

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Vectren)
Retail, LLC, d/b/a Vectren Source, for) Case No. 02-1668-GA-CRS
Certification as a Retail Natural Gas)
Supplier in the State of Ohio.)

In the Matter of the Application of Shell)
Energy Services Company, LLC, for) Case No. 02-1680-GA-CRS
Certification as a Retail Natural Gas)
Supplier in the State of Ohio.)

In the Matter of the Application of Energy)
America, LLC, For Certification as a) Case No. 02-1829-GA-CRS
Competitive Retail Natural Gas Supplier in)
the State of Ohio.)

ENTRY

The attorney examiner finds:

- (1) On July 14, 2003, an attorney examiner entry (July entry), granted in part and denied in part certain motions for protective order.
- (2) On October 22, 2003, Energy America, LLC (Energy America), filed a Motion for Extension of Commission's Protective Order (Energy America motion), seeking to extend the six-month period for which the July entry determined that certain documents should continue to be maintained under seal. The Energy America motion relates to historical financial statements (Exhibit C-3 to an application for a certificate to allow it to provide competitive retail natural gas service in Ohio [CRES application]), financial arrangements (Exhibit C-4 to its CRES application), and forecasted financial statements (Exhibit C-5 to its CRES application). Energy America states that all of this information continues to be competitively sensitive and that its disclosure would have an adverse impact on its ability to do business.
- (3) On November 12, 2003, Shell Energy Services Company, LLC (Shell Energy), filed a Motion for Extension of Commission's Protective Order (Shell Energy motion), seeking to extend the six-month period for which the July entry determined that certain documents should continue to be maintained under seal. The Shell Energy motion relates to financial arrangements (Exhibit C-4 to its CRES application). Shell Energy indicates that this information continues to be relevant, current and

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confidential, and that its public disclosure would jeopardize Shell Energy's ability to negotiate and to compete in the market.

- (4) On December 2, 2003, Vectren Retail, LLC, d/b/a Vectren Source (Vectren), filed a Motion for Extension of Commission's Protective Order (Vectren motion), seeking to extend the six-month period for which the July entry determined that certain documents should continue to be maintained under seal. The Vectren motion relates to historical financial statements (Exhibit C-3 to its CRES application), financial arrangements (Exhibit C-4 to its CRES application), forecasted financial statements (Exhibit C-5 to its CRES application), and supplemental information to Exhibit C-6 to its CRES application.¹ Vectren asserts that this information is competitively sensitive and highly proprietary business financial information and that its public disclosure would jeopardize Vectren's business position in negotiations with other parties and its ability to compete.
- (5) The attorney examiner notes that there was an error with regard to the supplemental information to Exhibit C-6 to which this Vectren motion applies. When Vectren originally moved for a protective order for this information on July 5, 2002, it specified the Financial Services Agreement which is supplemental information for Exhibit C-6. Subsequently, on July 11, 2002, Vectren filed an additional two-page document, stating in a cover letter that it was being filed as a second supplemental response, pursuant to a request by staff for additional information related to the requirements of Exhibit C-6. However, the July entry ruled upon only "2nd Supplemental Information to Ex. C-6, Credit Rating (financial services agreement), filed 7/11/02." Thus, the July entry did not address the financial services agreement that was filed on July 5, 2002, as supplemental response to Exhibit C-6. However, that information was nevertheless held under seal following the issuance of the July entry. The attorney examiner has reviewed the first supplemental response to Exhibit C-6 and concludes that it is not sensitive information that should be kept under seal any longer. The agreement contains only very general terms and is not an agreement for specific financing or cash management services. The examiner is not convinced that the existence of the agreement is sensitive information deserving of confidential treatment. For these reasons, the examiner finds that the first supplemental response to Exhibit C-6 (filed July 5, 2002) should no longer remain under seal.

¹ The precise identification of this supplemental information is discussed in more detail in finding (5).

- (6) Rule 4901-1-24(D), Ohio Administrative Code (O.A.C.), provides that an attorney examiner may issue a protective order where the information in question is deemed to be sensitive and where non-disclosure of the information is not inconsistent with the purposes of Title 49, Revised Code. The order may be extended pursuant to a further motion, pursuant to Rule 4901-1-24(F), O.A.C. In these cases, the companies have all asserted that the information in question is still retained as trade secrets by the companies, and that its disclosure would have a negative competitive impact. Non-disclosure of this information is not inconsistent with the purposes of Title 49, Revised Code. Thus, the attorney examiner finds that continued protection is warranted for nearly all of the documents covered by the motions being considered. The motions will be granted and confidential treatment shall be afforded for all involved information (except the first supplemental response to Vectren's Exhibit C-6) for an additional 18-month period.
- (7) For 18 months from the expiration of the protective order granted by the July entry (that is, until July 14, 2005), the Docketing Division of the Commission should maintain the following items under seal:

Energy America filings made on July 19, 2002:

Exhibit C-3 – Financial Statements

Exhibit C-4 – Financial Arrangements

Exhibit C-5 – Forecasted Financial Statements

Shell Energy filing made on July 5, 2002:

Exhibit C-4 – Financial Arrangements

Vectren filings made on July 5, 2002:

Exhibit C-3 – Financial Statements

Exhibit C-4 – Financial Arrangements

Exhibit C-5 – Forecasted Financial Statements

Vectren filing made on July 11, 2002:

Second Supplemental Information to Exhibit C-6

As of seven business days from the date of this entry, the Docketing Division shall move to the public record Vectren's first supplemental response to Exhibit C-6 (filed on July 5, 2002).

- (8) If the companies wish to extend this confidential treatment, they should file appropriate motions at least 45 days in advance of the expiration date (July 14, 2005).

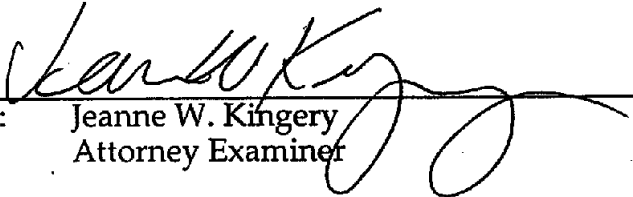
It is, therefore,

ORDERED, That the motions by Energy America and Shell Energy for extensions of protective orders, filed on October 22, 2003, and November 12, 2003, respectively, be granted as more fully set forth in finding (8). It is, further,

ORDERED, That Vectren's motion for extension of its protective order, filed on December 2, 2003, is granted in part and denied in part, as more fully set forth in findings (5) and (7). As of seven business days from the date of this entry, the Docketing Division shall move to the public record Vectren's first supplemental response to Exhibit C-6 (filed on July 5, 2002). It is, further,

ORDERED, That a copy of this entry be served upon all parties of record in these three cases.

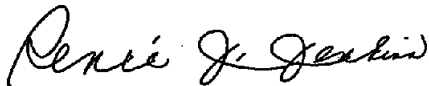
THE PUBLIC UTILITIES COMMISSION OF OHIO


By: Jeanne W. Kingery
Attorney Examiner

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Entered in the Journal

JAN 22 2004



Renee J. Jenkins
Secretary