

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
Eco-Energy, LLC)
for a Certificate to Provide)
Competitive Retail Natural Gas)
Marketing Service in Ohio)

Case No. 14-1662-GA-CRS

MOTION FOR PROTECTIVE ORDER

Pursuant to Ohio Administrative Code Rule 4901-1-24(D), Eco-Energy, LLC ("Eco-Energy") respectfully requests that the Ohio Public Utilities Commission ("Commission") enter an Order to protect the confidentiality of its financial information submitted as Exhibits C-3, C-4, and C-5 to its Competitive Retail Natural Gas Certification Application. Grounds for this motion are set forth in the attached Memorandum in Support. Two unredacted copies of the Exhibits are submitted under seal.

Respectfully Submitted,

Eco-Energy, LLC

By: [Signature]

Title: VP, Secretary

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**MEMORANDUM IN SUPPORT OF
MOTION FOR PROTECTIVE ORDER**

Eco-Energy has filed its Application for Certification to Provide Retail Natural Gas Marketing Services contemporaneously. It has designated as confidential three exhibits containing financial information, Exhibits C-3, C-4, and C-5. Eco-Energy desires those Exhibits be protected from public disclosure. The information for which protection is sought covers financial information including Financial Statements (C-3), Financial Arrangements (C-4), and Forecasted Financial Statements (C-5) (all collectively, "the Confidential Exhibits"). Eco-Energy is a privately held Limited Liability Company and its financial statements are not part of the public record in any jurisdiction. Such information if released to the public would harm Eco-Energy by providing its competitors proprietary information.

Ohio Administrative Code §4901-1-24(D) provides that the Commission or certain designated employees may issue an order necessary to protect the confidentiality of information contained in documents filed with the Commission's Docketing Division. This can be done when state or federal law prohibits the release of the information and where non-disclosure of its financial information is consistent with Title 49 of the Ohio Code. State law recognizes the need to protect the type of information this motion seeks to shelter. Non-disclosure of the financial data will not impair the purposes of Title 49. The Commission and its Staff have full access to the information in order to fulfill its statutory obligations.

The Commission's rules protect trade secrets. OHIO ADMIN. CODE §4901-1-24(A)(7) (2014). The definition of a "trade secret" is set forth in the Uniform Trade Secrets Act:

"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.

OHIO REV. CODE ANN. §1333.61(D) (Baldwin 2013). This definition demonstrates that state policy favors the protection of trade secrets such as the financial information contained in the Confidential Exhibits.

The Ohio Supreme Court applies a six factor test to determine whether information is a trade secret under the statute. State ex rel The Plain Dealer the Ohio Dept. of Ins. 687 N.E.2d 661,672 (Ohio 1997). Those factors include:

(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 of having the information as against competitors, (5) the amount of effort or money expended in obtaining and developing the information, and (6) the amount of time and expense it would take for others to acquire and duplicate the information.

Id. (quoting Pyromatics, Inc. v. Petruziello, 454 N.E.2d 588, 592 (Cuyahoga County 1983)).

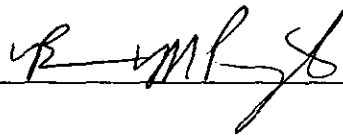
Applying these factors to the Confidential Exhibits Eco-Energy seeks to protect, it is clear the protective order should be granted. The Confidential Exhibits contain confidential financial information, reports, and forecasts. Generally, sensitive financial information of this type is not disclosed. Its disclosure could give competitors an advantage that would hinder Eco-

Energy's ability to compete. Further, public disclosure of this financial information is not likely to assist the Commission in carrying out its duties under the Commission's rules.

For the above reasons Eco-Energy requests the Commission grant its motion for a protective order and to maintain the Confidential Exhibits, Exhibits C-3, C-4, and C-5 to its Application for Certification as a Competitive Retail Natural Gas Marketer under seal.

Respectfully Submitted,

Eco-Energy, LLC

By: 

Title: VP, Secretary