

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

AP Gas & Electric (IL), LLC :  
: :  
Petition for Relief to protect a portion of :  
Petitioner’s Report of Continuing : 15-0293  
Compliance as an ARES from disclosure :  
to protect highly confidential and :  
proprietary information. :  
:  
:

ORDER

By the Commission:

On April 20, 2015, AP Gas & Electric (IL), LLC (“Petitioner”) filed with the Illinois Commerce Commission (“Commission”) a verified petition requesting an order protecting from disclosure for not less than two years confidential information contained in a report required by Commission rules. Generally, Section 451.710 of 83 Ill. Adm. Code 451, “Certification of Alternative Retail Electric Suppliers,” (“Part 451”) requires each alternative retail electric supplier (“ARES”) to report by April 30 each year on its continuing compliance with the relevant provisions of Part 451 and the Public Utilities Act (“Act”), 220 ILCS 5/1-101 et seq. In addition, Section 451.740 of Part 451 requires each ARES to demonstrate that it continues to possess sufficient financial resources to serve retail customers. As an ARES, Petitioner must submit such a continuing compliance report.

On May 4, 2015, the Commission received both a redacted public version and an unredacted confidential version of Petitioner’s report pursuant to Part 451 (the “Continuing Compliance Report”). Petitioner seeks confidential treatment of certain financial information in Attachment A, attached to its report. Petitioner explains that Attachment A contains financial information that demonstrates Petitioner’s continuing compliance with the financial and credit requirements for certification as an ARES. Petitioner further states that Attachment A contains a copy of the financial instrument to satisfy the requirements under Section 451.510(b).

Petitioner asserts that the retail electric service industry is highly competitive and it is imperative that public disclosure of confidential information contained in the report be avoided for a period of at least two years because of the competitive harm disclosure of such information would likely cause it. Petitioner explains that the financial information at issue provides very particular insight into a competitor’s financial strength and resources, and is much more sensitive than even market share data, as it demonstrates the success that a company has had in a particular year, and provides an indication of resources that are available for the business going forward. Release of financial information, Petitioner continues, such as revenues and other credit-related information will provide competitors with information that does not exist in the public domain. In support of its request for

confidential treatment, Petitioner cites Section 451.60 of Part 451 and the Freedom of Information Act ("FOIA"), 5 ILCS 140/1 et seq. Petitioner notes that the Commission has granted confidential treatment to similar information in the past.

The Commission finds that the financial information redacted from Petitioner's Continuing Compliance Report is market sensitive. Moreover, disclosure of such within a few years of issuance is apt to cause Petitioner competitive harm. The Commission notes that it has granted confidential treatment to similar information from similarly situated companies for a period of two years. The Commission finds Petitioner's request for confidential treatment reasonable and appropriate and will grant such treatment for a period of two years. Commission Staff did not participate in this docket. No petitions to intervene were received. Because all of the information establishing entitlement to the relief requested was in the Petition, no hearing was necessary.

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- (1) Petitioner is an ARES, as defined in the Act;
- (2) the Commission has jurisdiction over Petitioner and the subject matter herein;
- (3) the recitals of fact set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (4) Section 451.60 of Part 451 provides, in pertinent part:

If an applicant or ARES believes any of the information to be disclosed by an applicant or ARES is privileged or confidential, the applicant or 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. Adm. Code 200.430;

- (5) 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 directly applies to the records requested.

- (6) the information redacted from Attachment A to Petitioner's Continuing Compliance Report filed with the Commission falls within the exemption identified in Finding (5); and

- (7) the information redacted from Petitioner's Continuing Compliance Report filing made to comply with Part 451 should be exempt from public disclosure under Section 7(1)(g) of the FOIA until April 20, 2017.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the information specified in Finding (6) above is afforded confidential treatment and is exempt from public disclosure and will be accessible only by the Commission and the Commission Staff until June 3, 2017.

IT IS FURTHER ORDERED that the Illinois Commerce Commission retains jurisdiction over AP Gas & Electric (IL), LLC and of the subject matter hereof for the purpose of issuing such further orders as the Commission may deem necessary.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this 3<sup>rd</sup> day of June, 2015.

(SIGNED) BRIEN J. SHEAHAN

Chairman