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August 6, 2015

Ms. Mary Jo Kunkle
Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw
Lansing, MI 48917

Re: MPSC Case No. U-17691

Dear Ms. Kunkle:

Enclosed herewith for filing in the above-referenced matter, please find Retail Energy Supply Association's Notice of Hearing, Motion For Protective Order and Certificate of Service. If you have any questions, please feel free to contact my office. Thank you.

Very truly yours,

Fraser Trebilcock Davis & Dunlap, P.C.



Jennifer Utter Heston

JUH/ab
Enclosures

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
DTE GAS COMPANY for approval of a)
Gas Cost Recovery Plan, 5-year Forecast)
and Monthly GCR Factor for the 12 months)
ending March 31, 2016)
_____)

Case No. U-17691

NOTICE OF HEARING

PLEASE TAKE NOTICE that Retail Energy Supply Association's ("RESA") Motion for Protective Order will be heard on **Friday, August 14, 2015 at 9:00 a.m.** or as soon thereafter as counsel may be heard before Administrative Law Judge, Mark D. Eyster at the Michigan Public Service Commission, located at 7109 W. Saginaw Hwy., Lansing, MI 48917.

Respectfully submitted,

FRASER TREBILCOCK DAVIS & DUNLAP, P.C.
ATTORNEYS FOR RETAIL ENERGY SUPPLY ASSOCIATION

Date: August 6, 2015

By: 

Jennifer Utter Heston (P65202)

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
DTE GAS COMPANY for approval of a)
Gas Cost Recovery Plan, 5-year Forecast)
and Monthly GCR Factor for the 12 months)
ending March 31, 2016)
_____)

Case No. U-17691

MOTION FOR A PROTECTIVE ORDER

NOW COMES the Retail Energy Supply Association ("RESA")¹, by and through its attorneys, Fraser, Trebilcock, Davis & Dunlap, P.C., and pursuant to Michigan Public Service Commission ("MPSC") Rules of Practice and Procedure R. 792.10403 and R. 792.10432, Michigan Court Rule 2.302(C) and MCL 24.280, hereby respectfully requests that the Administrative Law Judge enter the attached proposed Protective Order to govern the release, use and disclosure of confidential and competitively sensitive information in this proceeding.

In support of this motion, RESA states as follows:

1. RESA is a broad and diverse group of retail energy suppliers who share the common vision that competitive retail energy markets deliver a more efficient customer oriented outcome than a regulated utility structure.

2. RESA members are licensed to sell natural gas to retail customers in Michigan: Interstate Gas Supply, Inc. ("IGS"), Just Energy Michigan Corp. ("Just Energy"), Direct

¹ The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

Energy Services, LLC ("Direct Energy"), Constellation NewEnergy-Gas Division, LLC, Constellation Energy Gas Choice, Inc. ("CEGC"), Constellation Energy Services – Natural Gas, LLC f/k/a/ Integrys Energy Services – Natural Gas, LLC ("CES"), and Nordic Energy Services, LLC, are licensed Alternative Gas Suppliers ("AGS"). IGS, Just Energy, Direct Energy, CEGC, and CES currently serve Gas Customer Choice ("GCC") customers on the DTE Gas Company ("DTE") system.

3. This docket involves an application by DTE for approval of a Gas Cost Recovery ("GCR") Plan, 5-year forecast and monthly GCR factor for the 12 months ending March 31, 2016.

4. As stated in the attached Affidavit of Matthew White, certain information contained on page 7, lines 2-4, in the pre-filed Rebuttal Testimony of James A. Brunell related to the sales statistics of IGS is confidential, proprietary, competitively sensitive and/or trade secret information ("Confidential Information"). RESA requests that this Confidential Information be protected from further public disclosure.

5. A protective order is necessary to protect from further public disclosure the unredacted Confidential Information and to establish the terms and conditions upon which the information may be used by the other parties to this proceeding.

6. By this motion, RESA seeks to ensure that appropriate protection is afforded and that truly confidential, proprietary, and competitively sensitive information can be protected within the context of this proceeding.

