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ILLINOIS COMMERCE COMMISSION

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STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

EDF Energy Services, LLC)
)
Petition for Relief to Protect a Portion of)
Petitioner's 2016 Report of Continuing)
Compliance For Not Less Than Two Years)
To Protect Highly Confidential and)
Proprietary Information)
)

CHIEF CLERK'S OFFICE

Docket No. 16- 0298

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

Pursuant to 83 Ill. Admin. Code §§ 200.430, 451.60, EDF Energy Services, LLC ("Petitioner" or "EDF") petitions the Illinois Commerce Commission ("ICC" or "Commission") for relief to protect a portion of Petitioner's 2016 Report of Continuing Compliance ("2016 Report") from disclosure for not less than two years to protect highly confidential and proprietary information included therein. In support of this Petition, EDF states as follows:

(1) EDF is certified by the Commission as an alternative retail electric supplier ("ARES") in the State of Illinois. The Commission granted EDF a certificate of service authority as an ARES on June 24, 2015, in Docket No. 15-0346.

(2) Petitioner is required, pursuant to 83 Ill. Admin. Code §§ 451.700-451.760 (2011), to submit to the Commission each year a report for the preceding calendar year certifying its continuing compliance with the requirements for certification as an ARES.

(3) Concurrently with this Petition, Petitioner submitted its 2016 Report to the Chief Clerk of the Commission via overnight delivery. Attachment A to Petitioner's 2016 Report 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 the 2016 Report 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 ARES who believes that any of the information to be submitted to the Commission by the 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]." 83 Ill. Admin. Code § 451.60 (2010). Similarly, Section 7(1)(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 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.” 5 Ill. Comp. Stat. 140/7(1)(g).

(5) The proprietary information falls within the FOIA 7(1)(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 is information of highly commercially sensitive nature involving company business operations or financial information. The specific information for which EIPS seeks proprietary treatment is (1) the peak hourly demand expressed in megawatts scheduled during the previous calendar year and (2) the expected peak hourly demand expressed in megawatts over the next 12 months. EIPS’ competitors can directly use such information to determine EIPS’ 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 2015 Annual Report indicates that there are 85 ARES certified to serve Illinois customers.¹ This is in addition to public utilities that may serve customers competitively outside of their service territory(ies) without certification. As one of the 85 certificated ARES, EDF faces significant competition for its position in the market. The release of the highly confidential and proprietary information contained in the 2016 Report would likely result in substantial competitive harm to EDF by providing an unfair competitive advantage to EDF’s competitors. Disclosure of such commercial information would be harmful to EDF because it would give EDF’s competitors insight into information about EDF’s relative position in the marketplace.

(7) The Commission consistently has held that market share data and information available in Continuing Compliance Reports is confidential, and the Commission previously has afforded proprietary and confidential treatment to the type of information for which EDF seeks protection. *See, e.g., EDF Industrial Power Services (IL), LLC*, Docket No. 15-0338 (Sept. 22, 2015); *EDF Industrial Power Services (IL), LLC*, Docket No. 14-0298 (Nov. 13, 2014); *Hudson Energy Services LLC*, Docket No. 12-0249 (Apr. 18, 2012); *Integritys Energy Services, Inc.*, Docket No. 10-0316 (June 23, 2010).

(8) Accordingly, EDF 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 2016 Report.

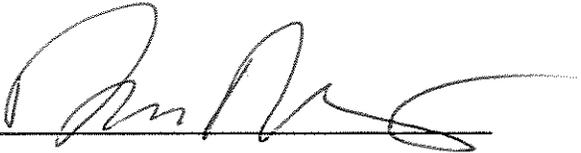
(9) EDF agrees to accept service by electronic means as provided for in 83 Ill. Adm. Code 200.1050.

¹ Office of Retail Market Development, Illinois Commerce Commission, 2015 Annual Report Submitted Pursuant to Section 20-110 of the Public Utilities Act (June 30, 2015), p. 3.

WHEREFORE, PREMISES CONSIDERED, EDF 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,

EDF ENERGY SERVICES, LLC



Daniel Bradley
Jones Day
77 West Wacker
Chicago, Illinois 60601-1692
(312) 269-4399 (voice)
(312) 782-8585 (fax)
dbradley@jonesday.com

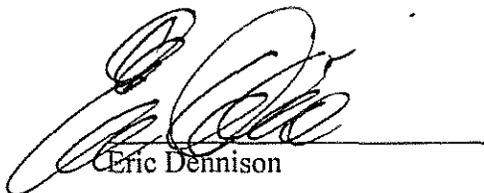
Attorney for EDF Energy Services, LLC

Dated: April 29, 2016

STATE OF TEXAS)
)
COUNTY OF HARRIS)

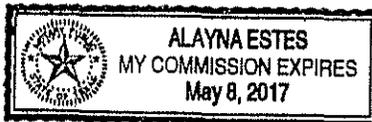
Verification

I, Eric Dennison, being first duly sworn upon my oath, depose and state that I am Senior Vice President, General Counsel and Secretary for EDF Energy Services, LLC (“EDF”); that I have reviewed the information contained in EDF’s Report of Continuing Compliance; that I have read the above and foregoing Petition; and that said contents are true, correct and complete to the best of my knowledge, information and belief.


Eric Dennison

Subscribed and sworn to before me this 2nd day of May, 2016.


Notary Public

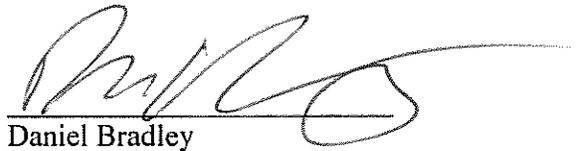


My Commission expires: May 8, 2017

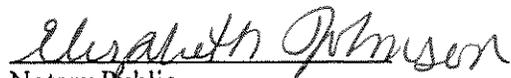
STATE OF ILLINOIS)
)
COOK COUNTY)

Verification

I, Daniel Bradley, being first duly sworn upon my oath, depose and state that I am an attorney for EDF Energy Services, LLC (“EDF”); that I have reviewed the information contained in EDF’s Report of Continuing Compliance; that I have read the above and foregoing Petition; and that said contents are true, correct and complete to the best of my knowledge, information and belief.


Daniel Bradley

Subscribed and sworn to before me this 2 day of May, 2016.


Notary Public



My Commission expires: August 31, 2016