

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)	
MICHIGAN GAS UTILITIES CORPORATION)	
for authority to increase retail natural gas rates)	Case No. U-17880
and for other relief.)	
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MOTION FOR ENTRY OF A PROTECTIVE ORDER

Michigan Gas Utilities Corporation (“MGUC”), by its attorneys, pursuant to Rule 432 of the Michigan Administrative Hearing System’s Administrative Hearing Rules, R 792.10432, and MCR 2.302(C)(8), respectfully requests entry of a Protective Order to govern the release, use, and disclosure of confidential information, in any matter or form, in this proceeding. In support of its Motion, MGUC represents to the Michigan Public Service Commission (“MPSC” or “Commission”) as follows:

1. MGUC is a public utility engaged in the purchase, storage, transportation, distribution and sale of natural gas to approximately 167,000 customers in the Southern and Western portions of Michigan’s Lower Peninsula.

2. MGUC is a corporation organized under the laws of the state of Delaware, with its principal office located at 899 S. Telegraph Road, Monroe, Michigan 48161, and is authorized to transact business in the state of Michigan. As of the date of this filing, MGUC is a subsidiary of Integrys Energy Group, Inc. (“Integrys”); however, pursuant to the approval granted by this Commission in Case No. U-17682, and by other related state public service commissions, it is anticipated that prior to the completion of this

case Wisconsin Energy Corporation (“WEC”) will purchase 100% of the outstanding common stock of Integrys, and transfer of control of MGUC will be made to WEC. With the merger of Integrys into WEC and WEC taking control of MGUC, the expectation is that business will be as usual.

3. MGUC requests the Protective Order to protect confidential information in Exhibit A-3, Schedule C30.

4. Although the Commission’s rules do not expressly address the issuance of protective orders, Rule 403(1) of the Michigan Administrative Hearing System’s Administrative Hearing Rules, R 792.10403(1), states that “[t]hese rules govern practice and procedure in all proceedings before the commission, except as otherwise provided by statute or these rules. In areas not addressed by these rules, the presiding officer may rely on appropriate provisions of the currently effective Michigan court rules.” MCL 2.302(C)(8) states in pertinent part:

“On motion by a party or by the person from whom discovery is sought, and on reasonable notice and for good cause shown, the court in which the action is pending may issue any order that justice requires to protect a party or person from annoyance, embarrassment, oppression, or under burden or expense, including one... of the following orders: (8) that a trade secret or other confidential research development, or commercial information not be discovered or disclosed only in a designated way.”

Also, Section 80 of the Michigan Administrative Procedures Act specifically provides that a presiding officer may “[r]egulate the course of the hearings...” MCL 24.280.

5. The appropriateness of the issuance of protective orders in Commission proceedings for documents which are confidential, proprietary, or involve trade secrets is well established. For example, protective orders have been issued in Case Nos. U-9322 and U-9611 (July 18, 1990), U-10335 (Nov. 29, 1993), U-10491 and U-10492

(July 19, 1992), U-13221 (March 20, 2002), U-14040 (May 11, 2004), U-15988 (August 3, 2009), U-16166 (July 23, 2010), U-16417 (August 5, 2011) and U-17273 (December 9, 2014). In its Opinion and Order dated June 30, 1994, Case No. U-10282, the Commission discussed the standards that it applies when considering whether to issue a protective order. The Commission stated that before it will enter a protective order, the moving party must show “(1) that the information at issue is a trade secret or otherwise confidential, and (2) that disclosure would work a clearly defined and serious injury.”

6. The documentation which comprises Exhibit A-3, Schedule C30 is a confidential, proprietary report prepared by Navigant Consulting at the request of Integrys, which if publically disclosed would result in a serious injury to MGUC and Navigant Consulting. The report has been held in confidence because of the sensitive nature of the information, as such information has substantial value to MGUC and Navigant Consulting, as well as other Integrys’ affiliates. Further, such information if made public would be of substantial value to MGUC’s (and other Integrys subsidiaries’) competitors and suppliers for various purposes. Public disclosure of the report could cause substantial harm because it would adversely impact the future negotiating positions of MGUC and Navigant Consulting with competitors and other potential sellers.

7. MGUC represents that the report which comprises Exhibit A-3, Schedule C30, is not in the public domain, that it is not available in public services and cannot be gathered readily from other publically available information, and is treated as confidential by the Public Service Commission of Wisconsin.

