

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

2013 FEB -5 | A 9: 5b

AP Gas & Electric (IL), LLC)
)
Petition for Relief to Protect a Portion of)
Petitioner's Report of Continuing)
Compliance as an ARES From Disclosure)
To Protect Highly Confidential and)
Proprietary Information and Motion to)
Appear Pro Hac Vice)

CHIEF CLERK'S OFFICE
Docket No. 13-0108

**PETITION FOR RELIEF TO PROTECT CONFIDENTIAL
AND PROPRIETARY INFORMATION OF AP GAS & ELECTRIC (IL), LLC
AND MOTION TO APPEAR PRO HAC VICE**

Pursuant to 83 Ill. Adm. Code 200.430 and 451.60, AP Gas & Electric (IL), LLC ("APG&E") hereby petitions the Illinois Commerce Commission ("Commission") for relief to protect portions of APG&E's Annual Report of Continuing Compliance from disclosure for not less than two (2) years to protect highly confidential and proprietary financial and commercial information included therein (including additional protection for a portion of the information as described below), and moves for entry of appearance, *pro hac vice*, of Jeffrey Chen, as counsel in the above-captioned matter pursuant to 83 Ill. Adm. Code 200.90 and 200.25, and Illinois Supreme Court Rule 707. In support of this Petition, APG&E states as follows:

I. Petition for Relief to Protect Confidential and Proprietary Information

1. APG&E is certified by the Commission as an alternative retail electric supplier ("ARES") in the State of Illinois. The Commission granted APG&E a certificate of service authority as an ARES on or about August 15, 2012, in Docket No. 12-0444.

2. APG&E is required, pursuant to 83 Ill. Adm. Code Part 451, Subpart H, to provide to the Commission an annual report of continuing compliance certifying that it continues to comply with the requirements to maintain an ARES certificate.

3. On or about February 1, 2013, APG&E intends to submit (via Federal Express) its Annual Report of Continuing Compliance ("2013 Report") to the Chief Clerk of the Commission with copies provided to the Energy Division – ARES and the Financial Analysis Division – ARES. Portions of Attachment A to APG&E's 2013 Report contain information that APG&E designates as confidential and proprietary pursuant to 83 Ill. Adm. Code 451.60. Pursuant to 83

Ill. Adm. Code 200.43(d), this confidential and proprietary information (“Confidential Information”) is redacted from the public version of APG&E’s 2013 Report. Pursuant to 83 Ill. Adm. Code 451.60, APG&E also intends to submit to the Chief Clerk of the Commission, under seal and marked “Confidential & Proprietary,” an un-redacted version of the 2013 Report.

4. The Confidential Information is highly sensitive material that should be protected from public disclosure. Specifically, the information contains trade secrets, proprietary, and/or commercial and financial information that is privileged or confidential and is exempt from public disclosure under Section 4-404 of the Public Utilities Act (“PUA”), 220 ILCS 5/4-404, and Section 7(g) of the Illinois Freedom of Information Act (“FOIA”), 5 ILCS 140/7.

5. Section 4-404 of PUA provides that the “Commission *shall* provide adequate protection for confidential and proprietary information furnished, delivered or filed by any person, corporation or other entity [.]” (Emphasis added.) An ARES that believes any of the information to be submitted to the Commission by the ARES is privileged or confidential is instructed by the Commission’s rules to “request that the Commission enter an order to protect the confidential, proprietary or trade secret to nature of [the information].” 83 Ill. Adm. Code 451.60

6. Similarly, Section 7(g) of the Illinois FOIA exempts from public disclosure “trade secrets and commercial or financial information ... where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm” 5 ILCS 140/7(1)(g). The Confidential Information falls within this exemption and should be afforded confidential treatment pursuant to both PUA and the Illinois FOIA.

7. The Confidential Information includes, but is not limited to, market-sensitive material that is company specific, and information of a highly commercially sensitive nature involving company business operations or financial information. The Confidential Information is not widely available or known outside of APG&E and would be of considerable value to competitors or potential competitors of APG&E to the serious detriment of APG&E. The Confidential Information submitted to the Commission under seal was provided to demonstrate, pursuant to 83 Ill. Adm. Code Part 451, that APG&E continues to satisfy the requirements to

maintain an ARES certificate. All of the Confidential Information is contained in Attachment A to APG&E's 2013 Report.