7. The Commission has asserted its authority to issue protective orders under appropriate circumstances pursuant to MCL 460.1193(2), Rule 403 of the Commission's Rules of Practice and Procedure, R. 792.10403, and MCR 2.302(C)(8), which states, "On

motion by a party . . . and on reasonable notice and for good cause shown, the court in which the action is pending may issue any order that justice requires to protect a party or person . . . including one or more of the following orders: . . . that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way."

8. In Case No. U-10282, the Commission set forth the standard for issuing a protective order. The party moving for a protective order must show "(1) that the information at issue is a trade secret or otherwise confidential, and (2) that disclosure would work a clearly defined and serious injury." Order dated June 30, 1994, MPSC Case No. U-10282, p. 8. As described below, the Confidential Information meets both criteria.

9. The Confidential Information RESA seeks to protect is of such a nature that (i) it may derive actual and potential economic value from being either generally known to, or readily ascertainable by, persons who could obtain economic value from its disclosure or use; and (ii) it is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. The Confidential Information is therefore considered a trade secret under Michigan law and is entitled to protection from disclosure by the Commission under Michigan's Uniform Trade Secrets Act, MCL 445.1901 *et seq.*

10. RESA does not seek to preclude any party access to the Confidential Information or use of the Confidential Information to the extent that it is deemed relevant and admissible evidence. RESA seeks only to protect the Confidential Information that should be protected from public disclosure. Information of this type can be used by competitors to their advantage and to the detriment of IGS. The Confidential Information for which protection is

sought relates directly to the competitive activities, or grows out of such activities, and have specific commercial value.

11. The proposed Protective Order balances the need for confidential treatment with the parties' interest in obtaining and using the Confidential Information in this proceeding. The proposed Protective order provides a process for disputing assertions of confidential treatment, affords the parties reasonable access to the Confidential Information, and established procedures by which the parties may use the Confidential Information if otherwise admissible.

12. Based on the above description of the material for which RESA seeks protection and the attached Affidavit, RESA requests that the presiding officer enter a determination that the Confidential Information appears to be confidential and a trade secret that should be protected from public disclosure. RESA further requests that the presiding officer direct DTE to take action to remedy its unauthorized, prior disclosure of the Confidential Information. DTE should be directed to submit a written formal request for removal of the Confidential Information from the Commission's e-docket to the Commission's Executive Secretary along with a detailed explanation of the reason for requesting removal pursuant to R. 792.10406(4).

WHEREFORE, for the reasons set forth above, RESA respectfully requests that the presiding officer:

- A) Find that the Confidential Information appears to be confidential and a trade secret;
- B) Enter the proposed Protective Order governing the access and use of the Confidential Information by the parties to this proceeding;

- C) Direct DTE to remedy its prior disclosure of the Confidential Information, including submitting a formal request to the Executive Secretary to remove the information from the e-docket;
- D) Grant such further relief as the presiding officer deems necessary and appropriate.

Respectfully submitted,

FRASER TREBILCOCK DAVIS & DUNLAP, P.C.
ATTORNEYS FOR RESA



Date: August 6, 2015

By: _____

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U-17691

MOTION FOR PROTECTIVE ORDER

ATTACHMENT

Protective Order

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)
DTE GAS COMPANY for approval of a)
Gas Cost Recovery Plan, 5-year Forecast)
and Monthly GCR Factor for the 12 months)
ending March 31, 2016)
_____)

Case No. U-17691

PROTECTIVE ORDER

This Protective Order governs the use and disposition of Protected Material (as defined below) disclosed by DTE Gas Company ("Disclosing Party") to any other Party (as defined below) in this case, as set forth herein. The intent of this Protective Order is to protect confidential information and materials, which contain confidential, proprietary, or commercially sensitive information, including witness's related testimony and exhibits and arguments of counsel referring to such confidential information ("Protected Material"). This Protective Order describes the manner in which Protected Material is to be identified and treated, and governs its ultimate disposition. Accordingly, IT IS HEREBY ORDERED:

1. This Protective Order shall govern the use of all Protected Material, made available for review, or produced, by or on behalf of the Disclosing Party to any other Party, Reviewing Representative, the Administrative Law Judge ("ALJ") assigned to this case, or members of the Michigan Public Service Commission ("MPSC") assigned to assist the MPSC in Case No. U-17691. Protected Material shall be used and disclosed solely in accordance with the terms and conditions of this Protective Order.

