

FILE

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January 30, 2015

**VIA UPS - NEXT DAY AIR**

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

RECEIVED-DOCKETING DIV  
2015 FEB -2 AM 9:26  
PUCO

Re: Motion for a Protective Order and Extension of Current Protective Order – In the Matter of Application of HealthTrust Purchasing Group, L.P. for Certification as a Competitive Retail Natural Gas Broker/Aggregator, Case No.11-1095-GA-AGG

Dear Docketing Division:

On behalf of HealthTrust Purchasing Group, L.P. ("HealthTrust"), enclosed for filing with the Commission are an original and three (3) copies of a Motion for a Protective Order and Extension of Current Protective Order and a Memorandum in Support relating to the confidentiality of the financial documents filed with HealthTrust's Renewal Application for Certification as a Competitive Retail Natural Gas Broker/Aggregator, filed on January 30, 2015 ("2015 Renewal Application"), as well as previously submitted financial documents filed with its Original Application and Renewal Application filed on March 1, 2011 and March 1, 2013, respectively. The financial documents filed herewith, marked as Exhibits C-3 and C-5 of the 2015 Renewal Application, are labeled "Confidential" and are being filed with the Commission under seal of confidentiality pursuant to the current Protective Order.

A proposed draft Entry is enclosed as Attachment A for the Attorney Examiner's convenience and use in connection with HealthTrust's Motion for a Protective Order and Extension of Current Protective Order.

Please date stamp the extra copies of this transmittal letter and Motion, and return them to me in the self-addressed, stamped envelope. If you have any questions regarding these filings, please contact me.

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  
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January 30, 2015  
Public Utilities Commission of Ohio  
Docketing Division  
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*Please note my new address and telephone number and update your records accordingly.*  
Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alan M. Seltzer".

Alan M. Seltzer  
OH Attorney ID No. 0074908

Attorney for HealthTrust Purchasing Group, L.P.

AMS/gm  
Enclosures  
cc: Michelle Sanchez

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of	)	
HealthTrust Purchasing Group, L.P. for	)	Case No. 11-1095-GA-AGG
Certification as a Competitive Retail	)	
Natural Gas Broker/Aggregator	)	

**MOTION FOR A PROTECTIVE ORDER AND  
EXTENSION OF CURRENT PROTECTIVE ORDER**

Pursuant to the provisions of Rules 4901-1-24(D) and 4901-1-24(F) of the Ohio Administrative Code ("O.A.C."), HealthTrust Purchasing Group, L.P. ("HealthTrust"), by and through its attorneys, Buchanan Ingersoll & Rooney, P.C. and Alan Michael Seltzer, respectfully requests that the Public Utilities Commission of Ohio ("Commission") issue a Protective Order in this matter:

- (1) to protect the confidentiality and prohibit public disclosure and dissemination of HealthTrust's confidential financial documents filed under seal with its January 30, 2015 Renewal Application for Certification as a Competitive Retail Natural Gas Broker/Aggregator ("2015 Renewal Application"); and
- (2) to extend the current Protective Order issued May 10, 2013 in this matter to protect the confidentiality and prohibit public disclosure and dissemination of HealthTrust's previously submitted financial documents filed under seal with its 2013 Renewal Application filed March 1, 2013, and amended March 22, 2013, and its Original Application filed March 1, 2011.

The current Protective Order affording protective treatment of the confidential information specified therein is set to expire on April 4, 2015 in this docket.

Specifically, HealthTrust seeks confidential treatment and protection from public disclosure the following financial documents:

- Exhibits C-3 (financial statements) and C-5 (forecasted financial statements) of its 2015 Renewal Application filed January 30, 2015, unredacted copies of which are filed with this Motion;
- Previously submitted Exhibits C-3 (financial statements) and C-5 (forecasted financial statements) of its 2013 Renewal Application, filed March 1, 2013 and amended March 22, 2013;
- Previously submitted Amended Exhibit C-5 (forecasted financial statements) of its 2013 Renewal Application, filed March 22, 2013; and
- Previously submitted Exhibits C-2 (SEC filings of affiliated companies), C-3 (financial statements) and C-5 (forecasted financial statements) of its 2011 Original Application, filed March 1, 2011.

