

OFFICIAL FILE
ILLINOIS COMMERCE COMMISSION

BEFORE THE
COMMERCE COMMISSION

ORIGINAL

CONFIDENTIAL

2015 MAR -2 P. 1/19
In the Matter of Application of XOOM Energy Illinois, LLC)
For Confidential Treatment of kilowatt-hours Report)
CHIEF CLERK'S OFFICE)

Docket No: 15-0164

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

I. INTRODUCTION

XOOM Energy Illinois, LLC ("XOOM Energy Illinois") is certified by the Illinois Commerce Commission (the "Commission") as an Alternative Retail Electric Supplier ("ARES"). The Commission issued XOOM Energy Illinois a certificate of authority to provide service as an ARES in the State of Illinois on December 13, 2011 in ICC Docket No. 11-0705. In this motion for protective order, XOOM Energy Illinois respectfully requests the Commission to grant exemption from public disclosure pursuant to Sections 200.290, 200.430, 451.60 and 551.60 of Title 83 of the Illinois Administrative Code (the "Code") and Section 7 (g) of the Illinois Freedom of Information Act (5 ILCS 140/7(g)), the confidential and proprietary information included in its 2014 kilowatt-hours Report (the "kWh Report") prepared in accordance with Part 451.770 of the Code.

This protective order is requested to be in place for a period of two (2) years to protect the confidential and proprietary financial information of XOOM Energy Illinois.

II. LEGAL STANDARD

The 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 and 551.60 state in part that:

"If an ... ARES... believes any of the information to be disclosed by an ... ARES... is privileged or confidential, the ... 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. 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).

XOOM Energy Illinois believes in good faith that its kWh Report constitutes "confidential information" as defined under title 83 of the Code Rules 451.60 and 551.60.

Furthermore, Section 7(g) of the Illinois Freedom of Information Act exempts from public disclosure “trade secrets and commercial or financial information ... where the trade secrets or information are proprietary, privileged or confidential.” 5 ILCS 140/(g). The trade information contained in the kWh Report falls within this exemption as this information is not released to the public in any other forum or to any other agency without an accompanying request for confidential treatment.

CONFIDENTIAL

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

By submitting its kWh Report, XOOM Energy Illinois is demonstrating continuing compliance with the reporting requirements of 83 Ill. Admin. Code Section 451.770. XOOM Energy Illinois considers this information to be highly confidential and proprietary information, the disclosure of which to competitors would be detrimental to XOOM Energy Illinois. It is well known that the retail electric service industry is highly competitive, and it is imperative that public disclosure of confidential information contained in the kWh Report be avoided for a period of at least five (5) years because of the competitive harm which disclosure of such information likely would cause XOOM Energy Illinois.

Specifically, XOOM Energy Illinois’s kWh Report demonstrates the actual amount of XOOM’s kWh volumes in Illinois, the disclosure of which to competitors, or even potential competitors, would be damaging to XOOM Energy Illinois’s business and competitive interests. The information contained in the kWh Report would provide competitors market sensitive information and direct insight to XOOM Energy Illinois’s market share and operations, including how active or in-active XOOM Energy Illinois is in Illinois.

Additionally, the information contained in the kWh Report could allow a competitor to access the effectiveness of a sales or marketing campaign over the past year by watching for changes in XOOM’s numbers. It is important to note that no industry discloses the effectiveness of sales campaigns. This information at issue could allow a competitor to review enrollment levels from prior to current years and assess the effectiveness of XOOM’s products and marketing efforts which is highly sensitive information.

Lastly, the information contained in XOOM’s kWh Report could weaken XOOM Energy Illinois’s bargaining position in the wholesale market since it would allow a counterparty to know the amount of electricity XOOM Energy Illinois would need to serve its customers, allowing counterparties to see the approximate need and respond accordingly while negotiating.

The Commission has the 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’s kWh Report submitted in support of this motion.

IV. CONCLUSION

For the reasons set forth above, XOOM Energy Illinois requests that the Commission protect from public disclosure the kWh Report for a period of not less than two (2) years from the date of this order.

CONFIDENTIAL

Respectfully Submitted,



Stephanie C. Kueffner

Associate Counsel

XOOM Energy, LLC, Single-Member Manager of

XOOM Energy Illinois, LLC

11208 Statesville Road, Suite 200

Huntersville, North Carolina 28078

Telephone: 704-274-1450

Facsimile: 704-274-1430

Counsel for XOOM Energy Illinois, LLC

