

**OFFICIAL FILE**  
**ILLINOIS COMMERCE COMMISSION**

BEFORE THE  
ILLINOIS COMMERCE COMMISSION

**ORIGINAL**  
ILLINOIS COMMERCE  
COMMISSION  
2014 MAR 19 A 11:00

In the Matter of Application of XOOM Energy Illinois, LLC )  
For Confidential Treatment of 2013 kWh Annual Report )  
)

Docket No. ~~11-0705~~ OFFICE  
CHIEF CLERK'S OFFICE  
14-0228

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**MOTION FOR PROTECTIVE ORDER TO PROTECT  
CONFIDENTIAL PROPRIETARY INFORMATION**

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**I. INTRODUCTION**

XOOM Energy Illinois, LLC (“XOOM Energy Illinois”) respectfully requests that the Illinois Commerce Commission (the “Commission”) grants an exemption from public disclosure confidential and proprietary information contained in its annual report. Specifically, Section 451.770 of 83 Ill. Admin. Code 451, “Certification of Alternative Retail Electric Suppliers,” (“Part 451”) requires the reporting by alternative retail electric suppliers (“ARES”) of the total kilowatt-hours (“kWh”) delivered and sold to retail customers during the preceding year within each incumbent electric utility company’s service area. XOOM Energy Illinois is an ARES and as such must submit such an Annual kWh Report for the 2013 calendar year. XOOM Energy Illinois is submitting to the Commission both a public redacted version and a confidential unredacted version of its 2013 kWh annual report.

This protective order is requested to be in place for a period of two (2) years to protect the confidential and proprietary financial and operational information of XOOM Energy Illinois, a privately held company incorporated in the State of Illinois. Pursuant to Sections 451.60 and 200.430 of Part 451 and Section 7(1)(g) of the Freedom of Information Act (“FOIA”), 5 ILCS 140/1 et seq. XOOM Energy Illinois respectfully submits this motion for protective order in its assertion of a confidentiality claim.

**II. LEGAL STANDARD**

The Illinois Commerce Commission may exempt confidential information from public disclosure through an appropriate representative to issue an order protecting certain proprietary information. 83 Ill. Admin. Code 451.60 states in part that:

If an applicant or ARES...or AGS...believes any of the information to be disclosed by an applicant for ARES...or AGS...is privileged or confidential, the applicant or ARES...or AGS... 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. Admin. Code 200.430.”

Title 83 of the Illinois Administrative Code section 200.430 states in part that:

*A document submitted and marked as proprietary shall be afforded proprietary treatment* pending the timely submission of a motion to protect the confidential, proprietary or trade secret nature of that document and a ruling on that motion by the Commission or the Hearing Examiner. (emphasis added)

Section 7(1)(g) of the FOIA exempts the following from public disclosure:

Trade secrets and commercial or financial information obtained from a person or business 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 to the person or business, and only insofar as the claim applies to the records.

XOOM Energy Illinois believes in good faith that its annual load information for 2013 constitutes “confidential information” as defined under Title 83 of the Code Rule 451.60.

### **III. THE MATERIALS ARE PROPRIETARY AND CONFIDENTIAL AND WARRANT PROTECTION FROM DISCLOSURE**

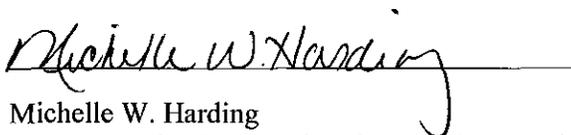
The 2013 Annual kWh Report for XOOM Energy Illinois contains trade information and market sensitive information regarding its provision of service to customers in Illinois. XOOM Energy Illinois considers this information to be both proprietary and confidential and, thus, the public disclosure of which would be detrimental to it. Additionally, disclosure of this information would reveal sensitive information regarding the market share of XOOM Energy Illinois within the various utility markets. Furthermore, competitive harm would result because this type of data is used to formulate current and future business plans and would give competitors information about the operations of XOOM Energy Illinois that is not otherwise available in any public forum. Accordingly, protecting this information will be beneficial to the future customers of XOOM Energy Illinois as they will benefit from XOOM Energy Illinois’s ability to obtain a positive position in the competitive market.

The Commission has authority under Section 200.430 to enter an order protecting the confidentiality of any data or information submitted in a proceeding. 83 Ill. Admin. Code §200.430. The Commission regularly uses the discretionary language of Section 200.430 to protect confidential business information. XOOM Energy Illinois respectfully requests that the Commission exercise its discretion and provide protection and confidential treatment of XOOM Energy Illinois'2013 kWh Annual Report submitted in support of this motion.

#### IV. CONCLUSION

For the reasons set forth above, XOOM Energy Illinois requests that the Commission enter an Order, without hearing, protecting from public disclosure the annual kWh report for XOOM Energy Illinois, LLC for a period of not less than two (2) years.

Respectfully Submitted,



Michelle W. Harding  
Secretary, Vice President\ and General Counsel  
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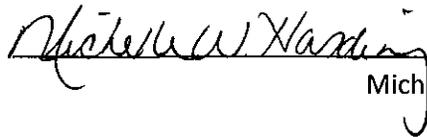
*Counsel for XOOM Energy Illinois, LLC*

VERIFICATION

STATE OF NORTH CAROLINA    )

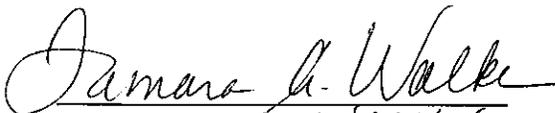
COUNTY OF MECKLENBURG    )

Michelle W. Harding, being duly sworn, on oath deposed and says that she is the Secretary, Vice President and General Counsel of XOOM Energy, LLC, single-member manager of XOOM Energy Illinois, LLC and that in accordance with XOOM Energy Illinois, LLC's Operating Agreement is authorized to enter agreements and transact on behalf of XOOM Energy Illinois, LLC's and, as such, has read the above and knows of the contents thereof and that the facts are true and correct to the best of her knowledge, information, and belief.

  
\_\_\_\_\_  
Michelle W. Harding

Subscribed and sworn to before me

This 18<sup>th</sup> day of March, 2014

  
\_\_\_\_\_  
Tamara A. Walker  
Notary Public

My Commission Expires May 20, 2017

