

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

EDF Energy Services, LLC )  
)  
Application for Certificate of Service )  
Authority under Section 16-115 of the )  
Public Utilities Act )

Docket No. 15-0346

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ILLINOIS COMMERCE COMMISSION

PETITION FOR RELIEF TO PROTECT CONFIDENTIAL AND PROPRIETARY  
INFORMATION OF EDF ENERGY SERVICES, LLC

Pursuant to 83 Illinois Administrative Code sections 200.430 and 451.60, EDF Energy Services, LLC ("Petitioner") petitions the Illinois Commerce Commission ("Commission") for relief to protect a portion of Petitioner's Application for a Certificate of Service Authority pursuant to Section 16-115 of the Illinois Public Utilities Act ("ARES Application") from disclosure for not less than two years to protect highly confidential and proprietary information included therein. In support of this Petition, Petitioner states as follows:

(1) Petitioner currently does not have authority from the Commission to be an Alternative Retail Electric Supplier ("ARES"). Petitioner intends to consolidate its affiliate, EDF Industrial Power Services (IL), LLC ("EIPS (IL)") which currently is certified as an ARES in Docket No. 09-0467,<sup>1</sup> into Petitioner. Accordingly, EIPS (IL) will no longer exist and Petitioner will provide retail electric services to EIPS (IL)'s former customers.

(2) As part of its ARES Application, Petitioner is required to demonstrate its financial qualifications. In order to satisfy the financial criteria set forth in 83 Illinois Administrative Code Section 451.220(a)(4), Petitioner must include an estimate of the maximum number of megawatts Petitioner expects to schedule over the next twelve months.

(3) On May 8, 2015, Petitioner submitted its ARES Application to the Chief Clerk of

<sup>1</sup> EDF Industrial Power Services (IL), LLC, Order on Application for Certificate of Service Authority Under Section 16-11 of the Public Utilities Act (Dec. 2, 2009).

the Commission via overnight delivery. Attachment E-1 to Petitioner's ARES Application contains confidential and proprietary information and was designated as such when submitted to the Commission. The proprietary information was submitted to the Commission under seal, marked "CONFIDENTIAL & PROPRIETARY." A public, redacted version of Attachment E-1 was provided to the Commission concurrently.

(4) Section 4-404 of Public Utilities Act ("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 applicant or ARES who believes that any of the information to be submitted to the Commission by the applicant or 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 nature of [the information]." <sup>2</sup> Similarly, Section 7(g) of the Illinois Freedom of Information Act ("FOIA") exempts from public disclosure "trade secrets and commercial or financial information . . . where the trade secrets or 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." <sup>3</sup>

(5) The proprietary information falls within the FOIA Section 7(g) exemption and should be afforded confidential treatment pursuant to both PUA and the FOIA. More particularly, the proprietary information includes market-sensitive material that is company specific, and information of highly commercially sensitive nature involving company business operations or financial information. The specific information for which Petitioner seeks proprietary treatment is the estimate of the maximum number of megawatts Petitioner expects to schedule over the next twelve months. Petitioner's competitors can directly use such information to determine Petitioner's market share in Illinois' competitive retail electricity industry.

(6) The Illinois retail electric service industry is highly competitive. The Office of Retail Market Development's 2014 Annual Report indicates that there are 88 ARES certified to

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<sup>2</sup> 83 Ill. Admin. Code § 451.60 (2010).

<sup>3</sup> 5 Ill. Comp. Stat. 140/7(1)(g).

serve Illinois customers.<sup>4</sup> This is in addition to public utilities that may serve customers competitively outside of their service territory(ies) without certification. As an applicant that will provide retail electric service to the former customers of its affiliate, EIPS (IL), one of the 88 certificated ARES, Petitioner faces significant competition for its position in the market. The release of the highly confidential and proprietary information contained in the ARES Application would likely result in substantial competitive harm to Petitioner by providing an unfair competitive advantage to Petitioner's competitors. Disclosure of such commercial information would be harmful to Petitioner because it would give Petitioner's competitors insight into information about Petitioner's relative position in the marketplace.

(7) The Commission consistently has held that financial documentation available in ARES applications and market share data and information is confidential, and the Commission previously has afforded proprietary and confidential treatment to the type of information for which Petitioner seeks protection. *See, e.g., Dynegy Energy Services, LLC*, Docket No. 14-0336 (May 8, 2014) (granting confidential treatment of financial documentation in ARES application); *Hudson Energy Services LLC*, Docket No. 12-0249 (Apr. 18, 2012) (granting confidential treatment of report of continuing compliance containing market share data and information); *Integrus Energy Services, Inc.*, Docket No. 10-0316 (June 23, 2010) (same).

(8) Accordingly, Petitioner seeks an Order from this Commission, without hearing, protecting from disclosure, for a period of not less than two years from the date of the Order, the proprietary information designated in Petitioner's ARES Application.

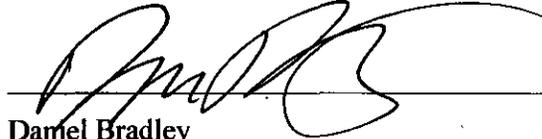
(9) Petitioner agrees to accept service by electronic means as provided for in 83 Illinois Administrative Code section 200.1050.

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<sup>4</sup> Office of Retail Market Development, Illinois Commerce Commission, 2014 Annual Report Submitted Pursuant to Section 20-110 of the Public Utilities Act (June 30, 2014), p. 3.

WHEREFORE, PREMISES CONSIDERED, EDF Energy Services, LLC respectfully requests that the Commission enter an Order, without hearing, protecting from disclosure the proprietary information submitted to the Commission for a period of not less than two years.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Daniel Bradley', is written over a horizontal line.

Daniel Bradley

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Dated: May 8, 2015

