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David J. Hrina
DHrina@bdblawn.com
d: 330.643.0212 • df: 330.252.5312

FILE

March 30, 2018

Public Utilities Commission of Ohio
Docketing Division
180 East Broad St.
Columbus, Ohio 43215-3793

**RE: Renewal Application of Independent Energy Consultants, Inc. for Certification
as a Competitive Retail Aggregator and Power Broker, and Motion for Protective
Order Case No. 04-592-EL-AGG**

Enclosed please find an original and three (3) copies of the Renewal Application of Independent Energy Consultants, Inc. for Certification as a Competitive Retail Aggregator and Power Broker.

Also included is an original and three (3) copies of Independent Energy Consultant's Motion for Protective Order regarding Sections C-3 and C-5 of the Application. The information responding to Sections C-3 and C-5 is stamped confidential and is contained in a single sealed envelope also marked confidential.

Please feel free to call me at (330) 643-0212 if you have any questions. Thank you for your assistance.

Very truly yours,

David J. Hrina

Enclosures

AK3:1281399_v1

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Public Utilities Commission

Original AGG Case Number	Version
04-592-EL-AGG	May 2016

RENEWAL APPLICATION FOR ELECTRIC AGGREGATORS/POWER BROKERS

Please print or type all required information. Identify all attachments with an exhibit label and title (Example: Exhibit C-10 Corporate Structure). All attachments should bear the legal name of the Applicant. Applicants should file completed applications and all related correspondence with the Public Utilities Commission of Ohio, Docketing Division; 180 East Broad Street, Columbus, Ohio 43215-3793.

This PDF form is designed so that you may input information directly onto the form. You may also download the form, by saving it to your local disk, for later use.

A. RENEWAL INFORMATION

A-1 Applicant intends to be certified as: (check all that apply)



Power Broker



Aggregator

A-2 Applicant's legal name, address, telephone number, PUCO certificate number, and web site address

Legal Name Independent Energy Consultants, Inc.

Address 215 W Garfield Road, Suite 210 Aurora, Ohio 44202

PUCO Certificate # and Date Certified 04-116E(7) Effective May 23, 2016

Telephone # (330) 995-2675 Web site address (if any) www.naturalgas-electric.com

A-3 List name, address, telephone number and web site address under which Applicant will do business in Ohio

Legal Name Independent Energy Consultants, Inc.

Address 215 W Garfield Road, Suite 210 Aurora, Ohio 44202

Telephone # (330) 995-2675 Web site address (if any) www.naturalgas-electric.com

A-4 List all names under which the applicant does business in North America

Independent Energy Consultants, Inc

A-5 Contact person for regulatory or emergency matters

Name Mark R. Burns

Title President

Business address 215 W Garfield Road, Suite 210 Aurora, Ohio 44202

Telephone # (330) 995-2675

Fax # (800) 574-4508

E-mail address mburns@naturalgas-electric.com

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A-6 Contact person for Commission Staff use in investigating customer complaints

Name Mark R. Burns

Title President

Business address 215 W Garfield Road, Suite 210 Aurora, Ohio 44202

Telephone # (330) 995-2675

Fax # (800) 574-4508

E-mail address mburns@naturalgas-electric.com

A-7 Applicant's address and toll-free number for customer service and complaints

Customer Service address 215 W Garfield Road, Suite 210 Aurora, Ohio 44202

Toll-free Telephone # (888) 862-6060

Fax # (800) 574-4508

E-mail address info@naturalgas-electric.com

A-8 Applicant's federal employer identification number # 20-0989144

A-9 Applicant's form of ownership (check one)

☐ Sole Proprietorship

☐ Partnership

☐ Limited Liability Partnership (LLP)

☐ Limited Liability Company (LLC)

☒ Corporation

☐ Other _____

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED:

A-10 Exhibit A-10 "Principal Officers, Directors & Partners" provide the names, titles, addresses and telephone numbers of the applicant's principal officers, directors, partners, or other similar officials.

B. APPLICANT MANAGERIAL CAPABILITY AND EXPERIENCE

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED:

B-1 Exhibit B-1 "Jurisdictions of Operation," provide a list of all jurisdictions in which the applicant or any affiliated interest of the applicant is, at the date of filing the application, certified, licensed, registered, or otherwise authorized to provide retail or wholesale electric services including aggregation services.

