

COPY

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

JOINT PETITION AND APPLICATION OF PSI ENERGY, )  
 INC., D/B/A DUKE ENERGY INDIANA, INC., AND )  
 SOUTHERN INDIANA GAS AND ELECTRIC COMPANY, )  
 D/B/A VECTREN ENERGY DELIVERY OF INDIANA, )  
 INC., PURSUANT TO INDIANA CODE CHAPTERS 8-1-8.5, )  
 8-1-8.7, 8-1-8.8, AND SECTIONS 8-1-2-6.8, 8-1-2-6.7, 8-1-2- )  
 42(a) REQUESTING THAT THE COMMISSION: (1) ISSUE )  
 APPLICABLE CERTIFICATES OF PUBLIC )  
 CONVENIENCE AND NECESSITY AND APPLICABLE )  
 CERTIFICATES OF CLEAN COAL TECHNOLOGY TO )  
 EACH JOINT PETITIONER FOR THE CONSTRUCTION )  
 OF AN INTEGRATED GASIFICATION COMBINED )  
 CYCLE GENERATING FACILITY ("IGCC PROJECT") TO )  
 BE USED IN THE PROVISION OF ELECTRIC UTILITY )  
 SERVICE TO THE PUBLIC; (2) APPROVE THE )  
 ESTIMATED COSTS AND SCHEDULE OF THE IGCC )  
 PROJECT; (3) AUTHORIZE EACH JOINT PETITIONER )  
 TO RECOVER ITS CONSTRUCTION AND OPERATING )  
 COSTS ASSOCIATED WITH THE IGCC PROJECT ON A )  
 TIMELY BASIS VIA APPLICABLE RATE ADJUSTMENT )  
 MECHANISMS; (4) AUTHORIZE EACH JOINT )  
 PETITIONER TO USE ACCELERATED DEPRECIATION )  
 FOR THE IGCC PROJECT; (5) APPROVE CERTAIN )  
 OTHER FINANCIAL INCENTIVES FOR EACH JOINT )  
 PETITIONER ASSOCIATED WITH THE IGCC PROJECT; )  
 (6) GRANT EACH JOINT PETITIONER THE AUTHORITY )  
 TO DEFER ITS PROPERTY TAX EXPENSE, POST-IN- )  
 SERVICE CARRYING COSTS, DEPRECIATION COSTS, )  
 AND OPERATION AND MAINTENANCE COSTS )  
 ASSOCIATED WITH THE IGCC PROJECT ON AN )  
 INTERIM BASIS UNTIL THE APPLICABLE COSTS ARE )  
 REFLECTED IN EACH JOINT PETITIONER'S )  
 RESPECTIVE RETAIL ELECTRIC RATES; (7) )  
 AUTHORIZE EACH JOINT PETITIONER TO RECOVER )  
 ITS OTHER RELATED COSTS ASSOCIATED WITH THE )  
 IGCC PROJECT; AND (8) CONDUCT AN ONGOING )  
 REVIEW OF THE CONSTRUCTION OF THE IGCC )  
 PROJECT )

FILED

OCT 24 2006

INDIANA UTILITY  
REGULATORY COMMISSION

CAUSE NO. 43114

JOINT MOTION FOR PROTECTION OF  
CONFIDENTIAL AND PROPRIETARY INFORMATION

Duke Energy Indiana, Inc. (“Duke Energy Indiana”) and Southern Indiana Gas And Electric Company d/b/a Vectren Energy Delivery of Indiana, Inc. (“Vectren”) (sometimes referred to herein individually as “Joint Petitioner” and collectively as “Joint Petitioners”) pursuant to 170 I.A.C. 1-1.1-4, Ind. Code § 5-14-3-4 *et seq.*, and Ind. Code § 24-2-3-1, hereby respectfully request that the Indiana Utility Regulatory Commission (“Commission”) enter a Protective Order exempting from public disclosure, prohibiting dissemination outside of the Commission and adopting safeguards for the handling of certain documents and information being filed and submitted by Duke Energy Indiana or Vectren containing information that is confidential and proprietary and which constitute trade secrets (“Confidential Material”). In support thereof, Joint Petitioners state as follows:

1. On September 7, 2006, Joint Petitioners filed their Joint Petition and Application in this Cause with the Commission requesting, among other matters, that the Commission issue to each Petitioner a certificate of public convenience and necessity authorizing Joint Petitioners to construct and own an integrated gasification combined cycle (“IGCC”) power plant in Edwardsport, Indiana, on the site of Duke Energy Indiana’s existing power plant (“the IGCC Project”). Specifically, Joint Petitioners are seeking approval and timely recovery through rates of their costs of construction of the IGCC Project.

