

5

FILE

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the matter of the Application)
of COSE Group Services, Inc.)
for Certification as a Competitive)
Retail Natural Gas Broker)

2154
Case No.: 14-1653-GA-CRS

PUCO

RECEIVED-DOCKETING DIV
2014 DEC 18 PM 2:20

MOTION FOR PROTECTIVE ORDER
OF COSE GROUP SERVICES, INC.


Applicant COSE Group Services, Inc. (hereinafter, "COSE" or "Applicant") by and through counsel, hereby moves pursuant to Ohio Administrative Code 4901-1-24(0), for the entry of a Protective Order designating as confidential its responses to Exhibit C-3: "Financial Statements" and Exhibit C-5: "Forecasted Financial Statements," in the Commission's Application for Certification as a Competitive Retail Natural Gas Broker. COSE considers the information submitted in connection with Exhibit C-3 and Exhibit C-5 confidential and proprietary trade secrets, which are subject to protection from disclosure under Ohio law.

COSE further asks that its responses to any subsequent requests for additional information or clarification which Staff might make with regard to these same requests also be permitted to be filed under seal, pursuant to the same Protective Order requested herein. Finally, COSE requests that the Protective Order be effective for a period of six (6) years from the effective date of the certificate issued to it in this proceeding.

The grounds supporting this Motion are fully explained in the attached Memorandum in Support.

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 AN Date Processed DEC 18 2014

Respectfully submitted,
**THE WELDELE & PIACENTINO
LAW GROUP CO., LPA**



GINA M. PIACENTINO-0086225
88 E. Broad Street, Suite 1560
Columbus, Ohio 43215
Telephone: 614-221-0800
Facsimile: 614-388-5533
E-mail: gpiacentino@wp-lawgroup.com
*Counsel for Applicant,
COSE Group Services, Inc.*

MEMORANDUM IN SUPPORT

COSE is an Ohio corporation and is registered with the Ohio Secretary of State to do business in Ohio.

Exhibit C-3 of the Application requests "copies of the applicant's two most recent Years of audited financial statements (balance sheet, income statement, and cash flow statement)" and Exhibit C-5 requests "two years of forecasted financial statements (balance sheet, income statement, and cash flow statement) for the applicant's CRNGS operation, along with a list of assumptions, and the name, address, e-mail address, and telephone number of the preparer."

COSE requests that the information designated as confidential (Exhibit C-3 and Exhibit C-5) to its Application for Certification as a Competitive Retail Natural Gas Broker be protected from public disclosure. If said information is released to the public, COSE would suffer substantial harm as its competitors would have access to COSE's proprietary information.

The need to protect the types of information that are the subject of this Motion is recognized under Ohio law. Ohio Admin. Code 4901-1-24 provides:

“Upon motion of any party or person with regard to the filing of a document with the commission's docketing division relative to a case before the Commission... the attorney examiner may issue any order which is necessary to protect the confidentiality of information contained in the document, to the extent that state or federal law prohibits release of the information, including where the information is deemed by ... the attorney examiner to constitute a trade secret under Ohio law, and where nondisclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code.”

The Commission would have full access to the information in order to fulfill its statutory obligations and the nondisclosure of said information will not frustrate the purposes of Title 49 of the Revised Code.

Under the Ohio Uniform Trade Secrets Act, a "Trade Secret" is defined as:

(D) 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 §1333.61.

The Ohio Supreme Court has adopted a six factor test to analyze whether information is a trade secret under Ohio Rev. Code § 1331.61: (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, and (6) the amount of time and expense it would take for others to acquire and duplicate the information. *State ex rel. Plain Dealer v. Ohio Dep't of Ins.*, 80 Ohio St. 3d 513, 687 N.E. 2d 661 (1998) (citations omitted).

COSE gladly provides the information requested in Exhibit C-3 and Exhibit C-5 to the Commission, but asks that it be subject to a Protective Order due to the confidential, proprietary nature of this information and because its public disclosure might be injurious to the Company's competitive position. COSE engages solely in brokering relating to energy management for its customers and does not make public disclosure of the requested information through SEC filings or otherwise. As such, and given the intense competition in the Competitive Retail Natural Gas arena, this information is a legitimate trade secret, access to which could negatively affect COSE's competitive position.

This request for a Protective Order is reasonable, necessary and will not prejudice any other party or individual. In fact, to the extent COSE's ability to compete effectively is preserved, Ohio consumers will be better served. Fair competition is the philosophical basis for the CRNGS statute and implementing regulations.

For all of the foregoing reasons, COSE respectfully requests that a Protective Order be issued which permits it to file its responses to the Commission's Application for Certification as a Competitive Retail Natural Gas Broker, Exhibit C-3 and Exhibit C-5, under seal and requires those with access to those responses to treat them in a confidential manner for a period of six (6) years from the effective date of the Certificate issued in this proceeding. COSE further requests that should Staff seek any additional information or clarification with respect to Exhibit C-3 and Exhibit C-5, those also be permitted to be filed under seal and subject

to the same Protective Order. In compliance with Ohio Administrative Code 4901-1-24, three (3) un-redacted copies of the confidential information in response to Exhibit C-3 and Exhibit C-5 are being submitted under seal with this Motion.

Respectfully submitted,
**THE WELDELE & PIACENTINO
LAW GROUP CO., LPA**



GINA M. PIACENTINO-0086225

88 E. Broad Street, Suite 1560

Columbus, Ohio 43215

Telephone: 614-221-0800

Facsimile: 614-388-5533

E-mail: gpiacentino@wp-lawgroup.com

Counsel for Applicant,

COSE Group Services, Inc.