B-2 Exhibit B-2 "Experience & Plans," provide a description of the applicant's experience and plan for contracting with customers, providing contracted services, providing billing statements, and responding to customer inquiries and complaints in accordance with Commission rules adopted pursuant to Section 4928.10 of the Revised Code.

B-3 **Exhibit B-3 "Disclosure of Liabilities and Investigations,"** provide a description of all existing, pending or past rulings, judgments, contingent liabilities, revocation of authority, regulatory investigations, or any other matter that could adversely impact the applicant's financial or operational status or ability to provide the services it is seeking to be certified to provide.

B-4 Disclose whether the applicant, a predecessor of the applicant, or any principal officer of the applicant have ever been convicted or held liable for fraud or for violation of any consumer protection or antitrust laws within the past five years.

☒ No ☐ Yes

If yes, provide a separate attachment labeled as **Exhibit B-4 "Disclosure of Consumer Protection Violations"** detailing such violation(s) and providing all relevant documents.

B-5 Disclose whether the applicant or a predecessor of the applicant has had any certification, license, or application to provide retail or wholesale electric service including aggregation service denied, curtailed, suspended, revoked, or cancelled within the past two years.

☒ No ☐ Yes

If yes, provide a separate attachment labeled as **Exhibit B-5 "Disclosure of Certification Denial, Curtailment, Suspension, or Revocation"** detailing such action(s) and providing all relevant documents.

C. FINANCIAL CAPABILITY AND EXPERIENCE

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED:

C-1 **Exhibit C-1 "Annual Reports,"** provide the two most recent Annual Reports to Shareholders. If applicant does not have annual reports, the applicant should provide similar information in Exhibit C-1 or indicate that Exhibit C-1 is not applicable and why. (This is generally only applicable to publicly traded companies who publish annual reports.)

C-2 **Exhibit C-2 "SEC Filings,"** provide the most recent 10-K/8-K Filings with the SEC. If the applicant does not have such filings, it may submit those of its parent company. An applicant may submit a current link to the filings or provide them in paper form. If the applicant does not have such filings, then the applicant may indicate in Exhibit C-2 that the applicant is not required to file with the SEC and why.

- C-3 Exhibit C-3 “Financial Statements.”** provide copies of the applicant’s two most recent years of audited financial statements (balance sheet, income statement, and cash flow statement). If audited financial statements are not available, provide officer certified financial statements. If the applicant has not been in business long enough to satisfy this requirement, it shall file audited or officer certified financial statements covering the life of the business. If the applicant does not have a balance sheet, income statement, and cash flow statement, the applicant may provide a copy of its two most recent years of tax returns (with social security numbers and account numbers redacted).
- C-4 Exhibit C-4 “Financial Arrangements.”** provide copies of the applicant's financial arrangements to conduct CRES as a business activity (e.g., guarantees, bank commitments, contractual arrangements, credit agreements, etc.).

Renewal applicants can fulfill the requirements of Exhibit C-4 by providing a current statement from an Ohio local distribution utility (LDU) that shows that the applicant meets the LDU’s collateral requirements.

First time applicants or applicants whose certificate has expired as well as renewal applicants can meet the requirement by one of the following methods:

1. The applicant itself stating that it is investment grade rated by Moody’s, Standard & Poor’s or Fitch and provide evidence of rating from the rating agencies.
2. Have a parent company or third party that is investment grade rated by Moody’s, Standard & Poor’s or Fitch guarantee the financial obligations of the applicant to the LDU(s).
3. Have a parent company or third party that is not investment grade rated by Moody’s, Standard & Poor’s or Fitch but has substantial financial wherewithal in the opinion of the Staff reviewer to guarantee the financial obligations of the applicant to the LDU(s). The guarantor company’s financials must be included in the application if the applicant is relying on this option.
4. Posting a Letter of Credit with the LDU(s) as the beneficiary.

If the applicant is not taking title to the electricity or natural gas, enter "N/A" in Exhibit C-4. An N/A response is only applicable for applicants seeking to be certified as an aggregator or broker.