HealthTrust asserts that the above-referenced financial documents contain trade secret information and competitively sensitive and proprietary business/financial information. These documents have been marked as Confidential and have been filed under seal, pursuant to the existing Protective Order. In addition, because there is a need for continued protection from public disclosure of the aforesaid information, HealthTrust respectfully requests that the Commission extend the current Protective Order for an additional six-year period, from the expiration date of April 4, 2015 of the current Protective Order, until April 4, 2021, as provided for in Rule 4901:1-27-08 (effective December 1, 2014), and Rule 4901-1-24 of the O.A.C. regarding Protective Orders and Motions for Protective Orders, respectively.

In support of this Motion, HealthTrust sets forth the grounds for its Motion in the attached Memorandum in Support. In addition, a proposed draft Entry is enclosed as Attachment C for the Attorney Examiner's convenience and use in connection with HealthTrust's Motion for Protective Order and Extension of Current Protective Order.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY, P.C.

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Attorneys for HealthTrust Purchasing Group, L.P.

Dated: January 30, 2015

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of	)	
HealthTrust Purchasing Group, L.P. for	)	Case No. 11-1095-GA-AGG
Certification as a Competitive Retail	)	
Natural Gas Broker/Aggregator	)	

**MEMORANDUM IN SUPPORT**

Pursuant to Rule 4901-1-24(D), Ohio Administrative Code ("O.A.C."), HealthTrust Purchasing Group, L.P. ("HealthTrust") files this Memorandum in Support of its Motion for a Protective Order and Extension of Current Protective Order with the Public Utilities Commission of Ohio ("Commission") requesting that certain financial documents attached to its Renewal Application for Certification as a Competitive Retail Natural Gas Broker/Aggregator, filed on January 30, 2015 ("2015 Renewal Application"), be afforded confidential treatment and be held under seal. The financial documents marked as Exhibits C-3 (financial statements) and C-5 (forecasted financial statements)<sup>1</sup> of the 2015 Renewal Application (collectively, "Confidential Information") should be treated by the Commission as confidential and held under seal separate and apart from its public files because such documents contain HealthTrust's competitively sensitive and highly proprietary business/financial information.

HealthTrust is a privately held business whose financial statements are not publicly available and public disclosure of the Confidential Information could adversely affect its competitive position with other similar businesses licensed in Ohio and elsewhere.

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<sup>1</sup> Redacted copies of Exhibits C-3 and C-5 have been filed as part of the 2015 Renewal Application. Unredacted copies of these Exhibits have been filed under seal as a separate compilation apart from, but concurrently with, the 2015 Renewal Application.

HealthTrust also requests, pursuant to Rule 4901-1-24(F) of the O.A.C., that the Commission extend the current Protective Order for its previously submitted financial documents marked as Exhibits C-3 (financial statements) and C-5 (forecasted financial statements) of HealthTrust's 2013 Renewal Application, filed March 1, 2013, and amended March 22, 2013; Amended Exhibit C-5 (forecasted financial statements) of its 2013 Renewal Application filed March 22, 2013; and Exhibits C-2 (Securities and Exchange Commission [SEC] filings of HealthTrust's affiliated companies, HCA, Inc. and HCA Holdings, Inc.), C-3 (financial statements) and C-5 (forecasted financial statements) of its 2011 Original Application, filed March 1, 2011. HealthTrust's previously submitted financial documents were filed under seal and have been afforded protective treatment in the existing Protective Order issued on May 10, 2013 in this matter. Those documents continue to be competitively sensitive and proprietary business financial information. Accordingly, HealthTrust requests that the Commission maintain the confidential nature of these documents and the information contained therein and protect these documents from public disclosure for an additional six-year period, pursuant to Rule 4901:1-27-08, O.A.C. (effective December 1, 2014), beyond the expiration date of April 4, 2015 of the current Protective Order issued May 10, 2013 in this docket.

Rule 4901-1-24(D), O.A.C., provides for the issuance of an order that is necessary to protect the confidentiality of information contained in documents filed at the Commission to the extent that state and federal laws prohibit the release of such information and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code ("R.C."). State law recognizes the need to protect information that is confidential in nature, as is the information in Exhibit C-2 of the Original Application, Exhibits C-3 and C-5 of

the Original, 2013 and 2015 Renewal Applications, and Amended Exhibit C-5 of the 2013 Renewal Application.

