

FILED

SEP 27 2016

INDIANA UTILITY REGULATORY COMMISSION

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF THE CITY OF )  
FRANKFORT, INDIANA, FOR )  
AUTHORITY TO ISSUE BONDS, NOTES, )  
OR OTHER OBLIGATIONS, FOR )  
AUTHORITY TO INCREASE ITS RATES )  
AND CHARGES FOR ELECTRIC )  
SERVICE, AND FOR APPROVAL OF NEW )  
SCHEDULES OF ELECTRIC RATES AND )  
CHARGES. )

CAUSE NO. 44856

PETITIONER'S MOTION FOR PROTECTION OF  
CONFIDENTIAL AND PROPRIETARY INFORMATION

Petitioner, the City of Frankfort, Indiana ("Petitioner") pursuant to 170 IAC 1-1.1-4, Ind. Code §§ 5-14-3-1 *et seq.* and 8-1-2-29, respectfully requests that the Indiana Utility Regulatory Commission ("Commission") enter a Protective Order prohibiting dissemination outside of the Commission and adopting safeguards for the handling of the following documents ("Confidential Information") to be submitted or made available to the Commission in this proceeding:

(a) Unredacted electronic copy of the class cost of service study and related models (including all formulas) prepared by Scott D. Bowles, P.E. and to be submitted to the Commission in accordance with 170 IAC 1-5-15.

The Confidential Information comprises confidential, proprietary, competitively sensitive, and/or trade secret information. In support of this motion, Petitioner represents the following:

1. Contemporaneously herewith, Petitioner is submitting its Case-in-Chief in this Cause, including workpapers providing information covered by the Commission's rules on the minimum standard filing requirements ("MSFRs") (170 I.A.C. 1-5-1 through 16). Petitioner proposes to submit,

under seal, supporting documents containing confidential, proprietary, competitively sensitive and/or trade secret information.

2. Pursuant to 170 IAC 1-5-15, the Confidential Information identified in subparagraph (a) above “shall be confidential and protected from disclosure to the public under IC 5-14-3-4 and IC 8-1-2-29.” Petitioner has included such Confidential Information in this Motion for Protective Order to be certain the information is protected from disclosure as provided under the Commission’s rules.

3. Petitioner has taken reasonable precautions to protect against the public disclosure of the Confidential Information, including, but not limited to, only sharing such information internally on a need-to-know basis and only releasing such information externally subject to appropriate confidentiality protections.

4. Based upon the above description of the material for which Petitioner seeks protection, Petitioner requests the Commission enter a preliminary determination that the Confidential Information is confidential, proprietary, competitively sensitive and/or trade secret within the meaning of Ind. Code § 5-14-3-4(a) as defined by Ind. Code § 24-2-3-2, for the limited purpose of allowing Petitioner to safely submit or otherwise make available the Confidential Information under seal for an *in camera* inspection by the presiding Administrative Law Judge and the Commission for a final determination of the appropriateness of Petitioner’s request for protection.

5. Once a preliminary determination of confidentiality has been made, Petitioner will make available or submit a single electronically on compact disc and in a sealed envelope, designating that the contents are confidential and proprietary material submitted by them, under a preliminary order of confidentiality, and which is marked to the attention of the presiding Administrative Law Judge. The submission of the Confidential Information is subject to and contingent upon Petitioner’s right to

retrieve the Confidential Information before it can be disclosed to any members of the public should the Commission make a final determination finding that the material submitted under seal should not be protected.

6. Upon a preliminary determination that the Confidential Information is confidential and/or trade secret, Petitioner proposes that the Commission issue a Docket Entry adopting the following procedures to assure the protection of the information provided by Petitioner, which Petitioner believes to be consistent with procedures followed by the Commission in similar situations:

1. That the Confidential Information will be made available solely for inspection by certain designated employees of the Commission and its Staff for the purposes of their examination and analysis.
2. That the Confidential Information will be specifically filed, secured and under the control of a responsible person.
3. That any Commission employee or Staff member receiving access to such Confidential Information be under an obligation to secure and maintain exclusive control of documents, to refrain from directly or indirectly allowing public disclosure of such Confidential Information and to refrain and prohibit the copying and reproduction of the Confidential Information.
4. That any documents, materials or reports prepared by Commission employees or Staff members not have the effect of disclosing the Confidential Information.
5. That no Commission employee or Staff member should have access to the Confidential Information without first acknowledging in writing prior to access, the existence of an order providing for confidential treatment, the need to treat

the Confidential Information in accordance with the provisions thereof, and the sanctions which may be imposed for unauthorized disclosure of such Confidential Information.

WHEREFORE, the City of Frankfort, Indiana respectfully moves that the Commission make and enter appropriate orders in this Cause:

1. Finding the Confidential Information to be preliminarily confidential for the limited purpose of allowing Petitioner to safely file the Confidential Information with the Commission under seal;
2. Thereafter make a final determination that the Confidential Information is exempt from public disclosure under Ind. Code § 8-1-2-29 and § 5-14-3-4;
3. Adopting the procedures set forth herein to ensure that the Confidential Information is appropriately secured and made available only to the appropriate Commission employees or the Commission's Staff on a need-to-know basis, and who are under an obligation not to disclose such confidential information to any third party; and
4. Granting to Petitioner such other relief as may be appropriate.

Dated this 27th day of September, 2016.

Respectfully submitted,

By:   
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Attorneys for Petitioner  
The City of Frankfort, Indiana

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was served this 27<sup>th</sup> day of September, 2016, by hand delivery to:

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Nicholas K. Kile