

**ILLINOIS COMMERCE COMMISSION** 17 A 10:49

METROMEDIA POWER, INC. )

CHIEF CLERK'S OFFICE

Motion for Confidential Treatment )  
Of Metromedia Power's Annual )  
ABC Recertification Report, )  
Pursuant to 83 Ill. Adm. Code 45 )

Docket No. ~~10-0226~~

11-0433

MOTION FOR PROTECTIVE ORDER TO PROTECT THE  
CONFIDENTIAL INFORMATION OF METROMEDIA POWER, INC.

Pursuant to 83 Ill Adm. Code 200.430, Metromedia Power, Inc ("Metromedia Power") hereby submits this motion requesting the Commission issue a protective order to protect confidential and proprietary information included in MMP's Annual (2011) ABC recertification report from disclosure for a minimum period of two years.

BACKGROUND AND DESCRIPTION OF CONFIDENTIAL INFORMATION

Metromedia Power has filed its annual 2011 recertification report simultaneously with the filing of this motion. A redacted public version was also filed, as required under Section 200.430 (d).

The following information included in the report is confidential and proprietary:

- Disclosure of the RES it has a contractual relationship with and the type of contractual relationship reported in Section (b) (1).
- The number of customer accounts reported in Section (b)(2) and (b)(4).
- Financial statements supplied to comply with Section (d).

DISCLOSURE OF THE CONFIDENTIAL INFORMATION WOULD HARM  
METROMEDIA POWER FINANCIALLY AND COMPETITIVELY

Metromedia Power is a privately held corporation. Its financial results are not made available to the public nor does it publicly release the identity of its suppliers, contractual information, customer data or sales volumes. If the highly sensitive information contained in sections (b)(1), (b)(2), (b)(4) and (d) is disclosed to the public, it would provide a competitive advantage to other electricity brokers and marketers. If generally and publicly available, Metromedia Power's competitors would be able to use information about the company's financial resources, supplier relationships and market share to develop marketing strategies and set prices. Disclosure would adversely affect the Company's finances and therefore its ability to compete effectively. Moreover, if confidential financial and customer data is not protected, potential competitors outside the Commission's jurisdiction would be able to use it to competitive advantage for entry and pricing purposes.

THE RULES OF PRACTICE AND ILLINOIS FREEDOM OF INFORMATION  
ACT ALLOW FOR PROTECTION OF CONFIDENTIAL DATA

The need to protect justifiably confidential information from public disclosure is recognized in the Commission's Rules of Practice: "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 200.43(a)).

Trade secrets or information that is confidential is exempt from public disclosure under Section 7(g) of the Illinois Freedom of Information Act: "trade secrets and commercial or financial information [are exempt]... where the trade secrets or

information are proprietary, privileged or confidential" (5 ILCS 140/7(g)). The confidential data Metromedia Power seeks protection for falls within this exemption.

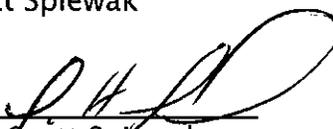
Courts of other jurisdictions have held that, not only does a public service commission have the authority to protect the trade secrets of a public utility, but the trade secret statute creates a duty to protect them. See: New York Tel. Co. v. Pub. Serv. Comm. N.Y., 56 N.Y.2d 213 (1982).

As shown above, the information Metromedia Power seeks to have designated as confidential would have substantial economic value and harm the company financially and competitively if publicly disclosed and known to its competitors. For the foregoing reasons, Metromedia Power requests that its motion seeking a protective order shielding sections (b)(1), (b)(2), (b)(4) and (d) of its annual recertification report from disclosure be granted for a period of not less than two (2) years.

Respectfully submitted,

Scott Spiewak

By:



Scott Spiewak

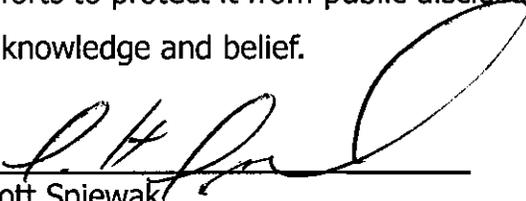
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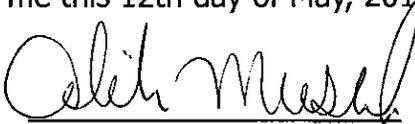
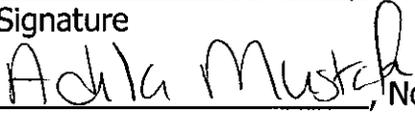
State of New Jersey

County of Bergen

I, Scott Spiewak, being duly sworn/affirmed according to law, deposes and says that I am Vice President and Counsel of Metromedia Power, Inc., and that I am authorized to make this Affidavit for the Applicant; and certify under penalty of law, that I have read the foregoing Motion for Protective Order and am familiar with the contents thereof; that the information referred to therein is confidential and proprietary; that the Company continually uses its best efforts to protect it from public disclosure; and that the same are true to the best of my knowledge and belief.

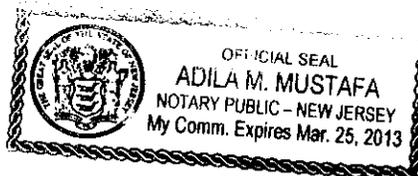
  
\_\_\_\_\_  
Scott Spiewak  
Vice President and Counsel  
Metromedia Power, Inc.

Subscribed and sworn to before me this 12th day of May, 2011.

  
\_\_\_\_\_  
Signature  
  
\_\_\_\_\_  
Printed Adila Mustafa, Notary Public  
County of Residence Bergen

My Commission Expires:

March 25 2013



VERIFICATION

State of New Jersey

County of Monmouth

I, Gordon Pozza, being first duly sworn, deposes and says I am Director of Regulatory Affairs of Metromedia Power, Inc., and that I have read the foregoing Motion for Protective Order; that the information referred to therein is confidential and proprietary; and that the statements contained in the document are true and complete to the best of my knowledge, information and belief.

Gordon Pozza  
Gordon Pozza  
Director of Regulatory Affairs  
Metromedia Power, Inc.

Subscribed and sworn to before me this 12<sup>th</sup> day of May, 2011.

Donna Bridge  
Signature  
Donna Bridge, Notary Public  
Printed

County of Residence Monmouth

My Commission Expires:

