Supreme Court of Ohio has opined that this "state or federal law" exemption is intended to cover trade secrets. *State ex rel. Besser v. Ohio State* (2000), 89 Ohio St.3d 396, 399. Moreover, in *State ex rel. The Plain Dealer v. Ohio Dept. of Insurance*, the Supreme Court of Ohio adopted the following six factor test to determine whether information constitutes a "trade secret" under Section 1333.61, Revised Code:

- (1) the extent to which the information is known outside the business;
- (2) the extent to which it is known to those inside the business, i.e., by the employees;
- (3) the precautions taken by the holder of the trade secret to guard the secrecy of the information;
- (4) the savings effected and the value to the holder in having the information as against competitors;
- (5) the amount of effort or money expended in obtaining and developing the information;
- (6) the amount of time and expense it would take for others to acquire and duplicate the information.

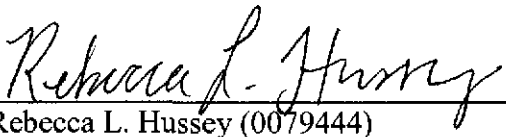
*State ex rel. The Plain Dealer v. Ohio Dept. of Ins.* (1997), 80 Ohio St.3d 513, 524-25.

Applying these factors to the information contained in the exhibits that MP2 Energy NE seeks to protect, the Commission should grant MP2 Energy NE's motion in its entirety. Exhibit C-4 covers confidential information relating to MP2 Energy NE's financial arrangements. This information is not widely known outside the business, and further, is not known by those inside the business who are employed in capacities other than those that encompass financial and accounting services. Exhibit C-5 covers the Company's forecasted financial statements. Information of the nature contained in this exhibit is not generally disclosed, as such disclosure would give competitors an advantage that could damage MP2 Energy NE's ability to compete in a number of important markets. Further, confidential treatment of the information contained in Exhibits C-4 and C-5 is not inconsistent with the purposes of Title 49 of the Revised Code.

In light of the nature of the exhibits for which MP2 Energy NE seeks confidential treatment and the competitive advantage which disclosure of the information contained in the exhibits may provide to its competitors, the Commission should grant MP2 Energy NE's motion for a protective order.

WHEREFORE, MP2 Energy NE respectfully requests the Commission to grant its motion for a protective order covering Exhibits C-4 and C-5 of its Application.

Respectfully submitted,



---

Rebecca L. Hussey (0079444)  
Carpenter Lipps & Leland LLP  
280 N. High Street, Suite 1300  
Columbus, Ohio 43215  
Telephone: (614) 365-4110  
Email: hussey@carpenterlipps.com

*Counsel for MP2 Energy NE, LLC*

1351-001.370426v1