

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Alternative Energy)	
Resources Report for Calendar Year)	Case No. 18-643-EL-ACP
2017 from Inspire Energy Holdings,)	
LLC.)	

INSPIRE ENERGY HOLDING, LLC'S MOTION FOR PROTECTIVE ORDER

In accordance with O.A.C. 4901-1-24(D), Inspire Energy Holdings, LLC (Inspire) moves for a protective order keeping confidential and not part of the public record the designated proprietary information contained in its Alternative Energy Resources Report for Calendar Year 2017. A redacted version of the Plan has been filed contemporaneously with this Motion in this docket, and in accordance with O.A.C. 4901-1-24(D), an unredacted copy of the confidential information that is the subject of this Motion has been filed under seal. The reasons underlying this motion are detailed in the attached Memorandum in Support.

Respectfully submitted,

/s/ Rebekah J. Glover

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

Inspire requests that the Commission protect from public disclosure certain information as confidential and/or proprietary (along with any and all copies, including electronic copies). The designated information is the ten-year forecast in Section II.A. of Inspire's Alternative Energy Resources Report for Calendar Year 2017. The information in that section of the report lists the baseline megawatt-hours, solar REC requirement, and non-solar REC requirement. Disclosure of such information to Inspire's competitors will harm Inspire in the competitive electric services market and the REC market. As set forth herein, Ohio law and the Commission's rules provide for the protection of such trade secrets and proprietary information.

II. ARGUMENT

A. Ohio law protects trade secrets.

Ohio law defines a "trade secret":

[I]nformation, 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). The law further prohibits the release of information meeting the definition of a trade secret. R.C. §§ 1333.61(D) and 1333.62. Moreover, the General Assembly carved out an exception to the general rule in favor of the public disclosure of information in the Commission's

possession; “public records” do not include records the release of which is prohibited by state or federal law. R.C. § 149.43(A)(1).

While the Commission has often expressed its preference for open proceedings, the Commission has long recognized its statutory obligations with regard to the protection of trade secrets. See *In re General Telephone Co.*, Case No. 81-383-TP-AIR, Entry (Feb.17, 1982) (recognizing necessity of protecting trade secrets). Indeed, the Ohio Supreme Court has held not only does the Commission have the authority to protect trade secrets, Ohio law imposes a duty on the Commission to protect them – as such protections are granted through the Uniform Trade Secrets Act to all businesses. See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 121 Ohio St.3d 362, 2009-Ohio-604. This Commission has previously carried out its obligations in this regard in numerous proceedings. See, e.g., *Elyria Tel. Co.*, Case No. 89-965-TP-AEC, Finding and Order (Sept. 21, 1989); *Ohio Bell Tel. 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).

Specifically, O.A.C. 4901-1-24(A) provides the Commission may issue:

[A]ny order which is necessary to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. Such a protective order may provide that: . . .

(7) A trade secret or other confidential research, development, commercial, or other information not be disclosed or be disclosed only in a designated way.

Pursuant to O.A.C. 4901-1-24(D), the Commission also may issue an order to protect the confidentiality of information contained in documents filed with the Commission 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. Here, the information Inspire seeks to protect constitutes proprietary, trade-secrets information that

warrants the Commission's protection and non-disclosure is not inconsistent with the purposes of Title 49.

B. The designated information warrants the Commission's protection.

Inspire has treated all of the information that is the subject of this Motion as proprietary, confidential business information and as trade secrets. In the ordinary course of Inspire's business, this information is protected by Inspire employees, and is not disclosed to third parties.

Disclosure of these types of information would harm Inspire by providing its competitors with information concerning Inspire's business strategies and plans. Accordingly, the information constitutes trade secrets protected by Ohio law. Moreover, the non-disclosure of the information will not impair the purposes of Title 49. The Commission and its Staff have full access to the information in order to fulfill their statutory obligations. No purpose of Title 49 would be served by the public disclosure of the information.

III. CONCLUSION

For the foregoing reasons, Inspire requests that the information designated in Inspire's Alternative Energy Resources Report for 2017 be protected from public disclosure.

Dated: April 12, 2018

Respectfully submitted,

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Summary: Motion for Protective Order and Memorandum in Support electronically filed by Ms. Rebekah J. Glover on behalf of Inspire Energy Holdings, LLC