- C-5 **Exhibit C-5 "Forecasted Financial Statements,"** provide two years of forecasted income statements for the applicant's **ELECTRIC related business activities in the state of Ohio Only**, along with a list of assumptions, and the name, address, email address, and telephone number of the preparer. The forecasts should be in an annualized format for the two years succeeding the Application year.
- C-6 **Exhibit C-6 "Credit Rating,"** provide a statement disclosing the applicant's credit rating as reported by two of the following organizations: Duff & Phelps, Fitch IBCA, Moody's Investors Service, Standard & Poor's, or a similar organization. In instances where an applicant does not have its own credit ratings, it may substitute the credit ratings of a parent or an affiliate organization, provided the applicant submits a statement signed by a principal officer of the applicant's parent or affiliate organization that guarantees the obligations of the applicant. If an applicant or its parent does not have such a credit rating, enter "N/A" in Exhibit C-6.
- C-7 **Exhibit C-7 "Credit Report,"** provide a copy of the applicant's credit report from Experion, Dun and Bradstreet or a similar organization. An applicant that provides an investment grade credit rating for Exhibit C-6 may enter "N/A" for Exhibit C-7.
- C-8 **Exhibit C-8 "Bankruptcy Information,"** provide a list and description of any reorganizations, protection from creditors or any other form of bankruptcy filings made by the applicant, a parent or affiliate organization that guarantees the obligations of the applicant or any officer of the applicant in the current year or within the two most recent years preceding the application.
- C-9 **Exhibit C-9 "Merger Information,"** provide a statement describing any dissolution or merger or acquisition of the applicant within the two most recent years preceding the application.
- C-10 **Exhibit C - 10 "Corporate Structure,"** provide a description of the applicant's corporate structure, not an internal organizational chart, including a graphical depiction of such structure, and a list of all affiliate and subsidiary companies that supply retail or wholesale electricity or natural gas to customers in North America. If the applicant is a stand-alone entity, then no graphical depiction is required and applicant may respond by stating that they are a stand-alone entity with no affiliate or subsidiary companies.

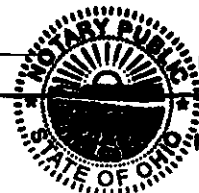
Mark B... **PRESIDENT**
Signature of Applicant & Title

Sworn and subscribed before me this 28th day of March, 2018
Month Year

Patricia M. Zellia
Signature of official administering oath

Patricia M. Zellia
Print Name and Title

My commission expires on 2-25-2020



PATRICIA M. ZELLIA, Notary Public
Residence - Summit County
State Wide Jurisdiction, Ohio
My Commission Expires Feb. 25, 2020

AFFIDAVIT

State of Ohio :

Aurora ss.

(Town)

County of Portage :

Mark R. Burns, Affiant, being duly sworn/affirmed according to law, deposes and says that:

He/~~She~~ is the President (Office of Affiant) of Independent Energy Consultants, Inc. (Name of Applicant);

That he/~~she~~ is authorized to and does make this affidavit for said Applicant,

1. The Applicant herein, attests under penalty of false statement that all statements made in the application for certification renewal are true and complete and that it will amend its application while the application is pending if any substantial changes occur regarding the information provided in the application.
2. The Applicant herein, attests it will timely file an annual report with the Public Utilities Commission of Ohio of its intrastate gross receipts, gross earnings, and sales of kilowatt-hours of electricity pursuant to Division (A) of Section 4905.10, Division (A) of Section 4911.18, and Division (F) of Section 4928.06 of the Revised Code.
3. The Applicant herein, attests that it will timely pay any assessments made pursuant to Sections 4905.10, 4911.18, or Division F of Section 4928.06 of the Revised Code.
4. The Applicant herein, attests that it will comply with all Public Utilities Commission of Ohio rules or orders as adopted pursuant to Chapter 4928 of the Revised Code.
5. The Applicant herein, attests that it will cooperate fully with the Public Utilities Commission of Ohio, and its Staff on any utility matter including the investigation of any consumer complaint regarding any service offered or provided by the Applicant.
6. The Applicant herein, attests that it will fully comply with Section 4928.09 of the Revised Code regarding consent to the jurisdiction of Ohio Courts and the service of process.
7. The Applicant herein, attests that it will use its best efforts to verify that any entity with whom it has a contractual relationship to purchase power is in compliance with all applicable licensing requirements of the Federal Energy Regulatory Commission and the Public Utilities Commission of Ohio.
8. The Applicant herein, attests that it will comply with all state and/or federal rules and regulations concerning consumer protection, the environment, and advertising/promotions.
9. The Applicant herein, attests that it will cooperate fully with the Public Utilities Commission of Ohio, the electric distribution companies, the regional transmission entities, and other electric suppliers in the event of an emergency condition that may jeopardize the safety and reliability of the electric service in accordance with the emergency plans and other procedures as may be determined appropriate by the Commission.
10. If applicable to the service(s) the Applicant will provide, the Applicant herein, attests that it will adhere to the reliability standards of (1) the North American Electric Reliability Council (NERC), (2) the appropriate regional reliability council(s), and (3) the Public Utilities Commission of Ohio. (Only applicable if pertains to the services the Applicant is offering)