2. As stated in the Joint Petition and Application, Joint Petitioners request that the Commission grant confidential treatment to various pricing and operating characteristic information associated with the IGCC Project and Duke Energy Indiana’s IRP presented in this proceeding (*e.g.*, project cost estimates, competing cost estimates,

and commodity price forecasts). Ind. Code § 5-14-3-4 provides for confidential treatment of trade secrets, including cost estimate and pricing information and information which is confidential and proprietary to actual or potential IGCC Project contractors and suppliers such as that which Joint Petitioners seek to keep confidential in this proceeding.

3. Duke Energy Indiana requests that certain confidential and proprietary information set forth in Duke Energy Indiana's 2005 Integrated Resource Plan submitted as Joint Petitioners' Exhibit 5-A, which information has previously been accorded confidential treatment by Commission Order dated August 7, 2006 in Cause No. 43075, be treated as confidential and proprietary and be excepted from public disclosure.

4. Public disclosure of the Confidential Material could harm Duke Energy Indiana, Vectren and their customers. Duke Energy Indiana and Vectren will be negotiating the terms of commercial agreements with key suppliers and contractors for the IGCC Project. The disclosure of Joint Petitioners' cost estimates for major components of the IGCC Project could place Joint Petitioners at a competitive disadvantage in such negotiations to the detriment of their ratepayers. In addition, actual or potential suppliers and contractors for the IGCC Project have or may provide Joint Petitioners with proprietary trade secrets on a confidential basis related to the IGCC Project, which proprietary information needs to be protected from public disclosure.

5. The affidavit of Mr. Dennis Zupan, attached hereto as Exhibit A, supports the confidential treatment of cost estimates and operating characteristics and information derived from such estimates related to the IGCC Project and proprietary trade secret information that has or may be received from actual or potential IGCC Project suppliers and contractors.

6. Duke Energy Indiana considers some of the information required by the Commission's IRP Rules to be proprietary, confidential, and trade secrets, as that term is used in Ind. Code §§ 5-14-3-4 and 24-2-3-1. The redacted version of the 2005 Duke Energy Indiana IRP does not include the Duke Energy Confidential Material. The affidavit of Ms. Diane L. Jenner, attached hereto as Exhibit B, describes some of the information from the 2005 Duke Energy Indiana IRP for which Duke Energy Indiana requests confidential treatment, and the reasons therefore.

7. Duke Energy Indiana considers certain forecasts of wholesale power, fuel, and emission allowance prices it has received from ICF International used in the preparation of Duke Energy Indiana's 2005 IRP and discussed in the testimony of Mr. Judah Rose to be confidential and submits hereto as Exhibit C the Affidavit of Mr. Judah Rose, Managing Director of ICF International in support of the confidential treatment of such confidential information.

8. The Confidential Material constitutes multiple "trade secrets" to either or both Joint Petitioners within the meaning of Ind. Code §§ 24-2-3-2 and 5-14-3-4 in that the information derives independent actual or potential economic value from not being generally known to other persons who can obtain economic value from its disclosure or use and such information is not readily ascertainable by proper means by any such third parties.

9. The Joint Petitioners have taken reasonable precautions to protect against the public disclosure of the Confidential Material, including, but not limited to, only sharing such information internally on a need to know basis and only releasing such information outside of the companies subject to appropriate confidentiality protections.

