

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Palmer	)	
Energy Company, Inc. for a Certificate to	)	Case No. 10-1081-EL-AGG
Provide Competitive Retail Electric Service in	)	
Ohio.	)	

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**MOTION TO EXTEND PROTECTIVE ORDER**

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Pursuant to Rule 4901-1-24(F) of the Ohio Administrative Code, Palmer Energy Company, Inc. (“Palmer Energy”), moves to extend the protective order issued in this case on August 16, 2016, to maintain under seal the financial exhibits (Exhibits C-3 and C-5) filed with Palmer Energy’s 2010 initial application for certification, its 2012 renewal application, and its 2014 renewal application. This motion is filed in compliance with Rule 4901:1-24-08 of the Ohio Administrative Code, wherein the Commission affords protective treatment for these types of financial exhibits and permits requests for extensions of protective orders. This motion is filed one day after the 45-day deadline for extension requests in Rule 4901-1-24(F) of the Ohio Administrative Code because review could not be completed by the deadline as a result of the necessary persons being unavailable for review and approval. Palmer Energy requests that the 45-day deadline be waived or extended because there is good cause to extend the protective order filing deadline by one day and no party is prejudiced by the one-day filing delay.

Palmer Energy’s financial information requires continued protection. Exhibits C-3 and C-5, as submitted in this docket on August 5, 2010, July 26, 2012, August 5, 2014 and September 3, 2014, have not yet been released to the public. The information remains confidential and releasing it to the public could subject Palmer Energy to competitive harm. Therefore good cause exists for extending the protective treatment.

WHEREFORE, Palmer Energy respectfully requests that the Commission extend the confidential treatment for Exhibits C-3 and C-5 (submitted on August 5, 2010, July 26, 2012, August 5, 2014 and September 3, 2014) in this case. The reasons underlying this motion to extend are detailed in the attached Memorandum in Support.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT OF  
MOTION TO EXTEND PROTECTIVE ORDER**

Through several rulings, the Attorney Examiner granted protective treatment to Palmer Energy's Exhibits C-3 (Financial Statements) and C-5 (Forecasted Financial Statements) as filed with its initial certification application and as filed with its 2012 and 2014 renewal applications in this docket. Additionally, the Attorney Examiner has extended confidential treatment and, as a result, the Exhibits C-3 and C-5 submitted in this docket on August 5, 2010, July 26, 2012, August 5, 2014 and September 3, 2014, are under protective treatment. Through this motion, Palmer Energy seeks to extend that protective treatment for those exhibits.<sup>1</sup>

Palmer Energy is a privately held broker/aggregator in Ohio. The financial statements and forecasts currently protected are not publicly available. If they were to become publicly available, Palmer Energy's competitors could use that information to disadvantage Palmer Energy in the competitive marketplace. For example, they could take information about Palmer Energy's past financial condition and business that is not currently known to the public to glean information relevant to Palmer Energy's current financial condition and business. As a result, good cause exists for continued protection of the 2010, 2012 and 2014 Exhibits C-3 and C-5.

The Ohio Supreme Court has used a six-factor test to determine whether information is a trade secret for which protective treatment is granted. See *State ex rel The Plain Dealer v Ohio Dept. of Ins.* (1997) 80 Ohio St. 3d 513, 524-525. Those six factors are:

- (a) The extent to which the information is known outside the business;
- (b) The extent to which it is known to those inside the business, i.e. by the employees;
- (c) The precautions taken by the holder of the trade secret to guard the secrecy of the information;

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<sup>1</sup> The confidential Exhibits C-3 and C-5 filed by Palmer Energy with its 2016 renewal application were automatically given protective treatment per Rule 4901:1-24-08(A) of the Ohio Administrative Code and that protective treatment is still in effect. As a result, Palmer Energy is not asking to extend the protective order as to those 2016 exhibits.

- (d) The savings affected and the value to the holder in having the information as against competitors;
- (e) The amount of effort or money expended in obtaining and developing the information;
- (f) The amount of time and expense it would take for others to acquire and duplicate the information.

Despite the passage of several years, applying these factors today produces the same conclusion that Exhibits C-3 and C-5 constitute trade secret information. The financial information is still not known outside the business and is still only known to a few employees. Palmer Energy still takes precautions to guard the secrecy of this information. If a competitor had this information, it would still be very valuable for competing against Palmer Energy and putting Palmer Energy at a disadvantage in the marketplace. The company took time and effort to develop these financial statements and financial forecasts, information that is not known to others including Palmer Energy's competitors. Thus, even though time has passed, this information should still be considered trade secrets. Additionally, Palmer Energy notes that there is no harm to the public by extending the protective treatment for these exhibits and the nondisclosure is not inconsistent with the purposes of Title 49 of the Revised Code.

The Commission has recognized that financial information such as Exhibits C-3 and C-5 constitutes trade secrets and through Rule 4901:1-24-08(A) of the Ohio Administrative Code, is more recently automatically granting protective treatment to such exhibits. The Commission also has recognized that small privately held certified suppliers can be harmed by disclosure of their financial information and has extended protective treatment on that basis. See *In the Matter of the Application of Stand Energy Corporation for Certification as a Competitive Retail Natural Gas Supplier*, Case No. 02-2549-GA-CRS, Entry at ¶¶14-16 (June 14, 2017). Palmer Energy simply asks that the Commission similarly conclude that extending confidential treatment to its

financial exhibits (Exhibits C-3 and C-5 as submitted on August 5, 2010, July 26, 2012, August 5, 2014, and September 3, 2014) is appropriate.

These exhibits constitute trade secrets and good cause exists for extending the protective treatment for these exhibits provided by a broker/aggregator operating in a competitive market. For the foregoing reasons, Palmer Energy respectfully requests that the Commission or an Attorney Examiner extend the August 16, 2016 protective order with respect to the Exhibits C-3 and C-5 that were submitted on August 5, 2010, July 26, 2012, August 5, 2014 and September 3, 2014, in this proceeding.

Respectfully submitted,

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Summary: Motion to Extend Protective Order electronically filed by Mrs. Gretchen L. Petrucci on behalf of Palmer Energy Company, Inc.