

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission)
On Its Own Motion)
-vs-) Docket 18-1774
AEP Energy, Inc. et. al.)

Collection of information relevant to)
Alternative Retail Electric Suppliers’)
Plans to distribute Federal Energy)
Regulatory Commission-ordered)
Settlement Proceeds to end-user)
Customers in the Commonwealth)
Edison Company Service Territory)

VERIFIED MOTION FOR ENTRY OF PROTECTIVE ORDER

The Retail Energy Supply Association (“RESA”)¹ hereby respectfully moves the Administrative Law Judge (“ALJ”), pursuant to Section 4-404 of the Public Utilities Act (the “Act”), 220 ILCS 5/4-404, and Sections 200.190 and 200.430 of the Rules of Practice of the Illinois Commerce Commission (the “Commission”), 83 Ill. Adm. Code §§ 200.190 and 200.430, for entry of a protective order to govern the treatment of certain confidential information and materials in this Docket. RESA intends that any party in this proceeding that is producing documents in discovery can utilize the protective order. In support of this Motion, RESA states as follows:

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 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

1. On December 4, 2018, the Illinois Commerce Commission (“Commission”) entered an order in this proceeding directing its Staff to issue certain data requests to Alternative Retail Electric Suppliers (“ARES”) operating in the service territory of Commonwealth Edison Company. Upon information and belief, ARES, including members of RESA, submitted responses to the Commission Staff’s data requests on or about January 18, 2019. Those responses contain information that is not available to the public, confidential, proprietary and commercially sensitive.

2. The Illinois Attorney General and the Citizens Utility Board have issued “Me Too Data Requests”, basically seeking production of all requests and responses made by any party to another party in this proceeding. Additional data requests may be made which also call for the production of confidential information. While RESA questions whether any such requests are within the scope of this proceeding, as defined by the Commission’s Order and Commission Staff’s statements during the January 8, 2019 hearing in this proceeding, parties may wish to provide information, including confidential information, during the course of this proceeding.

3. Some RESA members seek to disclose to the parties in this proceeding information and materials that, while relevant and not privileged, are confidential, without waiving the status of those items. Through entry of the proposed protective order in a form attached as Exhibit A (the “Protective Order”), adequate protection for such information and materials would be provided to all parties producing documents in discovery in this proceeding.

4. Section 4-404 of the Act states, “[t]he Commission shall provide adequate protection for confidential and proprietary information furnished, delivered, or filed by any person, corporation, or other entity.” 220 ILCS 5/4-404.

5. Section 200.430 of the Commission's Rules of Practice authorizes the Commission and its ALJs to enter protective orders "to protect the confidential, proprietary or trade secret nature of any data, information or studies." 83 Ill. Adm. Code § 200.430(a).

6. The Protective Order also contains appropriate procedures for filing confidential materials, according to the Commission's rules concerning electronic filing. 83 Ill. Adm. Code § 200.1000, *et seq.* These procedures are reasonable, necessary, and appropriate given the sensitive information that likely will be sought and referenced in this proceeding.

7. Pursuant to Section 200.430(b) of the Commission's Rules of Practice, the ALJ must determine an appropriate time period for the confidentiality to be maintained. The Protective Order reflects that the confidentiality of materials designated as Confidential be maintained for a period of (5) five years.

WHEREFORE, for all of the reasons set forth above, the Retail Energy Supply Association respectfully moves the Administrative Law Judge for entry of the attached Protective Order.

Dated: January 29, 2019

Respectfully submitted,

The Retail Energy Supply
Association

Gerard T. Fox
Law Offices of Gerard T. Fox
203 N. LaSalle Street
Suite 2100
Chicago, Illinois 60601
312 909-5583
gerardtfox@gerardtfoxlawoffices.com

By: /s/ Gerard T. Fox

NOTICE OF FILING

Please take note that on January 29, 2019, I caused to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission, the attached Verified Motion for Entry of Protective Order in this proceeding.

/s/GERARD T. FOX

Gerard T. Fox

CERTIFICATE OF SERVICE

I, Gerard T. Fox, certify that I caused to be served copies of the foregoing Verified Motion for Protective Order upon the parties on the service list maintained on the Illinois Commerce Commission's eDocket system for Ill. C. C. Docket 18-1774 via electronic delivery on January 29, 2019.

/s/ GERARD T. FOX

Gerard T. Fox

VERIFICATION

I, Gerard T. Fox, being first duly sworn, hereby state that I am an attorney for the Retail Energy Supply Association and that I have read the foregoing Verified Motion for Entry of a Protective Order that I have knowledge of the facts stated therein, and that the same are true and correct to the best of my knowledge, information and belief.

Gerard T. Fox

/s/ GERARD T. FOX

Subscribed and sworn before me

This 29th day of January, 2019

Greg Beuke

Notary Public

