STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

EDF Industrial Power Services (IL), LLC

Petition for Relief to Protect a Portion
of Petitioner’s 2011 Kilowatt-Hour Report
from disclosure for not less than two
years to protect highly confidential and
proprietary information.

ORDER

By the Commission:

In this proceeding, EDF Industrial Power Services (IL), LLC (“Petitioner”) filed, with the Illinois Commerce Commission (“Commission”), a verified petition seeking an order protecting from disclosure, for a period of not less than two years, information contained in its annual kilowatt-hour (“kWh”) and call center reports for 2011.

As an Alternative Retail Electric Supplier (“ARES”), Petitioner is required to file the kWh report pursuant to Section 451.770 of 83 Ill. Adm. Code 451, “Certification of Alternative Retail Electric Suppliers” (“Part 451”). The report identifies the total kWhs delivered and sold to retail customers during the preceding year within each utility service area. Petitioner provided a redacted public version and an unredacted confidential version of the report.

In addition, Section 410.45 of 83 Ill. Adm. Code 410, “Standards of Service for Electric Utilities and Alternative Retail Electric Suppliers” (“Part 410”), requires each ARES to report on its answer time and abandon call rate for its call center for the preceding calendar year.

The Commission Staff did not participate in this docket. No petitions for leave to intervene were received. No hearings were held in this matter. A proposed order, containing the findings set forth below, was served on Petitioner. No exceptions were filed.

Section 451.60 of Part 451 provides, in 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.”

Section 7(g) of the Freedom of Information Act (“FOIA”), 5 ILCS 140/1 et seq., exempts, from public disclosure:
Trade Secrets and commercial or financial information obtained from a person or business where such trade secrets or information are proprietary, privileged or confidential, or where such disclosure of such trade secrets or information may cause competitive harm.

According to Petitioner, the information for which protection is sought includes market-sensitive material that could be used by its competitors to determine Petitioner’s market share in Illinois’ competitive retail electricity industry and to determine its proprietary business model and strategies.

**Commission Conclusions, Findings and Ordering Paragraphs**

With respect to Petitioner’s kWh report for 2011, the Commission has considered Petitioner’s explanation of its concerns about the harm that could occur upon public disclosure of the redacted information. The Commission finds that the redacted portions of Petitioner’s 2011 annual kWh report fall within the exemption in Section 7(g) of the FOIA; this information will be afforded proprietary treatment, and will be exempt from public disclosure and accessible only by the Commission and the Commission Staff, until March 1, 2014.

Regarding the call center report, however, Petitioner’s request for proprietary treatment will not be granted. Similar requests for proprietary treatment have been denied in recent Commission’s orders, such as Docket No. 09-0126, where the issue was addressed at length, and in Docket No. 10-0162. This is the type of information that the public, including current or potential customers, should be entitled to see.

The Commission, having considered the entire record herein, is of the opinion and finds that:

1. Petitioner is an ARES, as defined in the Public Utilities Act ("Act"), 220 ILCS 5/1-101 et seq;

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. the information redacted from Petitioner’s kWh report for 2011 should be exempt from public disclosure under Section 7(g) of the Freedom of Information Act until March 1, 2014;
(5) Petitioner’s request for proprietary treatment of its call center report should be denied.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the information specified in Finding (4) above is afforded proprietary treatment and is exempt from public disclosure and will be accessible only by the Commission and the Commission Staff until March 1, 2014.

IT IS FURTHER ORDERED that Petitioner’s request for proprietary treatment of its call center report is denied.

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 24th day of October, 2012.

(SIGNED) DOUGLAS P. SCOTT

Chairman