Section 4929.23(A), R.C., specifically permits the Commission to grant confidentiality to competitive information: "The Commission shall take such measures as it considers necessary to protect the confidentiality of any such information." Public non-disclosure of the information contained in Exhibit C-2, filed March 1, 2011; Exhibit C-3, filed March 1, 2011, March 1, 2013 and January 30, 2015; and Exhibit C-5, filed March 1, 2011, March 1, 2013, amended March 22, 2013, and January 30, 2015, will not impair the purposes of Title 49 because the Commission and its Staff will have access to the information they need to complete the review process.

HealthTrust asserts that the financial documents and information contained in Exhibit C-2 of its Original Application, Exhibits C-3 and C-5 of the Original and Renewal Applications, and Amended Exhibit C-5 constitute its competitively sensitive and highly proprietary business/ financial information which is not generally known or available to the general public, and that the information has independent economic value and is the subject of reasonable efforts to maintain its secrecy, thus falling within the statutory characterization of a "trade secret" as defined by Section 1333.61(D), R.C. Exhibit C-2, which contains the SEC filings of HealthTrust's affiliated companies, HCA, Inc. and HCA Holdings, Inc. was afforded confidential treatment and placed under seal, pursuant to the 2011 Entry that granted HealthTrust's 2011 Motion for Protective Order. In a 2013 Entry, HealthTrust's request for continued confidential treatment of Exhibit C-2 was granted and Exhibit C-2 was maintained under seal. In this Motion for a Protective Order and Extension of Current Protective Order, HealthTrust requests, pursuant to Rule 4901:1-27-08(B), O.A.C. (effective December 1, 2014), that Exhibit C-2 continue to be



treated as confidential and remain under seal for an additional six-year period until April 4, 2021 in this docket.

Additionally, the financial statements in Exhibits C-3 and C-5 of the Original, 2013 and 2015 Renewal Applications and Amended Exhibit C-5 contain proprietary business data not generally known by the public and should be afforded confidential treatment. Public disclosure or dissemination of this information would jeopardize HealthTrust's business position and ability to compete in the market. This information is not generally known by the public and is held in confidence in the ordinary and normal course of business, and derives independent economic value from not being generally known to other persons. Accordingly, HealthTrust asserts that the financial statements contained in Exhibits C-3 and C-5 of the Original, 2013 and 2015 Renewal Applications and Amended Exhibit C-5 satisfy the definition of "trade secret" under Section 1333.61(D), R.C., and should continue to be treated as confidential by the Commission and its Staff.

Due to the competitively sensitive and highly proprietary business/financial information and because public disclosure of this information would jeopardize HealthTrust's business position and ability to compete in the market, there is a need for continued protection from public disclosure. Therefore, HealthTrust respectfully requests that the Commission issue an Order as provided for in Rule 4901-1-24(F), O.A.C., extending protection from public disclosure or dissemination to Exhibit C-2 of the Original Application, Exhibits C-3 and C-5 of the Original, 2013 and 2015 Renewal Applications, and Amended Exhibit C-5, for an additional six years, pursuant to Rule 4901:1-27-08 (effective December 1, 2014), from the expiration date of April 4, 2015 until April 4, 2021.

A proposed draft Entry is enclosed as *Attachment A* for the Attorney Examiner's convenience and use in connection with HealthTrust's Motion for a Protective Order and Motion for Extension of Current Protective Order.

WHEREFORE, HealthTrust Purchasing Group, L.P. respectfully requests that its Motion for a Protective Order and Extension of Current Protective Order be granted for the reasons set forth in this Memorandum in Support, and that protection from public disclosure or dissemination be afforded for Exhibit C-2 of the Original Application, filed March 1, 2011; Exhibit C-3 of the Original, 2013 and 2015 Renewal Applications, filed March 1, 2011, March 1, 2013 and January 30, 2015, respectively; and Exhibit C-5 of the Original, 2013 and 2015 Renewal Applications, filed March 1, 2011, March 1, 2013, amended March 22, 2013, and January 30, 2015.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY, P.C.

