

FILE

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)	
Harrison Pipeline Company LLC)	Case No. 18-116-PL-ACE
for Authority to Operate as an)	
Ohio Pipeline Company)	

HARRISON PIPELINE COMPANY, LLC'S
MOTION FOR PROTECTIVE ORDER

Pursuant to Ohio Adm.Code 4901-1-24(D), Harrison Pipeline Company, LLC ("Harrison Pipeline") respectfully requests that the Public Utilities Commission of Ohio ("Commission") issue a protective order maintaining the confidentiality of the pro forma financial statements submitted in support of Harrison Pipeline's Amended Application for authority to operate as an intrastate pipeline company. As required by Ohio Adm.Code 4901-1-24(D)(2), two unredacted copies of the pro forma financial statements are filed with this Motion under seal. The reasons supporting this motion are provided in the attached Memorandum in Support.

Respectfully submitted,



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MEMORANDUM IN SUPPORT

Harrison Pipeline respectfully requests that the Commission maintain the confidentiality of the pro forma financial statements submitted in support of Harrison Pipeline's Amended Application in order to prevent giving an advantage to unaffiliated customers with which Harrison Pipeline may, in the future, negotiate reasonable arrangements. A redacted version of the financial statements was attached to Harrison Pipeline's Amended Application as Exhibit E.

Ohio Adm.Code 4901-1-24(D) provides that the Commission or certain designated employees may issue an order where necessary 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 consistent with the purposes of Title 49 of the Revised Code. This includes information that is "deemed to constitute a trade secret under Ohio law * * *." *In re Application of Columbia Gas of Ohio, Inc. for Approval of Demand-Side Management Programs for Its Residential and Commercial Customers*, Case Nos. 16-1309-GA-UNC *et al.*, Opinion and Order, ¶ 24 (Dec. 21, 2016). *See also* Ohio Adm.Code 4901-1-24(A)(7) (authorizing the issuance of a protective order that provides that "[a] trade secret or other confidential, research, development, commercial, or other information not be disclosed or be disclosed only in a designated way").

Ohio statute defines "trade secret" to mean:

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). The Supreme Court of Ohio has delineated six factors to consider in determining whether information 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.

See, e.g., Salemi v. Cleveland Metroparks, 145 Ohio St.3d 408, 2016-Ohio-1192, at ¶ 25 (citing, *inter alia*, *State ex rel. Luken*, 135 Ohio St.3d 416, 2013-Ohio-1532, at ¶ 17).

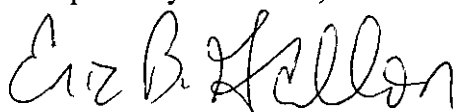
Applying these factors to Harrison Pipeline's pro forma financial statements, it is clear that protection from disclosure is appropriate. Harrison Pipeline is not a publicly traded company, so its financial information is not publicly available. The pro forma financial statements were developed by, and are known only by, a small group of persons who own, are employed by, or are performing consulting services for the companies developing the Harrison Pipeline project. Publicly disclosing the pro forma financial statements would provide future customers unaffiliated with Harrison Pipeline an advantage in negotiating the rates to be charged for its public utility services, by divulging the company's expected fee revenues and expenses. The companies developing the project have sought to guard the secrecy of the information by filing it with the Commission under seal. And, finally, persons other than the owners and

employees of the companies developing the Harrison Pipeline project (and the consultants on the project) would be unable to acquire and duplicate the information in the pro forma financial statements.

The Commission's marketer regulations presume that "financial statements, financial arrangements, and forecasted financial statements" are entitled to "protective treatment." Ohio Adm.Code 4901:1-27-08(A) (allowing an applicant for a certificate to operate as a competitive retail natural gas service provider to file its forecasted financial statements under seal and guaranteeing them "protective treatment for a period of six years"); Ohio Adm.Code 4901:24-08(A) (similarly protecting forecasted financial statements submitted by an applicant for a certificate to operate as a competitive retail electric service provider). Harrison Pipeline's forecasted financial statements deserve the same protective treatment.

For the reasons provided above, Harrison Pipeline respectfully requests that the Commission maintain the confidentiality of the pro forma financial statements submitted in support of Harrison Pipeline's Amended Application for authority to operate as an intrastate pipeline company, by ordering that the document be kept under seal.

Respectfully submitted,



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