11. The Applicant herein, attests that it will inform the Commission of any material change to the information supplied in the renewal application within 30 days of such material change, including any change in contact person for regulatory purposes or contact person for Staff use in investigating customer complaints.

That the facts above set forth are true and correct to the best of his/her knowledge, information, and belief and that he/she expects said Applicant to be able to prove the same at any hearing hereof.

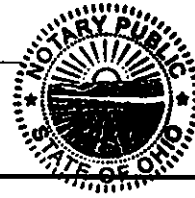
Mad R. Bunn, PRESIDENT
Signature of Affiant & Title

Sworn and subscribed before me this 28th day of March, 2018
Month Year

Patricia M. Zellia
Signature of official administering oath

Patricia M. Zellia
Print Name and Title

My commission expires on 2-25-2022



PATRICIA M. ZELLIA, Notary Public
Residence - Summit County
State Wide Jurisdiction, Ohio
My Commission Expires Feb. 25, 2022

Exhibit A-10 "Principal Officers, Directors & Partners"

Officers

Mark R. Burns, President
215 W Garfield Road Suite 210
Aurora, Ohio 44202
(330) 995-2675

Regina M. Burns, Vice President
215 W Garfield Road Suite 210
Aurora, Ohio 44202
(330) 995-2675

Regina M. Burns, Treasurer
215 W Garfield Road Suite 210
Aurora, Ohio 44202
(330) 995-2675

Regina M. Burns, Secretary
215 W Garfield Road Suite 210
Aurora, Ohio 44202
(330) 995-2675

Directors

Mark R. Burns
215 W Garfield Road Suite 210
Aurora, Ohio 44202
(330) 995-2675

Regina M. Burns
215 W Garfield Road Suite 210
Aurora, Ohio 44202
(330) 995-2675

Exhibit B-1 “Jurisdictions of Operation”

Independent Energy Consultants, Inc. is certified by the Public Utilities Commission of Ohio to provide brokerage and aggregation services of natural gas and electricity throughout all deregulated areas of Ohio. They are similarly licensed in:

- Illinois by the Illinois Commerce Commission as an Agent/Broker/Consultant,
- Virginia by the Virginia State Corporation Commission to provide brokerage and aggregation services of natural gas and electricity, and
- The Public Utilities Commission of Texas as an Aggregator of Electric.

Exhibit B-2 "Experience & Plans"

Contract Services: With the aid of its legal counsel, Independent Energy Consultants, Inc. has developed a standard professional services agreement that it will use with its clients. It will also use the respective commodity suppliers' "Independent Agent Agreements" when brokering deals between suppliers and commercial and industrial customers.

Billing Statements: Independent Energy Consultants, Inc. brokers energy contracts for Commercial and Industrial customers and designs and implements Governmental Aggregation programs. In the process it never takes title to electricity, so there is no billing for the commodity. Independent Energy Consultants does provide invoices to its clients for consulting services rendered using a commercially available accounting system.

Customer Service Experience: Independent Energy Consultants, Inc. is currently administering Electric and/or Natural Gas Governmental Aggregation programs that impact a combination of over 100 Ohio communities. Independent Energy Consultants also provides brokerage service to many commercial and industrial customers outside of aggregation programs. Most questions and calls were answered immediately, and all were responded to within 24 hours of receipt. Customer service often came in the form of assisting residents who had contacted their local government and/or Choice supplier and who still had questions or disputes.