10. The public disclosure of the Confidential Material that is the subject of this Motion will result in irreparable harm to Joint Petitioners. Joint Petitioners propose the following procedures to protect the Confidential Information from public disclosure:

- a. That the Confidential Material be made available solely for inspection by certain designated members of the Commission Staff for purposes of their examination;
- b. That the Confidential Material be specifically secured and under the control of a responsible person;
- c. That any Commission Staff member receiving access to the Confidential Material be under an obligation to secure and maintain exclusive control of it, to refrain from directly or indirectly allowing public disclosure of any portion of said Confidential Material, and to refrain from and prohibit the copying and reproduction of any of the Confidential Material;
- d. That any documents, materials or reports prepared by the Commission Staff not have the effect of disclosing the confidential information contained in the Confidential Material;
- e. That no Commission Staff member should have access to the information contained in the Confidential Material without first acknowledging in writing, prior to access, the existence of any Protective Order issued by the Commission in response to this Motion, the need to treat such information in accordance with the provision thereof and the sanctions which may be imposed for unauthorized disclosure of such information.

11. Prior to a Commission order or entry granting this Motion, Duke Energy Indiana will pre-file a public redacted version of Joint Petitioners' testimony and exhibits that excludes the Confidential Material. Following receipt of a Commission order or entry granting this Motion, Duke Energy Indiana will file under seal the non-redacted pages of the aforementioned Joint Exhibits and testimony, redacted copies of which were previously filed.

12. Joint Petitioners have provided the Confidential Material to the Office of the Utility Consumer Counselor in this Cause pursuant to confidentiality agreements.

WHEREFORE, Joint Petitioners respectfully request:

1. Based upon the above description of the material for which Joint Petitioners seek protection and the attached verified statements, Joint Petitioners request that the Commission enter a preliminary determination that the Confidential Material is confidential, proprietary, competitively sensitive and/or trade secret within the meaning of I.C. § 5-14-3-4(a) as defined by I.C. § 24-2-3-2. Pursuant to a preliminary determination that the Confidential Material is exempt from public disclosure under I.C. § 8-1-2-29, Joint Petitioners will submit non-redacted copies of the material for which confidential treatment is sought in a sealed envelope, designating the contents as confidential and proprietary information filed by Joint Petitioners, marked to the attention of the presiding administrative law judge. The Confidential Material will be copied on light green paper and labeled "not for public access" pursuant to Trial Rule 5 (G). Joint Petitioners further request that the Commission proceed thereafter to conduct an *in camera* inspection of the Confidential Material and enter a final determination that the Confidential Material is exempt from public disclosure.

2. If, after hearing, the Commission determines that the information contained in the Confidential Material is confidential and a trade secret, that the Commission issue an order adopting the procedures requested herein to ensure that the information is appropriately secured and made available only to selected members of the Commission Staff who are under an obligation not to publicly disclose such information.

3. Grant other such further relief to Joint Petitioners that is appropriate in the premises.

**DUKE ENERGY INDIANA, INC.**

By: J. William DuMond  
Counsel

J. William DuMond, Attorney No. 4634-49  
Kelley A. Karn, Attorney No. 22417-49  
James R. Pope, Attorney No. 5786-32  
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**SOUTHERN INDIANA GAS AND  
ELECTRIC COMPANY D/B/A  
VECTREN ENERGY DELIVERY OF  
INDIANA, INC.**

By: Daniel W. McGill  
Counsel

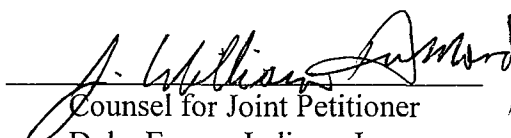
Robert E. Heidorn, Attorney No. 14264-49  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that copy of the foregoing Joint Motion For Protection of Confidential and Proprietary Information was delivered or mailed, postage prepaid, in the United States Mail, this 24<sup>th</sup> day of October, 2006, to:

Office of Utility Consumer Counselor  
Indiana Government Center North  
100 North Senate Avenue, Room N501  
Indianapolis, IN 46204-2208

  
Counsel for Joint Petitioner  
Duke Energy Indiana, Inc.

