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ILLINOIS COMMERCE COMMISSION

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Exelon Energy Company)
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Petition for Relief to Protect Exelon's Annual)
Kilowatt-Hour Report from Disclosure for not less)
than Two Years to Protect Highly Confidential and)
Proprietary Information, and Request for)
Permission to File the Annual Kilowatt-Hour)
Report Late)

CHIEF CLERK'S OFFICE
Docket No. 11-0273

CORRECTED PETITION

Exelon Energy Company ("Exelon") hereby petitions the Illinois Commerce Commission ("Commission") pursuant to Section 200.430 of the Commission's Rules of Practice (83 Ill. Admin. Code § 200.430) for relief to protect from disclosure highly confidential and proprietary information included in Exelon's report regarding the total annual kilowatt-hours delivered and sold to retail customers within each utility service territory in the preceding calendar year ("Kilowatt-Hour Report"). Exelon requests that the Commission issue an order protecting this confidential information from disclosure for not less than two years.

The Kilowatt-Hour Report relates to Exelon's service in the service territories of Commonwealth Edison Company and the consolidated Ameren Companies, filed pursuant to Section 16-115 of the Public Utilities Act and 83 Ill. Admin. Code Part 451 ("Part 451").

Exelon also requests permission to file its Kilowatt-Hour Report late. ~~as good cause exists for Exelon's inability to timely file this report inasmuch as the attorney who traditionally handles these matters for Exelon was obligated to perform duties for the United States Marine Corps as a military prosecuting attorney.~~

In support of this Petition, Exelon states the following:

1. Exelon is certified as an alternative retail electric supplier (“ARES”). The Commission originally granted Exelon a certificate of service to provide services as an ARES on February 7, 2002.

2. On March 16, 2011, Exelon submitted its Kilowatt-Hour Report for filing with the Commission via overnight delivery.

Relevant Law

3. 83 Ill. Admin. Code Section 451.60 provides, in part, as follows:

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. The applicant or ARES shall designate which information is privileged and confidential. Such information shall be marked as “confidential” and submitted separately under seal to the Chief Clerk of the Commission.

4. 83 Ill. Admin. Code Section 200.430 provides that the Commission may enter an order to protect the “confidential, proprietary or trade secret nature of any data, information or studies.”

5. Section 7(g) of the Illinois Freedom of Information Act provides that the following are exempt from inspection and copying: “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 Ill. Comp. Stat. 140/7.

Confidential Status

6. Exelon’s Kilowatt-Hour Report contains confidential trade information and market-sensitive information regarding Exelon’s provision of service to non-residential

customers in Illinois. Exelon considers this information highly proprietary and confidential, the disclosure of which to competitors, or potential competitors, would be detrimental to Exelon.

7. The retail electric service industry is highly competitive, and it is essential that public disclosure of the proprietary and confidential information contained in the Kilowatt-Hour Report be avoided for a period of at least two years because of the competitive harm which disclosure of such information would likely cause Exelon.

8. Disclosure of the information contained in its Annual Kilowatt-Hour Report would reveal sensitive confidential and proprietary information regarding Exelon's market share within the various utility footprints. Disclosure of this information would cause Exelon competitive harm because this type of competitive data is used to formulate current and future business plans. Disclosure would also give competitors information about Exelon's operations that is not available in any other public forum.

9. Because disclosure of this confidential trade information and data would cause competitive harm to Exelon, confidential treatment of this sensitive information pursuant to Part 451 and the Illinois Freedom of Information Act is appropriate.

10. The Commission has previously recognized that this type of information should be protected from disclosure and has granted similar motions in the past. *See, e.g., Hudson Energy Servs. LLC*, Docket No. 10-0529 (Ill. Commerce Comm'n Oct. 20, 2010) (treating data in annual kilowatt-hour report as confidential for two years); *Reliant Energy Solutions East, LLC*, Docket No. 09-0142 (Ill. Commerce Comm'n Apr. 15, 2009) (same).

11. Exelon seeks an Order from the Commission, without hearing, protecting from disclosure the trade information contained in Exelon's Kilowatt-Hour Report for a period of not less than two years from the date of such Order.

Request for Permission to File Late

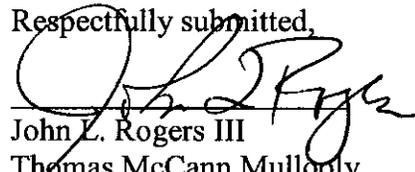
12. Exelon requests permission to file its Kilowatt-Hour Report late. The failure to file was due to inadequate processes to ensure timely filing. Exelon is taking steps to correct the inadequate processes. ~~Good cause exists for the late filing: the attorney who traditionally handles these matters for Exelon was obligated to perform duties for the United States Marine Corps as a military prosecuting attorney. In his absence, the filing deadline for the Kilowatt-Hour Report was overlooked. Steps have been taken to prevent this from happening in the future. Exelon regrets the delay in filing and requests permission to file late.~~

Conclusion

WHEREFORE, Exelon respectfully requests that the Commission enter an Order, without hearing, protecting from disclosure for a period of not less than two years, Exelon's Kilowatt-Hour Report, which was filed by overnight delivery, with the Chief Clerk of the Commission on March 16, 2011 pursuant to Part 451.

Exelon further requests that the Commission accept Exelon's late filing of its Kilowatt-Hour Report. ~~, as Exelon has demonstrated that good cause exists for its delay.~~

Respectfully submitted,



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Dated: May 9, 2011

Commonwealth of Pennsylvania

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County of Chester

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VERIFICATION

David Ellsworth, being first duly sworn, deposes and says that he is Vice President of Exelon Energy Company; that he has read the attached Petition to Reopen and knows the contents thereof; and that the statements therein contained are true and correct to the best of his knowledge, information and belief.

By: 
David Ellsworth, Vice President
Exelon Energy Company

Sworn to and subscribed before me
this 3rd day of April, 2011.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Karen A. Williams, Notary Public
Kennett Twp., Chester County
My Commission Expires May 8, 2012
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