Frequent communication with and detailed quarterly reports to governmental aggregators was used as a customer service technique to head off problems before they arose. This involved training of municipal personnel and preparation of material such as Frequently Asked Questions (FAQs), press releases and conducting informational town hall meetings.

Customer Complaints and Inquiries: Independent Energy Consultants, Inc. has helped facilitate the resolution of numerous customer complaints. Virtually all of the questions and complaints, however, concerned matters involving the local utility and/or the supplier of choice.

Inquiries directed to Independent Energy Consultants, Inc. usually pertain to the customers seeking advice on the aggregation process, deciding whether or not to accept an offer, help understanding utility bills, etc.

Customer complaints or inquiries can be made in a number of ways. Customers may contact Independent Energy Consultants, Inc. by:

- Calling the direct number: (330) 995-2675
- Calling the toll free number: (888) 862-6060
- Sending a fax: (800) 574-4508
- Sending an e-mail: mburns@naturalgas-electric.com; rburns@naturalgas-electric.com
- Contact via the Independent Energy Consultants website: info@naturalgas-electric.com

Since the onset of deregulation in Ohio, the founder of Independent Energy Consultants, Inc. has led the development and administration of many government aggregation programs that

serve many communities. Independent Energy Consultants has designed implemented and administered hundreds of aggregation programs across Ohio. The cumulative total of these groups represents over 350,000 residential customers and tens of thousands of commercial customers.

Exhibit B-3 "Disclosure of Liabilities and Investigations"

Neither Independent Energy Consultants, Inc. nor any of its employees have ever had a judgment, investigation, or ruling against it. There are no circumstances that would financially or operationally impact its ability to perform the brokerage and aggregation service for which it seeks certification.

Exhibit C-1 "Annual Reports"

Independent Energy Consultants, Inc. is a privately held corporation, and as such, does not produce Annual Reports.

Exhibit C-2 “SEC Filings”

Independent Energy Consultants, Inc. is a privately held corporation, and as such, does not produce or file 10-K/8-K, 10-Q, etc., Reports with the Securities Exchange Commission.

Exhibit C-3 “Financial Statements”

Independent Energy Consultants, Inc. has filed this information Under Seal.

Exhibit C-4 “Financial Arrangements”

N/A - Independent Energy Consultants, Inc. is a Broker and Aggregator, and as such, does not take title to electricity and/or natural gas.

Exhibit C-5 “Forecasted Financial Statements”

Independent Energy Consultants, Inc. has filed this information Under Seal.

Exhibit C-6 “Credit Rating”

As a privately held S Corporation, Independent Energy Consultants, Inc. does not possess a published credit rating.

Exhibit C-7 “Credit Report”

The credit report for Independent Energy Consultants, Inc. as provided by Experian is provided on the following two pages.

Independent Energy Consultants, Inc. and the company owners possess an unblemished corporate and personal credit history.

Independent Energy Consultants, Inc. - Exhibit C-7 "Credit Report"



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Search inquiry: Independent Energy Consultants, Inc. / Aurora / OH / (My company)

CreditScoreSM Report

as of: 02/09/18 12:56 ET

Independent Energy Consultants, Inc

Address: 215 W Garfield Rd Ste 210
Aurora, OH 44202-8849
United States
Phone: 330-995-2675
Website: naturalgas-electric.com
Experian BIN: 750177526
Agent: Ct Corporation System
Agent Address: 4701 Cox RD Ste 285
Glen Allen, VA

Key Personnel:
SIC Code:

Vice President: Regina M Burns
8742-Management Consulting
Services
8748-Business Consulting Services,
Nec
1711-Plumbing, Heating & A/C
Contractors

NAICS Code:

541610-Management Consulting
Services
541618-Other Management
Consulting Services
541611-Administrative Management
And General Management
Consulting Services

Business Type:

Corporation

Experian File Established:

April 2004

Experian Years on File:

14 Years

Years in Business:

36 Years

Total Employees:

2

Sales:

\$2,288,000

Filing Data Provided by:

Ohio

Independent Energy Consultants, Inc. - Exhibit C-7 "Credit Report"

Date of Incorporation: 05/14/2004

Payment Tradelines (see [charts](#)): 2

UCC Filings: 0

This location does not yet have an estimated Days Beyond Terms (DBT), or a Payment Trend Indicator. This is often the result of too few Payment Tradelines.

