

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application to)	
Modify, in Accordance with R.C.)	
4929.08, the Exemption Granted to)	Case No. 12-1842-GA-EXM
The East Ohio Gas Company d/b/a)	
Dominion East Ohio in Case No.)	
07-1224-GA-EXM)	

MOTION FOR PROTECTIVE ORDER

U.S. Gas & Electric, Inc. d/b/a Ohio Gas & Electric (hereinafter, “USG&E” or the “Company”) by and through counsel, hereby moves pursuant to Ohio Administrative Code 4901-1-24(D), for the entry of a Protective Order designating as confidential its value added service and product type data (the “Data”), submitted pursuant to the Public Utility Commission of Ohio Staff’s study of the consequences of Dominion East Ohio’s exit from the merchant function. This Data contains information and records which USG&E considers confidential and proprietary trade secrets, and which are maintained as confidential by the Company. Public disclosure of this information could be potentially harmful to USG&E’s competitive position as an energy provider.

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

USG&E requests that the Protective Order be effective for a period of twenty-four (24) months. Consistent with the requirements of the above cited rule, two (2) unredacted copies of the Data are being submitted under seal.

Respectfully submitted,

/s/ Todd M. Williams
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Ohio Gas & Electric*

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MEMORANDUM IN SUPPORT

U.S. Gas & Electric, Inc. d/b/a Ohio Gas & Electric operates as a retail natural gas marketer under Certificate No. 08-0601-GA-CRS.

On February 18, 2015, Ohio Partners for Affordable Energy (“OPAE”) contacted the Commission and requested disclosure of all of the data collected by Staff in its study of the consequences of Dominion East Ohio’s (“DEO”) exit from the merchant function, pursuant to the Commission’s directives in the March 6, 2013, and May 1, 2013 Entries on Rehearing. The data collected includes spreadsheets from DEO that show the revenue performance over the past year, and responses and spreadsheets from the CRNGS suppliers relating to their customer base, their investment in the communities, and any new products or service offerings in the region. Further, the data also includes information submitted by DEO containing CRNGS suppliers’ customer counts and product offerings.

USG&E requests that the information submitted pursuant to Staff’s study of the consequences of DOE’s exit from the merchant function be designated as confidential and be protected from public disclosure. If said information is released to the public, USG&E would suffer substantial harm as its competitors would have easy access to USG&E’s proprietary information.

Ohio Admin. Code 4901-1-24(D) 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 need to protect the types of information that are the subject of this motion is recognized under Ohio law. 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.

Ohio Law defines a "Trade Secret" as:

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.

Rev. Code § 1333.61(d). The Commission facilitates the protection of such trade secrets in its Rules in the Administrative Code as well. *See* Ohio Admin. Code 4901-1-24(A)(7).

The Ohio Supreme Court has adopted a six factor test to analyze whether information is a trade secret under Rev. Code § 1331:

- (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).

USG&E asks that the Data be subject to 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. As such, and given the intense competition in the Competitive Retail Natural Gas Service arena, this information is a legitimate trade secret, access to which could negatively affect USG&E'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 USG&E'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, USG&E respectfully requests that a Protective Order be issued which requires those with access to USG&E's Data treat them in a confidential manner, and requires those with access to the Data to treat it in a confidential manner for a period of twenty-four (24) months from the date of this Motion. USG&E further requests that should Staff seek any additional information or clarification with respect to its Data, those also be permitted to be filed under seal and subject to the same Protective Order.

Respectfully submitted,

/s/ Todd M. Williams
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*Advisor for U.S. Gas & Electric, Inc. d/b/a
Ohio Gas & Electric*

Dated: April 8, 2015

CERTIFICATE OF SERVICE

The PUCO e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket. Additionally, the undersigned certifies that a courtesy copy of the foregoing document has been served via electronic mail on the parties listed below this 8th day of April.

_____/s/ Todd M. Williams

Todd M. Williams

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Value Added Services / Product Types	FX-01	FX-06	FX-12	FX-24	FX-36	VR-01	VR-06	VR-12	VR-24	VR-36
Pre Paid Card Energy Audits Maintenance Plan Repair Plan Refer-a-friend Promotion Load Offset Carbon Offset Cash Back / Rebate Fuel Rewards Partner Rewards Eco-friendly Product										

Instructions

The column names are "product types" and the row names are "value-added services". The list of value-added services can also be viewed in the "Value Added Services" tab of this file. The list of product types are abbreviations whose full description is given in the "Product Types" tab of this file.

What we would like you to do is to fill in this table by placing an "R" for residential, a "C" for Commercial or an "R/C" for both in the 'product type / value-added service' combinations that apply to you. For example, if during the year 2013 you offered a fixed-price, 12-month contract that came with a Maintenance Plan to both residential and commercial customers, you would place an "R/C" in the cell as shown above. Please place the appropriate letter symbol, "R", "C" or "R/C" in all combinations that apply to your company in the year 2013.

If you have product types not listed above [that had value-added services](#), please add those product types to the table using columns L through N. If you have more than three product types then those listed, add additional columns. Please use the color "red" for new product types added to the table. Also, please add the new product types to the list of product types shown in the "Product Types" tab of this file. In addition to the abbreviation, please give a brief description of the product type like the descriptions given for the product types already listed in the "Product Types" tab.

The same applies for new value-added services. You can use rows 14 through 17 to add value-added services not already listed in the table and use the color red when adding them. Also, please add the value-added service to the list found in the "Value Added Services" tab of this file. In addition to the name of the value-added service, please give a brief description of the service. Also, give a brief description for all other value-added services that apply to you. For instance, if you offered a "maintenance plan" as a value-added service please give a brief description of that program in the "Value Added Services" tab.

Name	Product Description
FX-01	
FX-06	
FX-12	
FX-24	
FX-36	
VR-01	
VR-06	
VR-12	
VR-24	
VR-36	

Value-Added Service Name	Brief Description
Pre Paid Card	
Energy Audits	
Maintenance Plan	
Repair Plan	
Refer-a-friend Promotion	
Load Offset	
Carbon Offset	
Cash Back / Rebate	
Fuel Rewards	
Partner Rewards	
Eco-friendly Product	

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Summary: Motion Motion for Protective Order electronically filed by Mr. Todd M Williams on behalf of U.S. Gas & Electric, Inc.