8. The proposed Protective Order is modeled after other MPSC orders which protected information. The proposed Protective Order identifies the report labeled as Exhibit A-3, Schedule C30 as "Protected Material" and provided that any document filed with the Commission that contains Protected Material shall be placed in a sealed envelope with a copy of the Protective Order attached and maintained in the Commission's files. The proposed Order also provides that materials which MGUC contends are confidential will be marked as "Confidential." The proposed Order prohibits distribution or dissemination of the protected documentation by MPSC Staff ("Staff") or any properly admitted intervenors except according to the terms of the Protective Order. Further, the proposed Protective Order dictates the use of the documentation in the discovery and litigation phases of this case, and requires that MGUC be given notice of any Freedom of Information Act request filed with the Commission or Attorney General ("AG") seeking access to the documents. Such notice must be given at least five (5) business days prior to the MPSC, Staff, or its AG, responding to the request so as to provide MGUC with an opportunity to take whatever legal actions it deems appropriate to protect the documents from disclosure.

9. The proposed Protective Order will not hinder Staff's or any properly admitted party's review of the Application in Case No. U-17880, because Staff and party will continue to have full access to the confidential information.

WHEREFORE, for the reasons stated herein, MGUC respectfully requests the Commission to grant this Motion and enter the proposed Protective Order, attached as Exhibit A herein.

Respectfully submitted,

MICHIGAN GAS UTILITIES CORPORATION

Dated: June 22, 2015

By: _____
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Exhibit A

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)
MICHIGAN GAS UTILITIES CORPORATION) Case No. U-17880
for authority to increase retail natural gas rates)
and for other relief.)
_____)

PROTECTIVE ORDER

1. This Protective Order governs the use and disclosure of confidential information and materials (“Protected Material”) to be furnished by Michigan Gas Utilities Corporation (“MGUC” or “Company”) as set forth herein. The intent of this Protective Order is to protect the release, use and disclosure of confidential information that meets the following criteria:

- a. MGUC hereby certified that such Protected Material is not in the public domain; and
- b. The documentation, listed in paragraph 2 herein, either (i) has not been filed with state, provincial or federal agencies, or (ii) if filed with state, provincial or federal agencies, has been protected against public disclosure.

2. The Protected Material that this Protective Order protects is the unredacted, non-public version of Exhibit A-3, Schedule C30.

3. This Protective Order protects not only the document described in Paragraph 2 herein, but also protects from disclosure the information contained therein in any form including, but not limited to, affidavits, testimony, exhibits, workpapers,

studies, discovery inquires and responses, and all other data and documentation to the extent provided to the parties or filed with the Michigan Public Service Commission (“MPSC”) in connection with these proceedings.

4. MGUC shall furnish the Protected Material to MPSC Staff (“Staff”) and any properly admitted intervenors (“Intervenors”) (collectively the “Parties”) to Case No. U-17880 subject to the terms of this Protective Order for the objective of allowing the Parties access to information requested by them for the purposes of advocating positions in this proceeding. MGUC shall provide such Protected Material directly to Staff and Intervenors and shall file them under seal with the Docket Section of the MPSC. This provision does not constitute a waiver by MGUC to object to furnishing Protected Material on the basis of relevancy.

5. The parties to this case retain the right to seek further restrictions on the dissemination of Protected Materials to persons or entities who may subsequently seek to intervene in this or any other MPSC proceeding.

6. The following shall be stamped on each page of the Protected Material: “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A [DATE] PROTECTIVE ORDER WHICH IS ON FILE IN CASE NO. U-17880 WITH THE DOCKET SECTION. ANY PERSON RECEIVING OR REVIEWING THIS DOCUMENT IS BOUND BY THE TERMS OF THE PROTECTIVE ORDER.”

7. Parties receiving Protected Materials shall be bound by the terms of this Protective Order and shall, to the extent permitted by law, take reasonable steps to protect the Protected Material from being available for review by third persons or from being stored or otherwise included with materials available from public disclosure.

8. Protected Material shall remain the property of MGUC and shall only remain available to the Party until no later than the conclusion of any appeal of any final order issued in this Case No. U-17880. An attorney for a party in Case No. U-17880 may retain copies of Protected Material until the date the final order in Case No. U-17880 is no longer subject to judicial review. On or before the date specified by the preceding sentence, the Party shall return to MGUC all Protected Material in its possession or in the possession of its reviewing representatives, including all copies thereof and notes of Protected Material or certify in writing that the Protected Material has been destroyed. The Party shall submit to MGUC written certification stating that all Protected Material and all copies thereof and all notes of Protected Material in its possession, care, custody or control have been returned or destroyed.