Lowest 6 Month Balance: \$607
Highest 6 Month Balance: \$5,841
Current Total Account Balance: \$0
Highest Credit Amount Extended: \$0

✓ Businesses Scoring Worse: 92%
✓ Bankruptcies: 0
✓ Liens: 0
✓ Judgments Filed: 0
✓ Collections: 0

Credit Summary

[Back to top](#)

Experian Business Credit Score: 93



The objective of the Experian Business Credit Score is to predict payment behavior. High Risk means that there is a significant probability of delinquent payment. Low Risk means that there is a good probability of on-time payment.

Key Score Factors:

- Number of recently active commercial accounts.
- Length of time on experian's file.
- Ratio of total bal to total high bal across all comm accts.

Recommended Action: Low Risk

Exhibit C-8 “Bankruptcy Information”

Independent Energy Consultants, Inc. has never filed for reorganization or bankruptcy protection.

Exhibit C-9 “Merger Information”

Independent Energy Consultants, Inc. became an Ohio corporation on April 8, 2004. Neither it nor its principals have ever been involved in a corporate dissolution, merger or acquisition.

Exhibit C-10 "Corporate Structure"

Independent Energy Consultants, Inc. is a stand-alone entity with no affiliate or subsidiary companies.

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Independent) Case No. 04-592-EL-AGG
Energy Consultants, Inc. for Renewal Certification)
as a Retail Aggregator and Power Broker)

MOTION FOR PROTECTIVE ORDER
OF INDEPENDENT ENERGY CONSULTANTS, INC.

Independent Energy Consultants, Inc., hereby respectfully moves the Public Utilities Commission of Ohio ("Commission") for a protective order to shield proprietary information from the public record and keep confidential the commercially sensitive and financial data designated confidential and/or proprietary information in Sections C-3 and C-5 of Independent Energy Consultants application for authority to continue to operate as a Retail Aggregator and Power Broker. The rationale for granting this motion is contained in the memorandum attached hereto and incorporated herein. Consistent with the requirements of Section 4901:1-24(D) of the Commission's rules, Independent Energy Consultants, Inc. has filed under seal unredacted copies of the information which are subject to this motion.

The grounds for the instant Motion are set forth in the attached Memorandum in Support.

Respectfully submitted



David J. Hrina, Esq.
Buckingham, Doolittle and Burroughs, LLC
3800 Embassy Parkway, Suite 300
Akron, OH 44333-8332
Phone: 330-643-0212
Direct Fax: 330-252-5312

Counsel for Independent Energy Consultants, Inc.

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Independent) Energy Consultants, Inc. for Renewal Certification) as a Retail Aggregator and Power Broker)	Case No. 04-592-EL-AGG
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MEMORANDUM IN SUPPORT

Along with this Motion for Protective Order and Memorandum in Support, Independent Energy Consultants, Inc. has filed its Renewal Certification Application to remain a Retail Aggregator and Power Broker. The application contains all of the required information in compliance with the Commission's Certification Application for Retail Aggregators and Power Brokers and Rule 4901:1-24, Ohio Administrative Code ("O.A.C").

The application requires the submission of Independent Energy Consultants' "Financial Statements" ("Exhibit C-3"), and "Forecasted Financial Statements" ("Exhibit C-5"). Independent Energy Consultants Inc., a privately held S Corporation registered in the State of Ohio, has provided the information under seal because the documents contain competitively sensitive and highly proprietary financial information. Therefore, Independent Energy Consultants, Inc. requests that the Commission maintain the commercially sensitive and confidential nature of the information (along with any copies) contained within the portion of the application filed under seal. OAC Rule 4901:1-24(D) provides that the Commission may issue an order to protect the confidentiality of information contained in documents filed with the Commissions Docketing Division to the extent that state or federal law prohibits the release of information and where non-disclosure of the information is not

inconsistent with the purposes of Ohio Revised Code ("R.C.") Chapter 4929. Revised Code § 4929.23 (A) specifically permits the Commission to grant confidentiality where competitive information is at stake. Independent Energy Consultants, Inc. contends that the commercially sensitive competitive information required by Sections C-3 and C-5 of the application constitutes highly confidential and proprietary trade secrets and, as such, Ohio law prohibits release of the information.

