

FILE



SEC

STAND ENERGY  
CORPORATION

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August 28, 2014

VIA UPS NEXT DAY AIR

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

Re: Case No. 02-2549-GA-CRS

Ladies and Gentlemen:

Enclosed for filing are an original and ten (10) copies of *Stand Energy Corporation's Motion to Extend Previous Protective Orders for Competitive Retail Natural Gas Suppliers Renewal Exhibits C-3, C-4 and C-5, a Motion for Waiver and a Memorandum in Support of these Motions in the above-captioned case.*

Please contact me if you have any questions about this filing.

Sincerely,

Kate Bedinghaus  
Associate Counsel

Enclosures

This is to certify that the images appearing are an  
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2014 AUG 29 AM 11:01  
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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

RECEIVED-DOCKETING DIV  
2014 AUG 29 AM 11:00

PUCO

In the Matter of the Application of	)	
Stand Energy Corporation for	)	Case No. 02-2549-GA-CRS
Certification as a Retail Natural	)	
Gas Supplier	)	

\* \* \* \* \*

**STAND ENERGY CORPORATION'S  
MOTION TO EXTEND PREVIOUS PROTECTIVE ORDERS FOR CRNGS RENEWAL  
EXHIBITS C-3, C-4 AND C-5 AND MOTION FOR WAIVER**

\* \* \* \* \*

Pursuant to Ohio Admin. Code 4901-1-24, Stand Energy Corporation ("Stand") respectfully moves the Public Utilities Commission of Ohio ("Commission") to renew and extend the Protective Orders previously granted to protect the confidentiality of, and thereby prohibit the disclosure of Exhibit C-3 (Financial Statements), Exhibit C-4 (Financial Arrangements), and C-5 (Forecasted Financial Statements) attached to Stand Energy Corporation's 2010 and 2012 Applications for Renewal of its Competitive Retail Natural Gas Suppliers ("CRNGS") Certification. To the extent necessary, Stand moves for a waiver of the requirements under Ohio Admin. Code 4901-1-24(F) with respect to extending the Protective Order for Exhibit C-5 of the 2010 renewal Application. These Exhibits are financial and banking documents, which contain confidential and proprietary information. Such information, if disclosed, could allow Stand's competitors to gain a competitive advantage over Stand. As such, Stand respectfully requests the Commission to renew and extend the 2010 and 2012 Protective Orders, protecting this information from public disclosure.

The grounds supporting these Motions are more fully explained in the attached Memorandum in Support.

Respectfully submitted,

**STAND ENERGY CORPORATION**

BY: Kate Bedinghaus  
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**CERTIFICATE OF SERVICE**

I hereby certify that there are no parties of record in this case other than Stand Energy Corporation and the recipient of this filing, the Public Utilities Commission of Ohio this 2<sup>nd</sup> day of August, 2014.

BY: Kate Bedinghaus  
Kate E. Bedinghaus

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
Stand Energy Corporation for	)	<b>Case No. 02-2549-GA-CRS</b>
Certification as a Retail Natural	)	
Gas Supplier	)	

\* \* \* \* \*

**MEMORANDUM IN SUPPORT OF STAND ENERGY CORPORATION'S  
MOTION TO EXTEND PREVIOUS PROTECTIVE ORDERS  
FOR CRNGS RENEWAL EXHIBITS C-3, C-4 AND C-5 AND MEMORANDUM IN  
SUPPORT OF STAND ENERGY CORPORATION'S MOTION FOR WAIVER**

\* \* \* \* \*

**I. BACKGROUND**

On October 4, 2002, Stand Energy Corporation filed its initial CRNGS Application. On November 6, 2002, Certificate 02-043(1) was issued to Stand. Every two years since the fall of 2002 (2004, 2006, 2008, 2010 and 2012) Stand has filed for renewal of its CRNGS Application with the Commission. At the same time, Stand has requested and received confidential treatment for the financial and banking information contained in Exhibits C-3 and C-4 and for 2010 and 2012 also Exhibit C-5.

Most recently, by Entry dated January 24, 2013, the Commission ordered that the unredacted Exhibits C-3 and C-4 to Stand's 2010 renewal Application continue to be maintained under seal until December 12, 2014. That Entry also granted the requested Protective Order for Stand's 2012 renewal Application Exhibits C-3, C-4 and C-5 to be maintained under seal until December 12, 2014. Rule 4901-1-24(F) requires this motion to be filed to extend the Protective

Order beyond December 12, 2014. While Stand is filing this request well within the time period of Rule 4901-1-24(F) requirement with respect to Exhibits C-3 and C-4 of 2010 renewal Application and Exhibits C-3, C-4 and C-5 of the 2012 renewal Application, Stand inadvertently did not include in its Motion to Extend Previous Protective Orders filed October 17, 2012 a request to continue the Protective Order for Exhibit C-5 of the 2010 renewal Application. Nevertheless, Stand Energy requests protective treatment granted by the Commission on January 21, 2011, continue as to Exhibit C-5 of the 2010 renewal Application, because the information in this exhibit remains competitively sensitive and proprietary.

Although Rule 4901-1-24(F), Ohio Admin. Code, provides that a motion to extend a Protective Order should be filed 45 days in advance of the expiration of the Order, the Commission may approve a request to extend protective treatment filed after that date. The rule does not specifically require disclosure if a motion is not filed 45 days in advance, and Ohio Admin. Code Rule 4901:1-38-2 states, “[t]he commission may, upon an application or a motion filed by a party, waive any requirement of this chapter, other than a requirement mandated by statute, for good cause shown.”

