

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Direct Energy)
Business, LLC for Certification as a Competitive) Case No. 00-1758-EL-CRS
Retail Electric Supplier)

MOTION FOR PROTECTIVE ORDER

Direct Energy Business, LLC (Direct), pursuant to Rule 4901-1- 24(D), O.A.C., respectfully requests issuance of a protective order. The protective order is needed to prevent public disclosure of certain confidential and proprietary information contained in Exhibits C-3, C-8, and C-9 to Direct’s renewal application for certification as a competitive retail electric supplier, filed on September 18, 2020. Unredacted copies of the confidential information which is the subject of this motion have been filed under seal.

Under Rule 4901-1-24(A)(7), the Commission may issue an order prohibiting public disclosure of “trade secret or other confidential research, development, commercial, or other information[.]” Additionally, Rule 4901-1-24(D), the Commission may issue a protective order “which is necessary to protect the confidentiality of information contained in the document, to the extent that state or federal law prohibits the release of the information, including where the information is deemed by the commission . . . 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.”

The following factors are relevant to whether information constitutes a “trade secret” under Ohio law:

- (1)The extent to which the information is known outside the business;
- (2) the extent to which it is known 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.

State ex rel. The Plain Dealer v. Ohio Dept of Ins., 80 Ohio St. 3d 513 (1997).

Exhibits C-3, C-8, and C-9 to the Application contain highly confidential trade secret information. First, Direct does not enclose the information contained in the Exhibits to anyone outside of the company other than its attorneys and accountants. Second, within the company, Direct only discloses this information to its management team. Third, Direct has taken appropriate precautions to guard the secrecy of the information including stamping it as confidential in the ordinary course of business and filing it under seal in other jurisdictions where it serves as natural gas supplier. Finally, release of the information Direct seeks to protect is likely to result in a competitive disadvantage, as it contains the intimate details of Direct's current and projected finances and its strategic allocation of resources for the Ohio natural gas market.

For the foregoing reasons, the Commission, pursuant to Rule 4901-1-24(D), should grant Direct's motion for a protective order.

Dated: September 18, 2020

Respectfully submitted,

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Summary: Motion for Protective Order electronically filed by Mr. Lucas A Fykes on behalf of Direct Energy Business, LLC