

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
RHODE ISLAND PUBLIC UTILITIES COMMISSION

In Re: Invenergy Thermal Development LLC
Application to Construct and Operate
the Clear River Energy Center,
Burrillville, Rhode Island

Docket No. 4609

**DIVISION'S MOTION FOR PROTECTIVE TREATMENT OF
CONFIDENTIAL INFORMATION**

The Division of Public Utilities and Carriers ("Division") respectfully requests that the Public Utilities Commission ("Commission") provide confidential treatment and grant protection from public disclosure certain purported confidential, competitively sensitive, and proprietary information submitted in this proceeding, as permitted by Commission Rule 1.2(g) and R.I. Gen. Laws § 38-2-2(4)(B). The Division also respectfully requests that, pending entry of that finding, the Commission preliminary grant the Division's request for confidential treatment pursuant to Rule 1.2(g)(2).

I. Background

On July 14, 2016, the Division will file with the Commission the Prefiled Testimony of Seth G. Parker which contains information that Invenergy has identified as confidential and/or commercially sensitive.

II. Legal Standard

The Commission's Rule 1.2(g) provides that access to public records shall be granted in accordance with the Access to Public Records Act ("APRA"), R.I. Gen. Laws § 38-2-1 *et seq.* Under APRA, all documents and materials submitted in connection with the transaction of official business by an agency are deemed to be "public record," unless the information contained in such documents and

materials falls within one or more of the exceptions specifically identified in R.I. Gen. Laws § 38-2-2(4). Therefore, to the extent that information provided to the Commission falls within one of the designated exceptions to the public records laws, the Commission has the authority under the terms of the APRA to treat such information as confidential and to protect that information from public disclosure.

In that regard, R.I. Gen. Laws § 38-2-2(4)(B) provides that the following types of records shall not be deemed public:

Trade secrets and commercial or financial information obtained from a person, firm, or corporation which is of a privileged or confidential nature.

The Rhode Island Supreme Court has held that this confidential information exemption applies where disclosure of information would likely either (1) impair the Government's ability to obtain necessary information in the future; or (2) cause substantial harm to the competitive position of the person from whom the information was obtained. Providence Journal Company v. Convention Center Authority, 774 A. 2d 40 (R.I. 2001).

The first prong of the test is satisfied when information is voluntarily provided to the governmental agency and that information is of a kind that would customarily not be released to the public by the person from whom it was obtained. Providence Journal, 774 A. 2d at 47.

Mr. Parker has redacted information provided by Invenenergy that the company has identified as confidential and/or commercially sensitive. The Division seeks protective confidential treatment for these identified portions of the prefiled testimony.

Conclusion

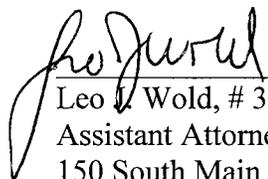
Wherefore, for the foregoing reasons, the Division respectfully requests that the Commission grant its motion for protective treatment.

Respectfully submitted,

DIVISION OF PUBLIC UTILITIES
AND CARRIERS

By its attorney,

PETER F. KILMARTIN
ATTORNEY GENERAL



Leo Wold, # 3613

Assistant Attorney General

150 South Main Street

Providence, RI 02903

401-274-4400, ext. 2218

401-222-3016

lwold@riag.ri.gov

CERTIFICATE OF SERVICE

I certify that a copy of the within motion was forwarded to the Service List by e-mail on July 14, 2016.