

FILE

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. 14-802-GA-CRS
Competitive Retail Natural Gas Service in)
Ohio.)

RECEIVED-DOCKETING DIV
2014 MAY 28 PM 5:12
PUCO

SUPPLEMENTAL MOTION FOR PROTECTIVE ORDER

Applicant MP2 Energy NE LLC (MP2 Energy NE or the Applicant), by and through counsel, initially filed a motion for 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 Natural Gas Service in Ohio (Application) confidential on April 29, 2014.

On May 23, 2014, the staff of the Commission requested that MP2 Energy NE supplement the information provided in Exhibit C-3 of its Application with its 2013 financials. Upon a review of the information initially supplied in Exhibit C-3, it was discovered that the Applicant's 2011 and 2012 financials were inadvertently filed in the public docket. Like the information contained in Exhibits C-4 and C-5, for which the Applicant initially requested confidential treatment, the information sought in Exhibit C-3 also contains information which constitutes trade secrets and is not typically publically available.

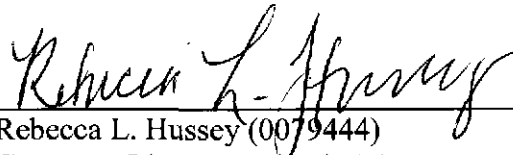
Because the Applicant is presently filing its 2013 financials for the Commission's consideration, and the information contained therein constitutes trade secret information, MP2 Energy NE hereby files this Supplemental Motion for Protective Order to seek protection of the information contained not only in Exhibits C-4 and C-5, but also of the 2013 financials presently submitted under Exhibit C-3 of the Application.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business
Technician SM Date Processed MAY 29 2014

The basis for this Supplemental 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 2013 financials for which the Applicant seeks protection are submitted under seal.

WHEREFORE, MP2 Energy NE respectfully requests that its Supplemental Motion for Protective Order seeking confidential treatment of its Exhibit C-3 2013 financials, in addition to its initial Motion for Protective Order (seeking protection of the information contained in Exhibits C-4 and C-5, which was previously filed under seal), 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

MEMORANDUM IN SUPPORT

MP2 Energy NE respectfully requests that the Public Utilities Commission of Ohio (Commission) designate as confidential and protect from public disclosure the 2013 consolidated financial statements presently filed as a part of Exhibits C-3 to its Application for a Certificate to Provide Competitive Retail Natural Gas Service in Ohio. If released to the public, the information contained in its 2013 consolidated financials 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, 2000-Ohio-475. 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, 87 N.E.2d 661.

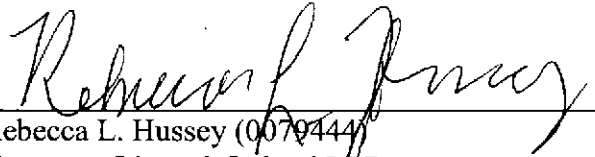
Applying these factors to the information contained in the Applicant's 2013 financials in Exhibit C-3, which MP2 Energy NE seeks to protect, the Commission should grant MP2 Energy NE's Supplemental Motion for Protective Order. The information the Applicant seeks to protect by means of this Supplemental Motion covers confidential information included in its 2013 consolidated financial statements. 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. 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 included in the Applicant's 2013 consolidated financial statements is not inconsistent with the purposes of Title 49 of the Revised Code.

In light of the nature of the information 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 Supplemental Motion for Protective Order covering its 2013 consolidated financial statements, which are submitted in order to supplement the information previously provided in Exhibit C-3 of its Application. MP2 Energy NE further requests that the Commission grant its initial Motion for Protective Order, which seeks confidential treatment of the information provided under Exhibits C-4 and C-5 to 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