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Attorneys for HealthTrust Purchasing Group, L.P.

Dated: January 30, 2015

## **ATTACHMENT A**

Proposed Draft Entry for Attorney Examiner's use  
in connection with HealthTrust Purchasing Group, L.P.'s  
Motion for Protective Order and Extension of Current Protective Order,  
filed January 30, 2015.

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of	)	
HealthTrust Purchasing Group, L.P. for	)	Case No. 11-1095-GA-AGG
Certification as a Competitive Retail	)	
Natural Gas Broker/Aggregator	)	

ENTRY

The Attorney Examiner finds:

- (1) On January 30, 2015, HealthTrust Purchasing Group, L.P. ("HealthTrust" or "Company") filed a Renewal Application for Certification as a Competitive Retail Natural Gas Broker/Aggregator ("2015 Renewal Application") at Case No. 11-1095-GA-AGG. On that same day, HealthTrust filed a Motion for a Protective Order and Extension of Current Protective Order, pursuant to Rule 4901-1-24(D), Ohio Administrative Code (O.A.C.), requesting that Exhibits C-3 (financial statements) and C-5 (forecasted financial statements) of its 2015 Renewal Application be afforded confidential treatment and be held under seal.
- (2) Pursuant to Rule 4901-1-24(F) of the O.A.C., HealthTrust also requested an extension of the current Protective Order for its previously submitted financial statements marked as Exhibits C-3 and C-5 of its 2013 Renewal Application, filed March 1, 2013 and amended March 22, 2013; Amended Exhibit C-5 of its 2013 Renewal Application, filed March 22, 2013; and Exhibits C-2 (Securities and Exchange Commission [SEC] filings of HealthTrust's affiliated companies), C-3 and C-5 of its 2011 Original Application, filed March 1, 2011. HealthTrust asserts that the information protected in those previously filed exhibits continue to be competitively sensitive and proprietary business financial information. HealthTrust seeks to continue the Protective Order issued May 10, 2013 in this docket for an additional six-year period as provided for in Rule 4901:1-27-08 (effective December 1, 2014).
- (3) In support of its Motion for a Protective Order and Extension of Current Protective Order, HealthTrust filed a Memorandum in Support representing that Exhibits C-2, C-3 and C-5 and Amended Exhibit C-5 contain competitively sensitive and highly proprietary business financial information which is not generally known or available to the general public, and that the information has independent economic value and is the subject of reasonable efforts to maintain its secrecy, thus constituting trade secret information. Therefore, HealthTrust requests that the information found in Exhibits C-2, C-3 and C-5 and Amended Exhibit C-5 be treated as confidential and protected from public disclosure.

- (4) Section 4905.07, Revised Code, provides that all facts and information in the possession of the Commission shall be public, except as provided in Section 149.43, Revised Code, and as consistent with the purposes of Title 49 of the Revised Code. Section 149.43, Revised Code, 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*, 89 Ohio St.3d 396, 399 (2000).
- (5) Similarly, Rule 4901-1-24(D), O.A.C., 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 nondisclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code."
- (6) Ohio law defines a 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." Section 1333.61(D), Revised Code.
- (7) The Attorney Examiner has examined the information covered by the Motion for a Protective Order and Extension of Current Protective Order filed by HealthTrust, as well as the assertions set forth in the supportive Memorandum. Applying the requirements that the information have independent economic value and be the subject of reasonable efforts to maintain its secrecy pursuant to Section 1333.61(D), Revised Code, as well as the six-factor test set forth by the Ohio Supreme Court,<sup>1</sup> the Attorney Examiner finds that the information contained in Exhibits C-3 and C-5 of HealthTrust's Original and Renewal Applications, and Amended Exhibit C-5, constitutes trade secret information. Release of these documents is, therefore, prohibited under state law. The Attorney Examiner also finds that nondisclosure of this information is consistent with the purposes of Title 49 of the Revised Code. Accordingly, the Attorney Examiner finds that HealthTrust's Motion for a Protective Order and Extension of Current Protective Order is reasonable and shall be

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<sup>1</sup> See *State ex rel. the Plain Dealer v. Ohio Dept. of Ins.*, 80 Ohio St.3d 513, 524-525, 687 N.E.2d 661 (1997).

granted with regard to Exhibits C-3 and C-5 of the 2015 Renewal Application filed on January 30, 2015; Exhibits C-3 and C-5 of its 2013 Renewal Application filed March 1, 2013 and amended March 22, 2013; Amended Exhibit C-5 of its 2013 Renewal Application, filed on March 22, 2013; as well as Exhibits C-3 and C-5 of the 2011 Original Application filed on March 1, 2011.