2. The Protected Material that this Protective Order protects is Interstate Gas Supply's sales, revenue, and price data appearing on page 7, lines 2-4, in the unredacted Rebuttal Testimony of James A. Brunell.

3. This Protective Order protects: (1) the Protected Material; (2) any copy or reproduction of the Protected Material made by any person; and (3) any memoranda, handwritten notes, or any other form of information that copies, contains or discloses Protected Material.

4. The information subject to this Protective Order does not include information:

- a. lawfully known by the Party or Reviewing Representative at the time of disclosure; and
- b. that is or becomes available to the general public through no fault of a Party or Reviewing Representative.

5. "Party" shall mean any party to this proceeding, including the Staff and Attorney General, who requests or has access to the Protected Material.

6. "Reviewing Representative" shall mean a person who is:

- a. an attorney who has entered an appearance in this proceeding for a Party;
- b. an attorney, paralegal, or other employee associated for purposes of this case with an attorney described in Paragraph 6a;
- c. an expert or employee of an expert retained by a Party for purposes of advising, preparing for, or testifying in this proceeding; or
- d. an employee or other representative of a Party with significant responsibility for this docket.

A Reviewing Representative is responsible for assuring that persons under his or her supervision and control comply with this Protective Order.

7. A Party may authorize access to and use of Protected Material by a Reviewing Representative identified by the Party as being necessary in order to analyze the Protected Material, including consultants employed by the Party, but only for the purposes of analyzing the issues, presenting evidence, and preparing testimony, cross-examination, argument, pleadings, briefs, exceptions or other motions or filings in Case No. U-17691. Such persons may not release or disclose the content of Protected Material to any other person or use such information for any other purpose.

8. Protected Material shall only remain available to a Party until no later than the conclusion of any appeal of any final order issued in this Case No. U-17691. A Party in Case No. U-17691 who is participating in an appeal from a final order in this Case No. U-17691 may retain copies of Protected Material until the date the final order in this Case No. U-17691 is no longer subject to judicial review. On or before the date specified by the preceding sentence, with the exception of the provision made in the second to the last sentence of this paragraph, the Party shall return to the Disclosing Party all Protected Material in its possession or in the possession of its Reviewing Representatives, including all copies thereof and notes of Protected Material or certify in writing that the Protected Material has been destroyed. The Party shall submit to the Disclosing Party written certification stating that all Protected Material and all copies thereof and all notes of Protected Material in its possession, care, custody or control have been returned or destroyed. Notwithstanding, the attorney for a Party may retain copies of non-public pleadings, orders, transcripts, briefs, comment, and exhibits, which contain Protected Material in Case No. U-17691. To the extent Protected Material is not returned by a Party or destroyed pursuant to this Protective Order, it shall remain subject to this Protective Order.

9. The Parties to Case No. U-17691 retain the right to seek further restrictions on the dissemination of Protected Material to persons who have or may subsequently seek to intervene in this proceeding.

10. Protected Material made available by the Disclosing Party shall be clearly marked by the Disclosing Party as Protected Material subject to this Protective Order, including by labeling such items as "Confidential." Any copies of Protected Material shall be physically designated as Protected Material by the Party or the person authorized by the Party to make the copy. Notes of Protected Material shall be physically marked as Protected Material by the person making the notes. All Protected Material in the possession of the Party shall be maintained in a secure place. Access to Protected Material shall be limited to persons authorized to have such access subject to the provisions of this Protective Order.

11. Even if no longer engaged or active in this proceeding, every Party and Reviewing Representative who has access to the Protected Material shall continue to be bound by the provisions of this Protective Order. The obligations under this Protective Order shall not be extinguished or nullified by entry of a final order in this case and shall be enforceable before the MPSC or in a court of competent jurisdiction.

