

FILE

6

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Premier Power Solutions,)
LLC's Application for Renewal of its) Case No. 09-329-EL-AGG
Certification as a Competitive Retail)
Electric Service Provider)

**MOTION OF PREMIER POWER SOLUTIONS, LLC FOR
PROTECTIVE ORDER AND MEMORANDUM IN SUPPORT**

2017 MAY 31 PM 12:17
PUCO

Frank P. Darr (Reg. No. 0025469)
(Counsel of Record)
Matthew R. Pritchard (Reg. No. 0088070)
MCNEES WALLACE & NURICK LLC
21 East State Street, 17TH Floor
Columbus, OH 43215
Telephone: (614) 469-8000
Telecopier: (614) 469-4653
fdarr@mwncmh.com
(willing to accept service by e-mail)
mpritchard@mwncmh.com
(willing to accept service by e-mail)

May 31, 2017

Attorneys for Premier Power Solutions, LLC

C0102197:1

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 Date Processed 5/31/17

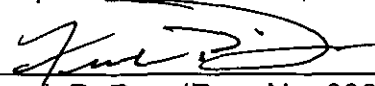
**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Premier Power Solutions,)	
LLC's Application for Renewal of its)	Case No. 09-329-EL-AGG
Certification as a Competitive Retail)	
Electric Service Provider)	

**MOTION OF PREMIER POWER SOLUTIONS, LLC
FOR PROTECTIVE ORDER**

Pursuant to Rule 4901-1-24, Ohio Administrative Code ("O.A.C."), Premier Power Solutions, LLC ("Premier") respectfully moves the Public Utilities Commission of Ohio ("Commission") to issue a Protective Order to protect the confidentiality and prohibit the disclosure of the confidential information contained in Premier's May 31, 2017 Renewal Application for Electric Aggregators and Power Brokers ("Application"). The confidential information in the Application is not subject to disclosure and includes competitively sensitive and highly proprietary business information comprising trade secrets. The grounds for this Motion are set forth in the attached Memorandum in Support.

Respectfully submitted,



Frank P. Darr (Reg. No. 0025469)
(Counsel of Record)
Matthew R. Pritchard (Reg. No. 0088070)
MCNEES WALLACE & NURICK LLC
21 East State Street, 17TH Floor
Columbus, OH 43215
Telephone: (614) 469-8000
Telecopier: (614) 469-4653
fdarr@mwncmh.com
mpritchard@mwncmh.com

Attorneys for Premier Power Solutions, LLC

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Premier Power Solutions,)	
LLC's Application for Renewal of its)	Case No. 09-329-EL-AGG
Certification as a Competitive Retail)	
Electric Service Provider)	

MEMORANDUM IN SUPPORT

I. INTRODUCTION AND BACKGROUND

Premier's Motion requests that the confidential information contained in the Application filed on May 31, 2017 in this docket be exempted from public disclosure as confidential, proprietary and competitively sensitive ("Confidential Information"). The Confidential Information includes information related to Premier's financial statements and financial arrangements in Exhibits C-3, C-4, and C-5 that, if readily available and in the public record, would be available to competitors and impair competition. Accordingly, Premier requests a Protective Order to preserve the confidentiality of this Confidential Information.

II. ARGUMENT

The Application contains competitively sensitive and highly proprietary business information that constitutes trade secrets under Ohio law and the Commission's rules. State law recognizes the need to protect information that is confidential in nature. Accordingly, the General Assembly granted the Commission statutory authority to exempt certain documents from disclosure.¹ Pursuant to this statutory grant of

¹ See R.C. 4901.12 and 4905.07.

authority, the Commission promulgated Rule 4901-1-24, O.A.C. 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.

Trade secrets protected by state law are not considered public records and are therefore exempt from public disclosure.² A trade secret is defined by R.C. 1333.61(D), 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:

- (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.

R.C. 1333.61(D) (emphasis added).

Premier's Confidential Information in the Application is competitively sensitive and highly proprietary business and financial information falling within the statutory characterization of a trade secret.³ Public disclosure of Premier's Confidential Information would jeopardize Premier's business position and its ability to compete.

² R.C. 149.43(A)(1)(v); *State ex rel. The Plain Dealer v. Ohio Dept. of Insurance*, 80 Ohio St.3d 513, 530 (1997).

³ R.C. 1333.61(D).

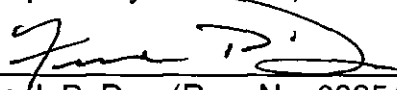
The Confidential Information that Premier seeks to protect derives independent economic value from not being generally known and not being readily ascertainable by proper means by Premier's competitors. Further, the efforts to protect the confidential financial statements are reasonable under the circumstances. Finally, Rule 4901:1-24-08(A), O.A.C., provides that financial statements and arrangements contained in a competitive retail electric service ("CRES") provider's certificate renewal application will be afforded protected status if filed under seal with the Commission.

The non-disclosure of the actual and forecasted financial statements will not impair the purposes of Title 49 of the Revised Code, as the Commission and its Staff will have full access to the Confidential Information in order to complete its review process. Because Premier's information constitutes a trade secret, it should be accorded protected status.

III. CONCLUSION

Premier respectfully requests that this Motion for Protective Order be granted for the reasons set forth herein.

Respectfully submitted,



Frank P. Darr (Reg. No. 0025469)
(Counsel of Record)
Matthew R. Pritchard (Reg. No. 0088070)
MCNEES WALLACE & NURICK LLC
21 East State Street, 17TH Floor
Columbus, OH 43215
Telephone: (614) 469-8000
Telecopier: (614) 469-4653
fdarr@mwncmh.com
mpritchard@mwncmh.com

Attorneys for Premier Power Solutions, LLC

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 Premier Power Solutions, LLC for Protective Order and Memorandum in Support*, as sent by, or on behalf of, the undersigned counsel for Premier Power Solutions, LLC to the following parties of record this 31st day of May 2017, via electronic transmission.


Frank P. Darr

William Wright (Reg. No. 0018010)
Chief, Public Utilities Section
Ohio Attorney General
30 East Broad Street, 16th Floor
Columbus, OH 43215
william.wright@ohioattorneygeneral.gov