Other jurisdictions have held that not only does a public utilities commission have the authority to protect the trade secrets of a public utility, the trade statute creates a duty to protect them.¹ The Ohio Commission has similarly fulfilled its obligations to protect trade secrets in numerous proceedings.² For the Commission to do otherwise here would contradict the Ohio legislature's protections of all businesses, including public utilities.

In *Pyromatics, Inc. v. Peruziello*,³ the Court of Appeals set forth six factors to be included in the analysis of what constitutes a trade secret:

(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.

Independent Energy Consultants, Inc. satisfies all of these considerations. Independent Energy Consultants, Inc has provided under seal the information required in Sections C-3

¹ See e.g., *New York Tel. Co. v. Pub. Serv. Comm.* N.Y. 2d 213 (1982)

² See, e.g., *Elyria Telephone Co.*, Case No. 89-965-TP-AEC (Finding and Order, Sept. 21, 1989); *Ohio Bell Telephone Co.*, Case No. 89-718-TP-ATA (Finding and Order, May 31, 1989); *Columbia Gas of Ohio, Inc.*, Case No. 90-17-GA-GCR (Entry, Aug. 17, 1990).

³ 7 Ohio App. 3d 131, 134-35 (Cuyahoga County 1983).

and C-5 of the application and has treated the information as a trade secret. In Independent Energy Consultant's normal course of business, the information is deemed confidential, is treated as proprietary and confidential by its employees and is not disclosed to anyone unless required pursuant to law.

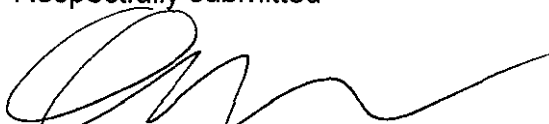
Independent Energy Consultants, Inc. is seeking authority to continue to operate as a Retail Aggregator and Power Broker in the State of Ohio. Given the competitive environment in which it seeks to operate the financial information requested in Sections C-3 and C-5 of the application is highly proprietary, confidential and commercially sensitive. Therefore, it is imperative that Independent Energy Consultants, Inc. be required to disclose its financial forecasts only under seal, thus preventing potential competitors from gaining access to this sensitive information. Additionally, maintaining the confidentiality of Independent Energy Consultants, Inc. financial forecasts will in no way prejudice Independent Energy Consultants' competitors, because the Commission will have the financial information necessary to make an informed decision. The Commission can thus assure that Independent Energy Consultants, Inc. complies with the Commissions rules and receives no regulatory advantage over its potential competitors.

Additionally, Independent Energy Consultants, Inc. hereby requests a waiver from Rule 4901-1-24(F), O.A.C., which causes any order prohibiting public disclosure of certain documents to automatically expire eighteen (18) months after the date the order was issued. Given the sensitive nature of the requested documents, Independent Energy Consultants, Inc. believes that a waiver of this rule is appropriate. The information is proprietary now and

will continue to be sensitive in eighteen months. Independent Energy Consultants, Inc. also respectfully requests that the Commission grant a waiver from Rule 4901-1-24(F), O.A.C., to prevent the information that has been filed under seal from being removed from protective status and placed into the public record of the proceeding.

WHEREFORE, Independent Energy Consultants, Inc. respectfully requests that this Motion for Protective Order be granted for the reasons set forth herein.

Respectfully submitted

A handwritten signature in black ink, appearing to read 'David J. Hrina', with a long, sweeping horizontal line extending to the right.

David J. Hrina, Esq.
Buckingham, Doolittle and Burroughs, LLC
3800 Embassy Parkway, Suite 300
Akron, OH 44333-8332
Phone: 330-643-0212
Direct Fax: 330-252-5312

Counsel for Independent Energy Consultants, Inc.

Dated: March 30, 2018