8. The electric service industry is highly competitive, and it is imperative that public disclosure of the Confidential Information is avoided for a period of at least two (2) years, and that the information provided in APG&E's 2013 Report be protected.

9. Accordingly, APG&E seeks an order from the Commission, without hearing, protecting the majority of the Confidential Information from disclosure for a period of not less than two (2) years from the date of such order.

10. APG&E agrees to accept service by electronic means as provided for in 83 Ill. Adm. Code 200.1050.

II. Motion to Appear Pro Hac Vice

11. Furthermore, pursuant to 83 Ill. Adm. Code 200.90(a) and 200.25, and Illinois Supreme Court Rule 707, the undersigned out of state attorney, Jeffrey Chen, moves to enter an appearance *pro hac vice* to appear on behalf of APG&E in this proceeding.

12. Mr. Chen is an attorney and is admitted to practice law in Texas. His state bar number is 24036098, and he is a member in good standing in the State Bar of Texas and the U.S. District Court for the Southern District of Texas. Mr. Chen's affidavit testifying to the above facts is attached to this Petition.

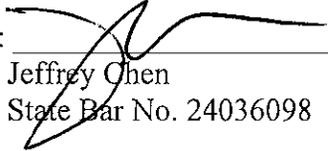
13. APG&E wishes to involve Mr. Chen in the above-styled cause based upon his previous experience representing APG&E in similar matters in other jurisdictions. The State of Texas grants Illinois attorneys leave for admission *pro hac vice* in similar situations.

14. Mr. Chen agrees to abide by the Commission Rules of Practice and the Illinois Rules of Professional Conduct.

III. Prayer

WHEREFORE, PREMISES CONSIDERED, AP GAS & ELECTRIC (IL), LLC respectfully requests that the Commission enter an order, without hearing, (1) protecting from public disclosure the Confidential Information submitted to the Commission, and (2) permitting Jeffrey Chen permission to appear *pro hac vice* in this proceeding.

Respectfully submitted,

By: 
Jeffrey Chen
State Bar No. 24036098

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Houston, Texas 77036
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VERIFICATION

STATE OF TEXAS)
)
COUNTY OF HARRIS)

I, **Chris Weaver**, being first duly sworn upon my oath, depose and state that I am **Chief Executive Officer** for **AP Gas & Electric (IL), LLC**; that I have reviewed the confidential and proprietary information described in the foregoing Petition; that I have read the above and foregoing Petition for Relief; and that said contents are true, correct and complete to the best of my knowledge, information and belief.



Chris Weaver, CEO

Subscribed and sworn to before me this 1st day of February, 2013



Notary Public

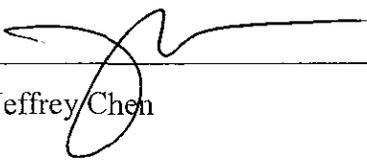


AFFIDAVIT OF JEFFREY CHEN

STATE OF TEXAS)
)
COUNTY OF HARRIS)

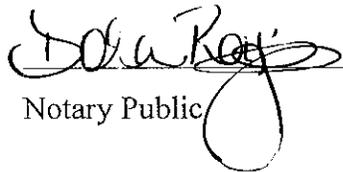
I, **Jeffrey Chen**, being first duly sworn upon my oath, depose and state that I am an attorney with **AP Gas & Electric (IL), LLC**; that I have reviewed the forgoing Petition for Relief and Motion to Appear Pro Hac Vice; and that said contents are true, correct, and complete to the best of my knowledge, information, and belief. In connection with my representation of **AP Gas & Electric (IL), LLC** in this case, I agree to abide by the Illinois Rules of Professional Conduct and the rules and orders of the Illinois Commerce Commission.

Under penalties described in Section 1-109 of the Illinois Code of Civil Procedure, I certify that the statement made above are true and correct.



Jeffrey Chen

Subscribed and sworn to before me this 1st day of February, 2013



Notary Public