12. If a Party with access to Protected Material desires to incorporate, utilize, refer to, or otherwise use Protected Material in testimony, pleadings, direct or cross-examination, briefs, oral argument, comments or in some other form in this proceeding, such Party shall only do so pursuant to procedures that will maintain the confidentiality of the Protected Material. For purposes of this order, the following procedures are established:

- a. Written submissions using Protected Material shall be filed in a sealed record, to be maintained by the Docket Section of the MPSC in envelopes

clearly marked on the outside, "CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER ISSUED IN CASE NO. U-17691."

Simultaneously, identical documents and materials, but with the Protected Material redacted, shall be filed, offered, introduced, or otherwise disclosed in the usual manner for the submissions of evidence or briefs.

- b. Furthermore, with regard to proceedings before the MPSC or presiding officers designated by it, oral testimony, examination of witnesses, or argument on the Protected Material shall be conducted on a separate record to be maintained by the Docket Section of the MPSC. These separate record proceedings shall be closed to all persons except those furnishing the Protected Material and parties otherwise subject to this Protective Order. The Party presenting the information during the course of the proceeding shall advise the presiding officer receiving testimony of the terms of this Protective Order on sufficient notice to allow the presiding officer an opportunity to take measures within the presiding officer's control to protect the confidentiality of the Protected Material, and suggest that a separate, protected record be made of all testimony concerning the protected information.
- c. Copies of documents filed with the MPSC that contain Protected Material, including the portions of the exhibits, transcripts, and brief that refer to Protected Material, must be sealed and maintained in the MPSC's files with a copy of the Protective Order attached.

13. It is intended that the Protected Material subject to this Protective Order should be shielded from disclosure to the extent permitted by law. If any person files a Freedom of Information Act Request seeking access to documents subject to this Protective Order, the MPSC's Executive Secretary shall immediately notify the parties to this proceeding. Any Party may take whatever legal actions it deems appropriate to protect the Protected Material from disclosure. In accordance with Section 5 of the Freedom of Information Act, MCL 15.235, the notice must be given at least five (5) business days prior to the MPSC, its Staff, and/or Attorney General responding to the request. This Protective Order does not prohibit disclosure to the extent, but only to the extent, and for the purpose, but only for the purpose, that such disclosure is: (i) required by law; or (ii) in response to a valid order of a court of competent jurisdiction or governmental body; provided that in all instances above, the Party first provides reasonable written advance (at least five (5) business days prior) notice to the parties to this proceeding of the proposed disclosure.

14. The provisions of this Protective Order shall not apply to a particular document or portion of a document containing the information identified in Paragraph 2 if a Party can demonstrate that it meets the criteria set forth in Paragraph 4a and 4b. Before disclosing a particular document or portion of a document containing the information identified in Paragraph 2, however, the Party must first provide reasonable notice to the other parties to this proceeding of its conclusion that the document or portion of a document is not subject to this Protective Order because of prior disclosure. The provisions of this Protective Order shall terminate as to the Protected Material described in Paragraph 2 to the extent that the content of such Protected Material are filed with a state, provincial or federal agency and are not subject to protection from public disclosure, or are otherwise lawfully disclosed.

15. If a Party violates this Order by an improper disclosure or use of Protected Material, then that Party shall take all necessary steps to remedy the improper disclosure or use. This includes immediately notifying the MPSC, the presiding officer, and the other parties to this proceeding, in writing, of the identity of each person known or reasonably suspected to have obtained the Protected Material. This paragraph of this Protective Order applies to both inadvertent and intentional violations. Nothing in this Protective Order limits a Party's rights and remedies, at law or in equity, against other parties or persons using Protected Material in a manner not authorized by this Protective Order, including the right to obtain injunctive relief to prevent violations of this Protective Order.