Good cause exists for a waiver. Stand did not move to extend the Protective Order for 2010 Exhibit C-5 45 days in advance due to an administrative oversight. Regulatory filings which had been previously done in-house at Stand were handled by outside counsel in 2012. In requesting an extension of the Protective Order, it appears that counsel relied on the original motion filed on November 10, 2010, rather than the follow-up motion filed on November 24, 2010 and subsequent Commission Entry of January 21, 2011, thereby inadvertently leaving the extension request for Protective Order for Exhibit C-5 of the 2010 renewal Application out of the Motion filed by counsel on October 17, 2012.

Additionally, good cause is shown as Stand's business model, including margins, pricing and projections has not changed significantly since 2010. Additionally, based upon the reasons set forth below, Exhibit C-5 of the 2010 renewal Application derives independent economic value 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 and it is the subject of efforts that are reasonable under the circumstances to maintain its privacy.

Continued protection of Exhibits C-3, C-4 and C-5 from both 2010 and 2012 ("Confidential Documents") is appropriate because these Confidential Documents contain proprietary and business financial and banking information relative to Stand that is not generally known to the public and which competitors could unfairly use to their advantage.

## **II. STAND'S CONFIDENTIAL DOCUMENTS SHOULD BE PROTECTED**

Ohio law defines a trade secret to include "financial information." § 1333.61(D), Ohio Revised Code (Ohio R.C.). While the information in the Confidential Documents was made available to the Commission in order for it to perform its evaluation, Stand's financial and banking information should not be made available to parties that are not directly charged by the legislature with authority to review that Application or the general public. Additionally, the general public should not have access to this information because Stand is a privately-owned company.

The Commission requested that Stand provide information regarding its financial statements, financial arrangements and forecasted financial statements. Public disclosure of this strategic information and these proprietary financial and banking documents could have a material and profoundly detrimental impact on Stand's ability to compete in the marketplace. Competitors could reasonably estimate Stand's growth rates, market share and margins by examining these confidential financial documents. These documents derive independent

economic value from not being generally known to, and not being readily ascertainable by proper means by other persons. Public disclosure of these documents will cause substantial harm to Stand's business and competitive interests. Therefore, Stand renews its request that the Commission and Staff maintain the confidential nature of these documents and protect the documents from public disclosure.

The Confidential Documents that were granted protective treatment by the Commission on January 13, 2013 and January 21, 2011, remain competitively sensitive and proprietary. Ohio R.C. § 4905.07, provides that all facts and information in the possession of the Commission shall be public, except as provided in Ohio R.C. § 149.43, and as consistent with the purposes of Title 49 of the Revised Code. Ohio R.C. § 149.43 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* (2000), 89 Ohio St.3d 396, 399, 732 N.E.2d 373. Similarly, 4901-1-24 of the Ohio Admin. Code, allows an attorney examiner 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." The financial information requested in the Confidential Documents is competitively sensitive and highly proprietary trade secret information pursuant to the Ohio statutory definition. Ohio law defines 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.” Ohio R.C. § 1333.61(D).

Stand is a privately-owned corporation and therefore, would be especially vulnerable if protective treatment were not granted. As such, its financial records, including financial statements and banking information are not available to the general public. Stand requires all of its employees to sign confidentiality agreements upon employment promising not to disclose trade secrets. The financial statements and banking information are only available to select Stand employees. Obtaining trade secret information occurs only on a “need-to-know” basis at Stand Energy Corporation. Additionally, when suppliers and trading partners request financial information, the disclosure of financial statements is always preceded by the execution of an industry-standard confidentiality agreement. Furthermore, access to Stand’s general ledger financial software is likewise limited to select employees and is password protected. When paper copies of financials and banking records are no longer required, they are shredded. For all of these reasons, public disclosure of Stand’s financial and banking information could jeopardize Stand’s business position in negotiations with third parties and potentially compromise Stand’s ability to compete. Stand respectfully asserts that the financial and banking information contained in the Confidential Documents is not generally known by the public and is held in strict confidence in the normal course of business by Stand Energy Corporation.

Ohio law and previous Commission precedent prohibits the release of information meeting the definition of trade secret. Conversely, non-disclosure of this information has not impaired the purposes of Title 49 as the Commission and its Staff has had full access to the requested information to complete their review process. The strategic and financial information is now the subject of Stand’s reasonable efforts to maintain its secrecy to prevent unauthorized disclosure or use. Both prongs of the statutory analysis favor confidentiality of Stand’s financial



information. Therefore, Stand reasonably requests that the financial and banking information contained in the 2010 and 2012 renewal Applications Exhibits C-3, C-4 and C-5 be deemed to continue to contain trade secrets, and thus, remain treated as confidential by the Commission and its Staff and that confidential protection be extended for an additional 24-month period.

**WHEREFORE**, for the reasons state herein, Stand requests that the Commission grant its Motion for Waiver of the requirement to move for an extension of a protective order 45 days in advance of its expiration, Ohio Admin. Code 4901-1-24, as it applies to Exhibit C-5 of Stand's 2010 renewal Application and Stand requests that the Commission grant its Motion for Continued Protective Order Status and keep the 2010 and 2012 Exhibits C-3, C-4 and C-5 under seal.

Respectfully submitted,

**STAND ENERGY CORPORATION**

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**CERTIFICATE OF SERVICE**

I hereby certify that there are no parties of record in this case other than Stand Energy Corporation and the recipient of this filing, the Public Utilities Commission of Ohio this 27 day of August, 2014.

BY: Kate Bedinghaus  
Kate E. Bedinghaus