

GRIDFLEX GENERATION, LLC

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Via electronic posting

Michigan Public Service Commission
7109 West Saginaw Highway
Lansing, MI 48917

**Re: Docket No. U-21189 - Indiana Michigan Power Company - Integrated
Resource Plan**

To the Commission:

Pursuant to Rule 413 of Michigan's Administrative Hearing Rules (Mich. Admin. Code R. 792.10413), Gridflex Generation, LLC ("*Gridflex*") requests to appear without a formal petition for leave to intervene in this proceeding (Docket No. U-21189) for the limited purpose of opposing the Motion to Compel and Motion to Unseal, each dated June 23, 2023, by Attorney General Dana Nessel in this proceeding.

Identification of Gridflex.

Gridflex is the counterparty of Indiana Michigan Power Company ("*Indiana Michigan*") under a capacity transaction described in this proceeding as the Montpelier Capacity Only Purchase Agreement ("*Montpelier CPA*"). Gridflex is a marketer engaged in the wholesale sales of energy, capacity, and ancillary services pursuant to its market-based rate authority under Docket No. ER22-48-000 of the Federal Energy Regulatory Commission ("*FERC*"). Gridflex is the sole owner of Montpelier Generating Station, LLC, which entity owns the gas-fired generation facility that is identified in the Montpelier CPA. Gridflex and its subsidiaries are wholly-owned by funds that are managed by Rockland Capital, LP, a private energy investment company.

Opposition to Motions.

Reliance. Gridflex executed the Montpelier CPA with Indiana Michigan after participating in a public request for proposals. As shown in this proceeding, Indiana Michigan solicited potential project partnership bids in its 2022 all-source RFP. In agreeing to participate in the process, Gridflex relied upon the terms and covenants in the Mutual Confidentiality Agreement that would protect the detailed and commercially sensitive information that Indiana Michigan asked recipients to provide.

To be sure, Gridflex understood the regulatory obligations of Indiana Michigan and the possibility that the agreement, once executed, would be made available to the Michigan Public

Service Commission. The confidentiality agreement addressed this by allowing for disclosure where necessary or appropriate in a redacted form, subject to a protective order, and as otherwise appropriate. Gridflex relied on the terms of the confidentiality agreement when it made the decision to share commercially sensitive information with Indiana Michigan, and we believe that other respondents did as well. With the Motion to Compel and Motion to Unseal, the Attorney General wishes that the Commission violate the confidence of the respondents, in addition to Indiana Michigan.

Harm. Complying with the Motion to Compel and Motion to Unseal would cause harm in several ways:

- Gridflex is engaged in a highly competitive market for the purchase and sale of energy, capacity, and ancillary services. The type of information requested by the Attorney General would, if made public, be incredibly harmful to Gridflex by giving both competitors and future buyers information that could be leveraged to the detriment of Gridflex.
- Entities that purchase energy, capacity, and ancillary services through public solicitations, including Indiana Michigan, do so in a competitive environment. Any circumstances that create uncertainties or risks for respondents make it less likely that proposals will be more economic and comparable. By granting these motions, the Michigan Public Service Commission would likely increase the costs by creating a sort of “regulatory tax” on the consumers in the state.
- The scope of information requested by the Attorney General – all communications of any type between the time of bid and the time of execution – is amazingly broad. Gridflex negotiated for several months with Indiana Michigan and the terms of the transaction did, in fact, change during those negotiations. Except for a few instances, the selection of an offered bid is not the end of the solicitation process. The scope of the discovery request makes clear that the Attorney General does not appreciate how burdensome that request could be, both in time and resources committed.
- PJM Interconnection, LLC (“PJM”) operates the organized wholesale market in which Indiana Michigan is located. Typically, PJM runs base capacity auctions three years in advance of a delivery year through a non-public economic matching of offers (generation or curtailment) and bids (load serving entities). Disclosure of commercial terms for capacity products in PJM, including price, delivery year, delivery zone, quantity, etc., could affect future auctions and would most likely violate rules established by PJM and approved by FERC to help ensure the efficient, fair, and economic operation of these wholesale markets.

In other words, the effects of granting the Attorney General’s Motions would not be limited to this proceeding.

Scope. While we defer to the comments submitted by Indiana Michigan on process and procedure before this Commission, we are hard pressed to understand how the Montpelier CPA is related to the levelized cost of energy for solar projects. In the Motion to Compel, the Attorney

General moved for a ruling to compel Indiana Michigan to respond and proceeded to make several statements associated with the levelized cost of energy for solar projects (¶¶ 4-6 and ¶ 21) in support of this position. The Motion to Compel further requested “identical information about the Montpelier CPA as AG 15-80 sought about Elkhart and AG 15-81 sought about Sculpin” and stated “[t]he objections are the same and the Attorney General’s arguments are the same.” It feels that the Montpelier CPA has been clumsily included in the Motion to Compel because it is part of the same docket and not for any specific reason articulated by the Attorney General.

Conclusion.

Gridflex appreciates the opportunity to share these comments with the Commission and to voice our ardent opposition to granting the Motion to Compel and Motion to Unseal as requested by the Attorney General in this proceeding. We hope the Commission can appreciate the harmful consequences – even if unintended – that would result from granting the Motions. Accordingly, we urge the Commission to reject them for the reasons identified.

Sincerely yours,

Gridflex Generation, LLC

By: _____

