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BlueStar Energy Services, Inc.)
d/b/a BlueStar Energy Solutions)
)
Petition for Confidential Treatment of)
BlueStar Energy Services, Inc.'s)
Financing Agreement, Corporate General)
Liability Insurance Policy and)
2010 Financial Statements)

CHIEF CLERK'S OFFICE

Docket No. 11-0392

VERIFIED COMPLIANCE FILING

BlueStar Energy Services, Inc. d/b/a BlueStar Energy Solutions ("BlueStar") hereby petitions the Illinois Commerce Commission ("Commission") to protect from public disclosure pursuant to 83 Ill. Admin. Code Section 451.770, for a period of two (2) years after the end of the term of the financing agreement on November 30, 2013, highly confidential and proprietary information included in BlueStar's Part 451 Annual ARES compliance filing, specifically portions of BlueStar's financing agreement, corporate general liability insurance policy and audited financial statements for the year ended December 31, 2010 (the "Financial Documents"). The Financial Documents contain highly proprietary and confidential financial and operational information, the disclosure of which to competitors, or potential competitors, would be detrimental to BlueStar.

I. Illinois Law and Commission Rules Require Protection of Confidential Information

The Act and the Commission's Rules of Practice recognize both the rights of entities to file for protection of confidential and/or privileged information, and the obligations of the Commission to protect such information. The Act requires the Commission to ensure adequate protection for confidential documents. Section 4-404 of the Act, 220 ILCS 5/4-404, directs that "[t]he Commission shall provide adequate protection for confidential and proprietary information furnished, delivered, or filed by any person, corporation or other entity..." (220 ILCS 5/4-404). The Commission's Rules set forth the vehicle by which it fulfills its statutory mandate: "At any time during the pendency of a proceeding, the Commission or the Hearing Examiner may, on the

motion of any person, enter an order to protect the confidential, proprietary or trade secret nature of any data, information or studies.” 83 Ill. Admin. Code Section 200.430(a). While a motion for a protective order is pending, the information is required to be afforded proprietary treatment. 83 Ill. Admin. Code Section 200.430(c).

The protections for privileged and confidential information were specifically contemplated with respect to required filings of ARES. The Commission’s administrative rules provide, in relevant part:

If an applicant or ARES believes any of the information to be disclosed by an applicant or ARES is privileged or confidential, the applicant or ARES should request that the Commission enter an order to protect the confidential, proprietary or trade secret nature of any data, information or studies pursuant to 83 Ill. Adm. Code 200.430...

83 Ill. Adm. Code Section 451.60.

Although Section 5-109 of the Act indicates that “[a]ll reports made to the Commission by any public utility and the contents thereof shall be open to public inspections, unless otherwise ordered by the Commission” (220 ILCS 5/5-109), the Commission must adhere to the exceptions enumerated in the Illinois Freedom of Information Act (“FOIA”). Specifically at issue here is Section 7(g) of the Illinois FOIA, which exempts from public disclosure “trade secrets and commercial or financial information obtained from a person or business where the trade secrets or information are proprietary, privileged or confidential, or where disclosure of the trade secrets or information may cause competitive harm...” 5 ILCS 140/7(g). The financial and operational information contained in the Financial Statements falls within this exemption and should be treated as confidential and proprietary for a period of not less than two (2) years after the end of the term of the financing agreement on November 30, 2013.

II. BlueStar’s Financial Documents Warrant Protection

BlueStar is a privately-held S-Corporation, incorporated in Illinois, and, as such, is not a publicly-traded company. Since BlueStar is not publicly-traded, the entirety of its financial, operational and market sensitive information is highly proprietary and not publicly-available. Disclosure of this confidential financial and operational information may cause BlueStar competitive harm and reveal information of BlueStar’s operations that is not available

in any other public form. The Financial Documents contain trade information and market sensitive information regarding BlueStar's provision of service to customers in Illinois and elsewhere. BlueStar considers this information to be highly proprietary and confidential information, the disclosure of which to competitors, or potential competitors, would be detrimental to BlueStar. BlueStar does not provide that information to any individual outside of its employ and permits access to that information by its employees only as necessary for job function.

WHEREFORE, BlueStar respectfully requests that the Commission enter an Order, without hearing, protecting the Financial Documents from disclosure for a period of not less than two (2) years after the end of the term of the financing agreement on November 30, 2013.

Respectfully submitted,

BLUESTAR ENERGY SERVICES, INC.
d/b/a BLUESTAR ENERGY SOLUTIONS

By: 
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Dated: April 29, 2011

VERIFICATION

Madelon Kuchera, being first duly sworn, deposes and says that she is one of the practicing attorneys in the Company authorized to execute this Verified Compliance filing on behalf of BlueStar Energy Services, Inc.; that she has read the above document, has knowledge of the facts stated therein and states that the facts and matters set forth are true to the best of her knowledge.

BY: Madelon Kuchera

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Subscribed and sworn to me, a Notary Public, on this 2nd day of May, 2011.

Carmen Baas

Notary Public