9. Parties receiving a copy of the Protected Material may make additional copies and may use the Protected Material in the course of this proceeding; however, such material shall not be released or disclosed to any other person, except to the extent authorized in this Protective Order. The Protected Material may not be used for any purpose except as necessary for the conduct of this proceeding and any other MGUC proceeding before the MPSC for which Protected Material is a source document.

10. Offers of evidence in this or any other MPSC proceeding, as well as briefs and other written submissions, may include, incorporate, utilize, refer to, or otherwise use Protected Material in any reasonable manner. Written submissions using Protected Material shall be filed under seal with the ALJ, to be maintained by the Docket Section of the MPSC in envelopes clearly marked on the outside with the notation reflected in Paragraph 6, supra, or in another appropriate manner. Simultaneously, identical

documents and materials, but with the protected information redacted, shall be filed, offered, introduced, or otherwise disclosed in the usual manner for the submissions of evidence or briefs.

Furthermore, with regard to proceedings before the MPSC or presiding officers designated by it, examination of witnesses on the Protected Material shall be conducted on a separate record to be maintained by the Docket Section of the MPSC in the manner, and subject to the limitations provided in Paragraphs 6, 7 and 8 above. These separate record proceedings shall be closed to all persons except those furnishing the Protected Material and Parties otherwise submit to this Protective Order. The party presenting the information during the course of a proceeding shall advise the presiding officer receiving testimony of the terms of this Protective Order and suggest that a separate, protected record be made of all testimony concerning the protected information. Copies of documents filed with the MPSC that contained Protected Material, including the portions of the exhibits, transcripts, and briefs that refer to Protected Material, should be sealed and maintained in the MPSC's files with a copy of this Protective Order attached.

11. It is intended that the Protected Material subject to this Protective Order shall be shielded from disclosure to anyone who is not a party to this case only to the extent permitted by law. If any person files a Freedom of Information Act Request with the MPSC or Michigan Attorney General seeking access to documents subject to this Protective Order, the MPSC's Executive Secretary or the Attorney General shall immediately notify MGUC, and MGUC may take whatever legal actions it deems appropriate to protect the Protected Material from disclosure. In accordance with

Section 5 of the Freedom of Information Act, MCL 15.235, the notice must be given at last five (5) business days prior to the MPSC, its Staff, and/or Attorney General responding to the request.

12. The provision of this Protective Order shall not apply to a particular document or portion of a document as Protected Materials if a party can demonstrate that it has been previously disclosed by MGUC, as non-confidential, or does not meet the criteria set forth in Paragraph 1 a or b. Before disclosing a particular document or portion of a document described in Paragraph 2 or 3, however, the party must first provide reasonable notice to MGUC of its conclusion that the document or portion of a document is not subject to this Protective Order because of prior disclosure. The provision of this Protective Order shall terminate as to the particular documents described in Paragraph 2 and 3 to the extent that the terms of such documents are filed with a state, provincial or federal agency and are not subject to a protection from public disclosure, or are otherwise lawfully disclosed.

13. If Parties that receive Protected Material under this Protective Order violate this Order by an improper disclosure or use of Protected Material, then the violating party shall take all necessary steps to remedy the improper disclosure or use. This includes immediately notifying the MPSC, the Administrative Law Judge (“ALJ”), and MGUC, in writing, of the identity of each person known or reasonably suspected to have obtained the Protected Material. Parties that violate this Protective Order remain subject to Paragraph 13 regardless of whether MGUC could have discovered the violation earlier than it was discovered. Paragraph 13 of this Protective Order applies to both inadvertent and intentional violations. Nothing in this Protective Order limits

MGUC's rights and remedies, at law or in equity, against Parties or persons using Protected Material in a manner not authorized by this Protective Order, including the right to obtain injunctive relief to prevent or redress violations of this Protective Order.

14. The MPSC or any ALJ designated by it may subsequently declare that the protected status of a document or portion of a document designated a Protected Material should not be continued and immediately communicate that declaration to MGUC. Thereafter, this Protective Order shall cease to apply to that document or portion of the document unless, within ten (10) days, MGUC files a pleading asserting that the information should continue to be protected and setting forth the basis for that assertion. MGUC shall bear the burden of proving that the information is entitled to continuing protection from disclosure. If the MPSC or ALJ finds that a document or portion of a document no longer qualifies for treatment as "Protected Material", it shall remain subject to the protection afforded by this order for ten (10) days following the issuance of the MPSC's order or the ALJ's ruling.

Dated: _____

Administrative Law Judge