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Interstate Gas Supply, Inc. :  
d/b/a IGS Energy :  
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Petition for Relief To Protect Portions of :  
Interstate Gas Supply, Inc.'s 2015 Annual :  
Kilowatt-Hour Report From Public Disclosure. :

CHIEF CLERK'S OFFICE  
Docket No. 16- 0112

**VERIFIED PETITION**

Pursuant to Section 451.60 of the Illinois Administrative Code and Section 16-115 of the Public Utilities Act, Interstate Gas Supply, Inc., d/b/a IGS Energy (IGS) respectfully requests issuance of an order that protects from public disclosure, for not less than two years, highly confidential and proprietary information included in IGS's 2015 report stating the total annual kilowatt-hours delivered and sold to retail customers within each utility service territory in the proceeding calendar year (2015 Kilowatt-Hour Report). The Commission should grant this Petition for the reasons that follow.

1. IGS is certified as an Alternative Retail Electric Supplier (ARES), pursuant to the Final Order in Docket 11-0178. In the Docket 11-0178 Order, the Commission granted IGS a certificate of service authority (Certificate) to offer the sale of electric service to all eligible residential and nonresidential retail customers in the service area of Commonwealth Edison Company. The Certificate was amended in Docket 13-0425 to include the service area of Ameren Illinois Company.

2. Concurrently with this Petition, IGS has filed with the Chief Clerk of the Commission its 2015 Kilowatt-Hour Report. IGS's 2015 Kilowatt-Hour Report includes total annual kWh sales in the respective service territories of Ameren Illinois and ComEd. IGS considers this information highly proprietary and confidential. It is imperative that public

disclosure of total annual kWh sales in the territories of Ameren Illinois and ComEd be avoided for at least two years because of the competitive harm IGS would suffer if this information became publicly available any sooner.

3. 83 Ill. Adm. Code Section 451.60 provides: “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.”

4. Documents submitted to or filed with the Commission are generally available to the public, either through the Commission’s e-Docket system or upon request to the Commission. Section 7(g) of the Illinois Freedom of Information Act, however, exempts from public disclosure by the Commission “trade secrets and commercial or financial information . . . where the trade secrets or information are proprietary, privileged or confidential.” (5 ILCS 140/7(g).)

5. The total annual kWh sales in the respective service territories of Ameren Illinois and ComEd falls within the exemptions recognized by 83 Ill. Adm. Code 451.60 and 5 ILCS 140/7(g). Total annual kWh sales could be used by competitors to derive IGS’s market share. Market share information is highly sensitive, and is treated as such by IGS. Courts have recognized that market share information is entitled to protection from public disclosure. *See The Stanley Works v. Newell Co.*, 1992 U.S. Dist. Lexis 13817 (N.D. Ill. 1992), at \*15 (denying motion to compel production of market share information).

6. Public disclosure of IGS’s 2015 kWh sales would inform IGS’s competitors of the volume of load served by IGS last year. Competitors would know not only the aggregate amount

of electricity sold; they would also know, by utility service territory, where this electricity was sold. By knowing the volume of load served and where it was served, IGS's competitors (or potential competitors) will be able to determine IGS's market share in each incumbent utility service area. Competitors will know where IGS is most active, and where it may be concentrating its marketing efforts. Armed with knowledge of IGS's market share, competitors could adjust their marketing strategies to respond to competition from IGS. Competitors, for example, could use IGS's kWh sales information to develop misleading comparative advertising, highlighting their relative prominence in the market while diminishing IGS's. Competitors could also use IGS's kWh sales information to their advantage by attempting to price IGS out of the market and gain market share. If successful, such tactics would lead to fewer ARES. Granting proprietary treatment of ARES' annual kWh sales is thus necessary to ensure free and fair competition.

7. The fewer ARES there are, the more flexibility remaining ARES have to raise prices. Diminishing competition is antithetical to the purpose of the Electric Service Customer Choice and Rate Relief Law of 1997, 220 ILCS 5/16-101 *et seq.* The Commission should encourage a diversity of suppliers in order to promote competition. "Competition in the electric services market may create opportunities for new products and services for customers and lower costs for users of electricity." 220 ILCS 5/16-101A(b). Thus, disclosure of IGS's 2015 kWh sales would be harmful not only to IGS, but to competition generally.

8. IGS's request for proprietary status of its 2015 Kilowatt-Hour Report is consistent with requests made by other ARES. Illinois ARES routinely seek orders preventing disclosure of annual kWh sales. The Commission has consistently granted these requests, finding in each instance that the ARES would be harmed by public disclosure of data that could be used to

derive market share. See *Consolidated Edison Solutions, Inc.*, Order, Docket 15-0145 (June 3, 2015); *Integrus Energy Services, Inc.*, Order, Docket 15-0290 (May 6, 2015); *Interstate Gas Supply, Inc.*, Order, Docket 15-0174 (Apr. 28, 2015); *Champion Energy, LLC*, Order, Docket 15-0159 (Mar. 25, 2015); *Integrus Energy Services, Inc.*, Order, Docket 14-0151 (Apr. 16, 2014); *Interstate Gas Supply, Inc.*, Order, Docket 13-0179 (Apr. 3, 2013). Nothing about the ARES market has changed to warrant a departure from past practice concerning the proprietary status of annual kWh sales.

9. IGS's request is also consistent with the Commission's decision in Docket 10-0071, which granted another ARES's petition for confidential treatment of its annual kWh sales for two years on the basis that "competition, and therefore customers, benefit from the presence of multiple ARES . . . [and that] [p]ublic disclosure of annual kWh reports soon after their issuance would likely harm competition as well as consumers through diminished choices in the marketplace." *FirstEnergy Solutions, Corp.*, Docket 10-0071, Order, p. 2 (Mar. 24, 2010.)

10. IGS seeks an order preventing public disclosure of 2015 kWh sales for a period of two years. Two years is the "default" period for confidential treatment under 83 Ill. Adm. Code 200.430(b), as the Commission found in each of the above dockets.

11. In addition to a confidential version of the 2015 Kilowatt-Hour Report, IGS has also filed with the Chief Clerk a public version. Total annual kWh sales are redacted from the public version.

WHEREFORE, IGS respectfully requests that the Commission enter an Order, without hearing, protecting from disclosure for a period of not less than two years, the total annual kWh sales included in IGS's 2015 Kilowatt-Hour Report.

Dated: February 24, 2016

Respectfully submitted,  
**INTERSTATE GAS SUPPLY, INC.**  
**d/b/a IGS Energy**

By:   
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One of its Attorneys

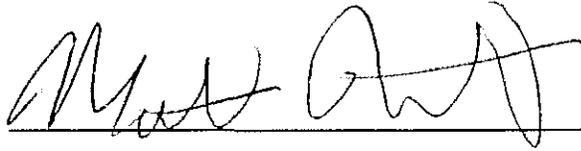
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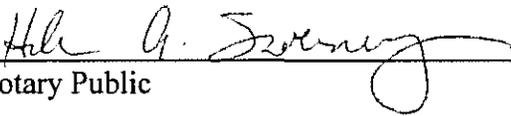
COUNTY OF FRANKLIN )

**VERIFICATION**

Matthew White, being first duly sworn, deposes and says that he is General Counsel, Legislative and Regulatory Affairs for Interstate Gas Supply, Inc., that he has read the foregoing Petition and that the statements contained therein are true, correct and complete to the best of his knowledge, information and belief.



Subscribed and sworn to before  
me this 24 th day of February, 2016.

  
Notary Public

