

In the Matter of the Commission’s )  
Investigation into Ohio Rural Natural Gas ) Case No.16-1578-GA-COI  
Co-op and Related Matters )  
)

Ohio Rural Natural Gas Co-op, by and through its attorneys, and pursuant to Section 4901-1-24(D) of the Commission's rules moves for a protective order keeping confidential certain designated confidential information set forth in Attachment DK-9 (Public Awareness Manual) and Attachment DK-12 (Drug and Alcohol Plan) to the Direct Testimony of Darryl Knight that is being filed on this date. The reasons underlying this motion are detailed in the attached Memorandum in Support. Consistent with the requirements of Section 4901-1-24(D) of the Commission's rules, an original and two unredacted copies of the confidential information which is the subject of this motion will be hand-filed under seal.

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ATTORNEYS FOR  
OHIO RURAL NATURAL GAS CO-OP

## **MEMORANDUM IN SUPPORT**

Ohio Admin. 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 to the extent that state or federal law prohibits the release of the information and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code. While the Commission has expressed its preference for open proceedings, the Commission also long ago recognized its statutory obligations with regard to trade secrets:

The Commission is of the opinion that the "public records" statute must also be read in *pari materia* with Section 1333.31, Revised Code ("trade secrets" statute). The latter statute must be interpreted as evincing the recognition, on the part of the General Assembly, of the value of trade secret information.

*In re: General Telephone Co.*, Entry, PUCO Case No, 81-383-TP-AIR (Feb. 17, 1982).

Likewise, the Commission has facilitated the protection of trade secrets in its rules. *See, e.g.*, Ohio Admin. Code §4901-1-24(A)(7).

Ohio Rev. Code §1133.61(D) defines "trade secret" as:

[I]nformation including the whole or any portion of 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(D). This definition clearly reflects the state policy favoring the protection of trade secrets such as the confidential financial and proprietary information which is the subject of this motion.

Ohio Rural Natural Gas Co-op (“ORNG Co-op”) first respectfully requests that the names and addresses of both the customer and non-customer private residents set forth in its Public Awareness Manual (Attachment DK-9 to the Direct Testimony of Darryl Knight) be maintained as confidential out of concern for the privacy of individual citizens, who may not wish their addresses to be published publicly. In addition, ORNG Co-op treats its customer list as confidential and proprietary, and it thereby constitutes a trade secret. ORNG Co-op also respectfully seeks confidential treatment for the designated portion of its Drug and Alcohol Plan (Attachment DK-12 to the Direct Testimony of Darryl Knight). The redacted portions of this testimony contain social security numbers, the results of drug and alcohol tests, and other personal and confidential information about ORNG Co-op’s employees. (Together, the redacted portions of Attachments DK-9 and DK-12 to the Direct Testimony of Darryl Knight are hereinafter referred to as “Designated Information.”)

In the ordinary course of ORNG Co-op’s business, the Designated Information is deemed confidential, is treated as proprietary and confidential by ORNG Co-op’s employees, and is not disclosed to anyone other than as part of a legal proceeding and, even then, only pursuant to a protective order. ORNG Co-op does not disclose the Designated Information and make reasonable efforts to maintain its secrecy. For these reasons, the Designated Information falls directly within the definition of “trade secret” or is otherwise entitled to confidential treatment.

In addition, non-disclosure of the Designated Information will not impair the purposes of Title 49. The Commission and its Staff have full access to the Designated Information in order to review ORNG Co-op application, and no purpose of Title 49 would be served by the public disclosure of the Designated Information.

For the foregoing reasons, ORNG Co-op respectfully requests that the Designated Information be protected from the public disclosure.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I certify that this Post-Rehearing Reply Brief was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 30th day of August, 2016. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties. Further, a courtesy copy has been served upon the following parties via electronic mail.

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Summary: Motion for Protective Order electronically filed by Mr. Richard R Parsons on behalf of Ohio Rural Natural Gas Co-op