- (8) Rule 4901:1-27-08(A), O.A.C. (effective December 1, 2014), provides for protective orders and protective treatment of financial statements, financial arrangements and forecasted financial statements filed under seal for a period of six years from the date of the certificate for which the information is being provided. HealthTrust has filed its financial statements and forecasted financial statements under seal. Therefore, confidential treatment shall be afforded to Exhibits C-3 and C-5 of the Original and Renewal Applications as well as Amended Exhibit C-5 for a period ending six years from the date of the certificate, or until April 4, 2021. Until April 4, 2021, the docketing division shall maintain under seal the following documents: Exhibit C-3, which was filed under seal in this docket on March 1, 2011, March 1, 2013, and January 30, 2015; and Exhibit C-5, which was filed on March 1, 2011, March 1, 2013, amended on March 22, 2013, and January 30, 2015.
- (9) With regard to Exhibit C-2, the Attorney Examiner notes that, as part of its 2011 Original Application, HealthTrust submitted the SEC filings of its affiliated companies, HCA, Inc. and HCA Holdings, Inc. and requested that those filings be treated as confidential information and placed under seal. In the 2011 Entry that ruled on HealthTrust's 2011 Motion for Protective Order, HealthTrust's request with respect to Exhibit C-2 was granted and Exhibit C-2 was placed under seal. In its 2013 Motion to Extend the Current Protective Order, HealthTrust requested that Exhibit C-2 continue to be treated as confidential and placed under seal. The 2013 Entry granted HealthTrust's request and Exhibit C-2 remained under seal for an additional 24-month period. In its 2015 Motion for Extension of Current Protective Order, HealthTrust again requests that Exhibit C-2 continue to be treated as confidential and kept under seal. Rule 4901:1-27-08(B), O.A.C. (effective December 1, 2014), provides that an applicant may file a motion for protective order covering information not covered under paragraph (A), and if filed in conformance with Rule 4901:1-27-07, O.A.C., it shall be automatically approved on the thirty-first day after the date of filing and the information shall be afforded protective treatment for a period of six years from the date of the certificate. The Attorney Examiner grants HealthTrust's 2015 Motion for Extension of Current Protective Order as it pertains to the SEC filings filed with HealthTrust's

2011 Original Application for an additional six-year period from the effective date of the certificate, or until April 4, 2021, in this docket.

- (10) Rule 4901-1-24(F), O.A.C., requires a party wishing to extend a protective order to file an appropriate motion at least 45 days in advance of the expiration date. If HealthTrust wishes to extend this confidential treatment, it should file an appropriate motion at least 45 days in advance of the expiration date. If no such motion to extend confidential treatment is filed, the Commission may release this information without prior notice to HealthTrust.

It is, therefore,

ORDERED, That the Motion for a Protective Order and Extension of Current Protective Order filed by HealthTrust be granted with regard to the information contained in Exhibit C-2 of its Original Application filed on March 1, 2011; Exhibits C-3 and C-5 of HealthTrust's Original, 2013 and 2015 Renewal Applications filed on March 1, 2011, March 1, 2013, and January 30, 2015, respectively; and Amended Exhibit C-5 filed on March 22, 2013. It is, further,

ORDERED, That the Commission's docketing division maintain, under seal, the unredacted Exhibit C-2, which was filed under seal in this docket on March 1, 2011; Exhibits C-3 and C-5, which were filed under seal on March 1, 2011, March 1, 2013, and January 30, 2015; and Amended Exhibit C-5 filed on March 22, 2013, for a period of six years from the date of the certificate, ending on April 4, 2021. It is, further,

ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

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By: Kerry K. Sheets  
Attorney Examiner

Entered in the Journal

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Secretary