

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Northeast )  
Ohio Gas Natural Gas Corp. for Approval of ) Case No. 20-0090-GA-AEC  
a Reasonable Arrangement For Transporting )  
Natural Gas Pursuant To Section 4905.31 )  
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**MOTION FOR PROTECTIVE ORDER OF NORTHEAST OHIO GAS  
CORPORATION**

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Pursuant to Ohio Administrative Code ("O.A.C.") Section 4901-1-24(D), Northeast Ohio Gas Corp. ("NEO") respectfully moves for an order protecting from disclosure confidential, proprietary, and trade secret information contained in NEO's Application for Approval of Transportation Agreement filed with the Public Utilities Commission of Ohio ("Commission") on January 15, 2020 (the "Application"). Consistent with the requirements of Section 4901-1-24(D) of the Commission's Rules, two unredacted copies of the NEO transportation service agreement ("Special Amended Agreement") have been simultaneously filed under seal. The reasons underlying this Motion are fully set forth in the attached Memorandum in Support.

Respectfully submitted,

/s/ N. Trevor Alexander

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**MEMORANDUM IN SUPPORT OF MOTION FOR PROTECTIVE ORDER OF  
NORTHEAST OHIO GAS CORPORATION**

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**I. INTRODUCTION**

Pursuant to O.A.C. § 4901:1-24(D), NEO requests protective treatment of the confidential information in its Application for Approval of Transportation Agreement (“Application”) with its customer Bloom Carroll Local School District (“Bloom Carroll”). Because the Exhibit A Addendum to the Transportation Agreement (hereinafter, the “Addendum”) contains certain competitively-sensitive information, NEO has submitted redacted versions of the Addendum. Through this Motion, NEO seeks protective treatment from this Commission to prevent public disclosure of the redacted information.

**II. LAW AND ARGUMENT**

**A. The Commission’s Rules Permit Protective Treatment Over Confidential Information and Trade Secrets.**

The Commission's Rules allow for protective treatment of certain confidential information filed at the Commission to prevent disclosure of such information. O.A.C. 4901-1-24(D) states in part:

(D) Upon motion of any party or person with regard to the filing of a document with the commission's docketing division relative to a case before the commission, the commission, the legal director, the deputy legal director, or an attorney examiner may issue any order which is necessary to protect the confidentiality of information contained in the document, to the extent that state or federal law prohibits release of the information, including where the information is deemed by the commission, the legal

director, the deputy legal director, or the attorney examiner to constitute a trade secret under Ohio law, and where nondisclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code. Any order issued under this paragraph shall minimize the amount of information protected from public disclosure.

Ohio law recognizes the need to provide protective treatment to information such as the confidential documents. Under R.C. 1333.61(D), "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.

In accordance with the criteria set forth above, state law prohibits the release of the information for which protection is sought.

**B. The Confidential Information Contained in the Special Amended Agreement Constitutes a Trade Secret.**

The definition of "trade secret" clearly reflects the state policy favoring the protection of trade secrets such as the special rates in the Addendum. The specific information for which protection is sought is limited to the negotiated rate in the Addendum. Such terms are routinely accorded protected status by the Commission based on its determination that competitively sensitive information of this type constitutes a "trade secret, or other confidential research, development, (or) commercial information under Ohio law." *See* Rule 4901-1-24(A)(7), O.A.C.<sup>1</sup> Indeed, the statutory definition of a

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<sup>1</sup> In Case No. 14-0948-GA-AEC, the Commission granted protection to similar confidential pricing information between NEO and Rothenbuhler in the Full Requirements Natural Gas Transportation Service Agreement ("Special Agreement") that is being modified by the Addendum in this case. *See In the Matter of the Application of Northeast Ohio Gas Corporation for Approval of Five Transportation Agreements*, Case {04622928.DOCX;1 }

"trade secret" includes "business information" that "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." *See* Section 1333.61(D), Revised Code.

In a competitive environment, the price and price-related terms of natural gas transportation agreement clearly fall within this definition. Moreover, because the Commission and its Staff will have full access to the information for which protection is requested, the Commission's ability to perform its statutory obligations in connection with its review of NEO's Application will in no way be impaired by granting this Motion, and no legitimate purpose would be served by public disclosure of the designated information. Finally, NEO has limited the information for which it seeks protection to minimize the information that will not be publicly disclosed.

### **III. CONCLUSION**

In conclusion, NEO respectfully requests that the information that has been redacted from the public versions of the Addendum attached as Exhibit A to the Application be granted protected status and that the Commission grant its Motion for a Protective Order.

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No. 14-948-GA-AEC, Finding and Order (August 19, 2015), ¶ 11. The Special Agreement is identified as Exhibit 1 to NEO's Application.

Respectfully submitted,

/s/ N. Trevor Alexander

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**CERTIFICATE OF SERVICE**

I certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 15<sup>th</sup> day of January 2020. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ N. Trevor Alexander  
One of Attorneys for Northeast Ohio  
Gas Corp.

**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 20-0090-GA-AEC**

Summary: Motion for Protective Order electronically filed by Mr. Trevor Alexander on behalf of Northeast Ohio Natural Gas Corp.