

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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MAR 27 2019

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

In the Matter of Application of nTherm, LLC )  
 )  
For Electric Generation Supplier License )

Docket No. A-2018-3006576

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**PETITION FOR PROTECTIVE ORDER TO PROTECT  
CONFIDENTIAL PROPRIETARY INFORMATION**

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**I. INTRODUCTION**

nTherm, LLC ("nTherm") respectfully requests that the Pennsylvania Public Utility Commission (the "Commission") grant exemption from public disclosure, confidential proprietary information related to the business activities of nTherm. This confidential and proprietary information, which includes sensitive financial information, is being provided in connection with nTherm's Application for an Electric Generation Supplier license.

This protective order is requested to be in place indefinitely or as the Commission sees fit for a period of no less than five (5) years to protect the confidential and proprietary information of nTherm, a privately held Delaware limited liability company. Pursuant to 52 Pa Code § 5.365, nTherm respectfully submits this motion for protective order in its assertion of a confidentiality claim.

**II. THE MATERIALS ARE PROPRIETARY AND CONFIDENTIAL AND  
WARRANT PROTECTION FROM DISCLOSURE**

nTherm's Loan and Energy Services Agreement with V3 Capital Group, LLC dated August 8, 2018, under which nTherm has obtained financing to conduct business operations, constitutes proprietary confidential information that should be protected from public disclosure. nTherm is a Delaware limited liability company that seeks to provide competitive energy

services in the state of Pennsylvania, and this confidential and proprietary document, which provides information not only about the financial state of a privately held company but also information about the business plans and financing arrangements of the company, is important to allowing nTherm to provide a cost-effective service that will be competitive in the retail energy market in the state of Pennsylvania. The disclosure of this information to the public would give undue advantage to competitors of nTherm and discourage private companies from seeking to be competitive suppliers to the Commonwealth; conversely, the protection of this information will help safeguard the competitiveness of the retail energy market. This kind of competitively sensitive information is routinely protected from public disclosure and this information should be protected here.

There would be no harm to the public if information subject to this motion for protective order is protected. In fact, protecting this information will be beneficial to the future customers of nTherm, who will benefit from nTherm's ability to obtain positive position in the competitive energy market.

To the best of the moving party's knowledge and belief, the information subject to this motion for protective order is not available in the public domain.

### **III. LEGAL STANDARD**

The Commission may exempt confidential information from public disclosure through the issuance of a protective order to limit the availability of proprietary information in accordance with 52 Pa Code § 5.365. In determining if a petition for protective order should be granted the statute states the following should be considered, among other things:

- (1) The extent to which the disclosure would cause unfair economic or competitive damage.

- (2) The extent to which the information is known by others and used in similar activities, and
- (3) The worth or value of the information to the party and to the party's competitors.

The disclosure of the Loan and Services Agreement, which reveals nTherm's financial arrangements for operating its business, would cause an unfair economic disadvantage to nTherm in its efforts to become a competitive supplier of electricity in the Commonwealth of Pennsylvania. Moreover, it is the belief of nTherm that the disclosure of such information may have a chilling effect on other private companies seeking to become competitive suppliers in the Commonwealth to the detriment of its citizens. The information requested to be protected under this petition is not known by others outside of the company and its lender.

nTherm believes in good faith that its private Loan and Energy Services Agreement constitutes confidential and proprietary information that should be limited in availability as provided for under and 52 Pa Code § 5.365.

nTherm respectfully requests that the Commission exercise its discretion and provide protection and confidential treatment of nTherm's information submitted in support of this motion.

#### **IV. CONCLUSION**

For the reasons set forth above, nTherm requests that the Commission protect from public disclosure the confidential and proprietary information included in the Loan and Energy Services Agreement.

Respectfully Submitted,

N THERM, LLC

A handwritten signature in cursive script that reads "Rhett C. Shumway". The signature is written in black ink and is positioned above a horizontal line.

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N THERM, LLC

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Mar 27, 2019

I, Rhett Shumway, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

A handwritten signature in black ink that reads "Rhett Shumway". The signature is written in a cursive style with a horizontal line underneath the name.

Rhett Shumway, CEO

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