

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Northeast)	
Energy Advisors, LLC for a Certificate to)	Case No. 13-532-EL-AGG
Provide Competitive Retail Electric Service)	
in Ohio.)	

MOTION TO EXTEND PROTECTIVE ORDER

Pursuant to Rule 4901-1-24(F) of the Ohio Administrative Code, Northeast Energy Advisors, LLC (“Northeast Energy Advisors”) moves to extend the protective treatment and maintain under seal the financial exhibits (Exhibits C-3 and C-5) filed with Northeast Energy Advisors’ 2015 application for certification renewal. Pursuant to Rule 4901:1-24-08 of the Ohio Administrative Code, the Commission automatically afforded protective treatment for these types of financial exhibits, and permits requests for extensions of the protective orders. This motion is being filed after the 45-day deadline for extension requests in Rule 4901-1-24(F) of the Ohio Administrative Code due to a delay in locating copies of documents from the files while working remotely and re-reviewing them. Northeast Energy Advisors requests that the 45-day deadline be waived or extended because there is good cause to extend the protective order filing deadline and no party is prejudiced by the brief delay. This motion, nonetheless, is being filed more than a month in advance.

Northeast Energy Advisors’ financial information requires continued protection. Exhibits C-3 and C-5, as submitted under seal in this docket on February 6, 2015, have not yet been released to the public. The information remains confidential and releasing it to the public could subject Northeast Energy Advisors to competitive harm. Therefore, good cause exists for extending the protective treatment.

WHEREFORE, Northeast Energy Advisors respectfully requests that the Commission extend the confidential treatment for Exhibits C-3 and C-5 (submitted on February 6, 2015) in this case. The reasons underlying this motion to extend are detailed in the attached Memorandum in Support.

Respectfully submitted,

/s/ Gretchen L. Petrucci

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

The Commission automatically granted protective treatment to Northeast Energy Advisors' Exhibits C-3 (Financial Statements) and C-5 (Forecasted Financial Statements) as filed with its application for certification renewal on February 6, 2015. The protective order was automatically granted for those exhibits for a period of six years from the date of the certificate for which the information was provided. The date of the certificate was March 30, 2015. Through this motion, Northeast Energy Advisors seeks to extend that protective treatment for those 2015 confidential exhibits.¹

Northeast Energy Advisors is a privately held power broker in Ohio. The financial statements and forecasts filed under seal on February 6, 2015, are not publicly available. If they were to become publicly available, Northeast Energy Advisors' competitors could use that information to disadvantage Northeast Energy Advisors in the competitive marketplace. For example, they could take information about Northeast Energy Advisors' past financial condition and business that is not currently known to the public to glean information relevant to Northeast Energy Advisors' current financial condition and business. As a result, good cause exists for continued protection of the 2015 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;

¹ The confidential Exhibits C-3 and C-5 filed by Northeast Energy Advisors with its 2013 renewal application were filed under seal, along with a motion for protective order that is still pending. The confidential Exhibits C-3 and C-5 filed by Northeast Energy Advisors with its 2017 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, Northeast Energy Advisors is not addressing those 2013 and 2017 exhibits under seal at this time.

- (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;
- (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; and
- (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 the 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 Northeast Energy Advisors' two members and the company's professional advisors. Northeast Energy Advisors 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 Northeast Energy Advisors and putting Northeast Energy Advisors 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 Northeast Energy Advisors' competitors. Thus, even though time has passed, this information should still be considered trade secrets. Additionally, Northeast Energy Advisors 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 automatically granted 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) and *In the Matter of the Application of Palmer Energy Company, Inc. for Certification as a Competitive Retail Electric Service Provider in Ohio*, Case Nos. 10-1081-EL-CRS et al. Entry at ¶¶ 27 and 28 (September 12, 2018). Northeast Energy Advisors simply asks that the Commission similarly conclude that extending confidential treatment to its financial exhibits (Exhibits C-3 and C-5 as submitted on February 6, 2015) is appropriate.

These exhibits constitute trade secrets and good cause exists for extending the protective treatment for these exhibits provided by a broker operating in a competitive market. For the foregoing reasons, Northeast Energy Advisors respectfully requests that the Commission or an Attorney Examiner extend the protective order with respect to the Exhibits C-3 and C-5 that were submitted under seal on February 6, 2015, in this proceeding.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document is also being served (via electronic mail) on the 25th day of February 2021 upon the persons listed below.

/s/ Gretchen L. Petrucci

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Summary: Motion Motion to Extend Protective Order electronically filed by Mrs. Gretchen L. Petrucci on behalf of Northeast Energy Advisors, LLC