16. The MPSC or any presiding officer designated by it may subsequently declare that the protected status of Protected Material should not be continued and immediately communicate that declaration to the parties to this proceeding. Thereafter, this Protective Order shall cease to apply to such Protected Material unless, within fourteen (14) days, a Party files a pleading asserting that the information should continue to be protected and setting forth the basis for that assertion. The Party shall bear the burden of proving that the asserted Protected Material is entitled to continuing protection from disclosure. If the MPSC or presiding officer finds that an asserted Protected Material no longer qualifies for treatment as Protected Material, it shall remain subject to the protection afforded by this order for fourteen (14) days following the issuance of the MPSC's order or the presiding officer's ruling.

17. The ALJ and members of the MPSC assigned to assist the MPSC in Case No. U-17691 may review Protected Materials that are a part of confidential pleadings, and Protected Materials that are admitted into the record, for purposes of analyzing the issues, issuing rulings, preparing the proposal for decision, and issuing MPSC orders. Such persons may not release or

disclose the Protected Material inconsistent with the terms and conditions of this Protective Order.

Dated: August ____, 2015

Administrative Law Judge Mark D. Eyster

U-17691

MOTION FOR PROTECTIVE ORDER

ATTACHMENT

Affidavit of Matthew White

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)
DTE GAS COMPANY for approval of a)
Gas Cost Recovery Plan, 5-year Forecast)
and Monthly GCR Factor for the 12 months)
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_____)

Case No. U-17691

AFFIDAVIT OF MATTHEW WHITE

Matthew White, upon his oath, deposes and states:

1. I, Matthew White, am employed by Interstate Gas Supply, Inc. ("IGS") in the position of General Counsel, Legislative and Regulatory Affairs.
2. I am familiar with the confidential information relating to IGS's sales volumes and billed price to customers in DTE Gas Company's gas customer choice program which IGS seeks to protect from public disclosure.
3. I have personal knowledge of the confidential, proprietary, competitively sensitive and trade secret nature of the confidential information addressed herein through direct contact with this information. I have direct knowledge of efforts take by IGS to maintain the secrecy of this confidential information.
4. IGS is requesting that certain confidential information included in the Rebuttal Testimony of James A. Brunell be exempt from public disclosure as confidential, proprietary, competitively sensitive and trade secret information (the "Confidential Information").
5. The release of the Confidential Information would place IGS at a competitive disadvantage. Such information is competitively sensitive because competitors may use such data to determine IGS's projected gas supply costs. The disclosure of such information would adversely impact IGS because it would provide competitors with an advantage with regard to pricing their gas supply in the marketplace. Disclosing this commercially sensitive data to competitors will allow them to determine IGS's market strategies. Armed with the market strategies and costs, competitors can adjust their own gas supply prices to gain a competitive advantage. Customers will endure harm through higher gas supply prices offered in the marketplace.

6. IGS takes all reasonable steps to protect the confidentiality of such information, including, but not limited to only sharing such information on a need to know basis.
7. The Confidential Information is not available or ascertainable by parties, other than DTE Gas Company, through normal or proper means. No reasonable amount of independent research could yield this information to other parties.
8. The Confidential Information has been the subject of efforts that are reasonable under the circumstances to maintain its secrecy. IGS limits access to the Confidential Information by disclosing this information only to those employees, officers, and representatives of IGS who have a need to know about such information due to their job and management responsibilities. Outside IGS, this information is only provided to certain person who have a legitimate need to review the information.
9. Further, the Affiant sayeth nothing more.

Dated: August 6, 2015

Matthew White

State of Ohio)
) ss
 County of Franklin)

Subscribed and sworn to before me, a Notary Public, in and for said County and State this 6th day of August 2015.

Notary Public

My commission expires: June 2, 2019



STATE OF MICHIGAN

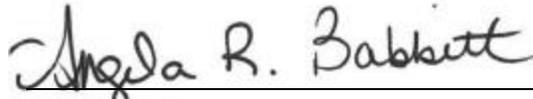
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CERTIFICATE OF SERVICE

Angela R. Babbitt hereby certifies that on the 6th day of August, 2015, she served Retail Energy Supply Association's Notice of Hearing, Motion For Protective Order and this Certificate of Service on the persons identified on the attached service list via electronic mail.



Angela R. Babbitt

Service List for U-17691

Administrative Law Judge – via U.S. mail also

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