

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application by the       )  
Ohio Gas Company for Approval of       )  
the Special Arrangement for Firm Gas       )  
Transportation Service with       )  
Campbell Soup Supply Co. LLC.       )

Case No. 13-1884-GA-AEC

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**MOTION OF OHIO GAS COMPANY TO  
EXTEND THE PROTECTIVE ORDER  
AND MEMORANDUM IN SUPPORT**

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**February 23, 2015**

**Attorneys for Ohio Gas Company**

**BEFORE  
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**MOTION OF OHIO GAS COMPANY TO EXTEND THE PROTECTIVE ORDER**

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On August 28, 2013, Ohio Gas Company ("Ohio Gas") filed an application for a special arrangement with Campbell Soup Supply Co. LLC that contained confidential information. Accordingly, Ohio Gas filed a Motion for Protective order with the Application. The Commission approved the Application and granted the Motion for Protective Order through a Finding and Order dated October 23, 2013.

Pursuant to Rule 4901-1-24, Ohio Administrative Code ("O.A.C."), Ohio Gas respectfully moves the Public Utilities Commission of Ohio ("Commission") to extend the Protective Order granted by the Commission on October 23, 2013, to protect the confidentiality and prohibit the disclosure of the confidential information contained in the Application filed under seal, which is not subject to disclosure and includes competitively sensitive and highly proprietary business information comprising of trade secrets. Public disclosure of the pricing information would jeopardize both parties' business position and their ability to compete. The grounds for this Motion are set forth in the attached Memorandum in Support.

Respectfully Submitted,

/s/ Matthew R. Pritchard

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**MEMORANDUM IN SUPPORT**

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**I. INTRODUCTION AND BACKGROUND**

On August 26, 2013, Ohio Gas and Campbell Soup Supply Co. LLC ("Campbell") entered into a Special Arrangement for Firm Gas Transportation Service ("Special Arrangement"). On August 28, 2013, Ohio Gas filed an Application for approval of the Special Arrangement. As part of the August 28, 2013 Application, Ohio Gas filed Appendix A to the Special Arrangement separately and under seal because it contains confidential and proprietary information related to the pricing of services provided by Ohio Gas to Campbell. The information in Appendix A is extremely sensitive because Ohio Gas faces competition in the provision of transportation service from another facilities-based provider. On October 23, 2013, the Commission issued its Finding and Order and approved the Application and granted the Motion for Protective Order. The Commission noted that the protective order would expire on April 23, 2015, unless Ohio Gas sought to extend the protective order at least 45 days prior to the expiration. Through this Motion, Ohio Gas is seeking to have the Commission extend the protective

order regarding the pricing of the services it is providing under this Special Arrangement.

## II. ARGUMENT

As noted above, the pricing information associated with this Special Arrangement contains competitively sensitive and highly proprietary business information that constitutes trade secrets under Ohio law and the Commission's rules.

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 law 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. State law also recognizes the need to protect information that is confidential in nature, as is the pricing information contained in the Special Arrangement. The Commission has statutory authority to protect trade secrets.<sup>1</sup> Additionally, non-disclosure of the pricing information will not impair the purposes of Title 49 as the Commission and its Staff will have full access to the confidential information in order to complete its review process.

The pricing information constitutes a trade secret. The definition of trade secret contained in Section 1333.61(D), Revised Code, is as follows:

"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:

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<sup>1</sup> See Sections 4901.12 and 4905.07, Revised Code.

- (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 (emphasis added).

Clearly, Ohio Gas' price information contained within Appendix A is proprietary data and is confidential. Public disclosure of the pricing information would jeopardize both parties' business position and their ability to compete. Pricing terms are routinely accorded protected status by the Commission, and the Commission has previously granted protective treatment regarding the information in Appendix A as well as similar agreements between Ohio Gas and other customers for reasons similar to those discussed here.<sup>2</sup> The price information Ohio Gas seeks to protect derives independent economic value from not being generally known and not being readily ascertainable by proper means by competitors. Further, the efforts to protect the confidential pricing information are reasonable under the circumstances.

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<sup>2</sup> Finding and Order at 2 (Oct. 23, 2013); *In the Matter of the Application of Ohio Gas Company for Approval of a Special Arrangement to Provide Firm Gas Transportation Service to Worthington Industries, Inc.*, Case No 12-757-GA-AEC, Finding and Order at 2 (Mar. 21, 2012) (hereinafter "*Worthington Case*"); *Worthington Case*, Entry at 2 (Aug. 13, 2013); *In the Matter of the Application of Ohio Gas Company for Approval of a Special Arrangement to Provide Firm Gas Transportation Service to Bailey-PVS Oxides (Delta), LLC*, Case No. 12-758-GA-AEC, Finding and Order at 2 (Mar. 21, 2012) (hereinafter "*Bailey Case*"); *Bailey Case*, Entry at 2 (Aug. 13, 2013).

### III. CONCLUSION

Ohio Gas respectfully requests that this Motion to Extend the Protective Order be granted for the reasons set forth herein.

Respectfully Submitted,

/s/ Matthew R. Pritchard

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## **CERTIFICATE OF SERVICE**

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Motion of Ohio Gas Company to Extend the Protective Order and Memorandum in Support* was sent by, or on behalf of, the undersigned counsel for Ohio Gas Company to the following parties of record this 23<sup>rd</sup> day of February 2015, *via* electronic transmission.

/s/ Matthew R. Pritchard

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**COMMISSION OF OHIO**



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Summary: Motion of Ohio Gas Company to Extend the Protective Order and Memorandum in Support electronically filed by Mr. Matthew R. Pritchard on behalf of Ohio Gas Company