

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion,
regarding the regulatory reviews, revisions,
determinations, and/or approvals necessary for
CONSUMERS ENERGY COMPANY to fully
comply with Public Acts 295 of 2008

Case No. **U-18231**
(e-file paperless)

**MICHIGAN PUBLIC SERVICE COMMISSION STAFF'S
RESPONSE TO INVENERGY RENEWABLE LLC'S PETITION
TO INTERVENE AND MOTION FOR ENTRY OF "ATTORNEYS' EYES
ONLY" PROTECTIVE ORDER**

The Michigan Public Service Commission Staff (Staff) files the following
Response to Invenergy Renewable LLC's (Invenergy) Petition to Intervene and
Motion for Entry of "Attorneys' Eyes Only" Protective Order.

I. Intervention

Staff does not object to Invenergy's Petition to Intervene in this case.

II. "Attorneys' Eyes Only" Protective Order

Staff objects to Invenergy's Motion for Entry of an "Attorneys' Eyes Only"
Protective Order, at least as it applies to Staff. It is necessary for Staff to have the
ability to review responses to Consumers Energy's Requests for Proposals.

Staff agrees that protective orders may be entered to protect a party's "trade
secret or other confidential research, development, or commercial information."
(Invenergy's Motion, p 5, citing MCR 2.302(C)(8).) Staff also agrees that disclosure
of Invenergy's responses to Consumers Energy's Requests for Proposal could
competitively injure Invenergy. (Invenergy's Motion, p 5.) However, Staff is

differently positioned than other intervenors in this case and disclosure to Staff of confidential information would not cause harm to Invenergy.

MPSC Case No. U-18231 involves Consumers Energy's compliance with Public Act 295 of 2008, as amended by Act 342. MCL 460.1022(3) requires the Commission to review each electric provider's renewable energy plan. And MCL 460.1022(5) states that the Commission shall approve a Company's renewable energy plan if it determines that the plan is reasonable and prudent, and that it is consistent with the purpose and goals set forth in MCL 460.1001(2) and (3). Subsection (2), which clarifies that Act 295 is intended to promote cost-effective renewable energy resources, resource diversity, energy security, and private investment, is particularly relevant here:

- (2) The purpose of this act is to promote the development and use of clean and renewable energy resources and the reduction of energy waste through programs that will cost-effectively do all of the following:
 - (a) Diversify the resources used to reliably meet the energy needs of consumers in this state.
 - (b) Provide greater energy security through the use of indigenous energy resources available within the state.
 - (c) Encourage private investment in renewable energy and energy waste reduction. . . . [MCL 460.1001(2).]

To assist the Commission in determining if the Company's renewable energy plan is reasonable and prudent and consistent with the goals of MCL 460.1001(2), Staff must have access to all relevant bid information.

Staff is in a position unlike the other parties in this case. Staff maintains that it does not have a competitive interest in reviewing Invenergy's responses to

Consumers Energy's Requests for Proposals. Invenergy's Motion requests the entry of an "attorneys' eyes only" protective order, which would prohibit the disclosure of any information contained in Invenergy's responses to Consumers Energy's Requests for Proposals "except to parties' legal counsel and/or parties' independent experts not otherwise employed by any party." (Invenergy's Motion, p 6.) While Staff is "employed by a party," it should be granted access to confidential information. Unlike other intervenors in this case, Staff's interest is in its capacity as a regulator, not a competitor. Therefore, Invenergy's concerns are misplaced when applied to Staff.

Additionally, Staff must have access to all relevant information, including bid information, to carry out its responsibility to recommend whether the Commission should approve Consumers Energy's renewable energy plan. Therefore, an "Attorneys' Eyes Only" protective order would inhibit Staff's ability to complete its review of the plan and make recommendations to the Commission.

Staff agrees to maintain confidentiality of all protected information provided by Invenergy in MPSC Case No. U-18231. As outlined in the attached affidavit (Attachment A), Staff agrees to be bound by the terms of a protective order and understands that any material disclosed as protected material shall be maintained as confidential and shall not be disclosed to anyone other than in accordance with the Protective Order. Staff further agrees to provide to Invenergy a signed non-disclosure certificate for each Staff member who wishes to review the protected material.

Staff does not object to a protective order in this case. However, Staff recommends that any approved protective order allow Staff, in its role as a regulator, to review any and all protected material relevant to MPSC Case No. U-18231.

III. Conclusion

Invenergy's Motion for Entry of "Attorneys' Eyes Only" Protective Order should not extend to Staff. A protective order is certainly merited, but any protective order that prevents Staff from fulfilling its statutory obligations would be unlawful. Staff must be able to review all information in its entirety and will do so in a manner that protects the information's confidentiality.

Respectfully submitted,

**MICHIGAN PUBLIC SERVICE COMMISSION
STAFF**

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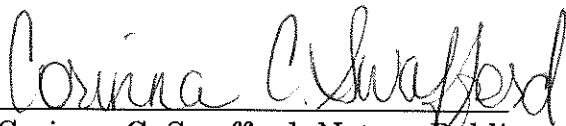
Dated: February 15, 2018
18231/Response to RCG's Motion

other than in accordance with the Protective Order. I further agree to provide to Invenenergy a signed non-disclosure certificate for each Staff member who wishes to review the protected material.



Jesse Harlow
Electric Reliability Division
Michigan Public Service Commission

Subscribed and sworn to before me
this **15th** day of **February, 2018**.



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My Commission Expires: 12-13-2019

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CORINNA C. SWAFFORD

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this **15th** day of **February, 2018**.

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My Commission Expires: 05/07/2018