J. William DuMond, Attorney No. 4634-49  
Kelley A. Karn, Attorney No. 22417-49  
James R. Pope, Attorney No. 5786-32  
Melanie D. Price, Attorney No. 21746-49  
1000 East Main Street  
Plainfield, IN 46168  
(317) 838-1318 (telephone)  
(317) 838-1842 (facsimile)

**AFFIDAVIT  
OF  
DENNIS M. ZUPAN**

COMES NOW Dennis M. Zupan, being duly sworn, deposes and says:

1. My name is Dennis M. Zupan. I am employed as Senior Project Director by Duke Energy Shared Services, Inc. with responsibility for the development, planning and construction of the 630 MW integrated gas combined cycle ("IGCC") power plant project proposed to be constructed at Duke Energy Indiana, Inc.'s Edwardspport Generating Station (the "IGCC Project"). In that capacity I assisted in providing information that was utilized in the preparation of the 2005 Integrated Resource Plan ("IRP") of Duke Energy Indiana, Inc. ("Duke Energy Indiana"). In that capacity I have also served as the principal contact on behalf of Duke Energy Indiana with General Electric Company ("GE") and Bechtel Corporation ("Bechtel") with respect to two Technical Services Agreements entered into by Duke Energy Indiana with these companies the purpose of which was to retain their services to study the feasibility of the IGCC Project and subsequently to undertake a front end engineering design study ("FEED Study") of the IGCC Project. I am also the manager primarily responsible for negotiations with these companies for a turn key contract for supply and construction of the primary components/systems of the IGCC Project.

2. This Affidavit is being filed with the Indiana Utility Regulatory Commission ("IURC" or "Commission") in support of Joint Petitioners' Motion for Protection of Confidential Information pursuant to I.C. 8-1-2-29 and I.C. 5-14-3 filed herewith in Cause No. 43114. Joint Petitioners have filed a Joint Petition and Application in such proceeding requesting, among other matters, that the Commission

issue to each Petitioner a certificate of public convenience and necessity authorizing Joint Petitioners to construct and own the IGCC Project.

3. Much of the detailed information developed or otherwise acquired by GE and Bechtel with respect to IGCC technology and the IGCC Project is highly proprietary and confidential. Disclosure of such information to the public where it may find its way to their competitors that could appropriate such trade secrets without having spent the millions of dollars required for the development or acquisition of such information would cause serious commercial harm to GE and Bechtel. Because of the sensitivity of such proprietary information, GE and Bechtel have required Duke Energy Indiana and Vectren Energy Delivery of Indiana, Inc. ("Vectren") to execute a confidentiality agreement whereby Duke Energy Indiana is strictly required to maintain the confidentiality of information supplied by GE and Bechtel that is identified as confidential.

4. Some of the information utilized by Duke Energy Indiana in its 2005 IRP is confidential information supplied by GE and/or Bechtel and consistent with its confidentiality obligations, Duke Energy Indiana is requesting that such information not be made public by the Commission and that procedures be undertaken to protect its confidentiality. The inability of Duke Energy Indiana to protect the confidentiality of proprietary information provided to it by its suppliers would undermine the ability of Duke Energy Indiana and Vectren to effectively negotiate with and implement contracts with suppliers, to the detriment of Duke Energy Indiana and its customers. Without adequate procedures in place for the protection of confidential information, suppliers would choose not to share information with Duke Energy Indiana personnel.

5. In developing the 2005 IRP, we used certain cost estimates and spreadsheet programs developed internally by Duke Energy Indiana engineers. These estimates and programs provide actual or potential independent economic value for Duke Energy Indiana and its customers and should be treated as confidential. For example, if equipment vendors knew the estimates for new equipment developed by Duke Energy Indiana, such vendors would have an advantage in pricing such equipment, to the detriment of Duke Energy Indiana, and its customers.

6. Duke Energy Indiana also seeks confidential treatment of the Present Value Revenue Requirement ("PVRR") of the chosen plan in the IRP. This PVRR provides actual or potential independent economic value for Duke Energy Indiana and its customers and should be treated as confidential. If equipment vendors knew this PVRR, such equipment vendors would be able to discern the relative differences in cost between various equipment and technologies and be able to price their equipment or technology accordingly, to the detriment of Duke Energy Indiana, and its customers.

7. Duke Energy Indiana takes all reasonable steps in order to protect the Confidential Information, including, but not limited to, only sharing such information internally on a need to know basis, and not releasing such information outside of Duke Energy without appropriate confidentiality protection.

FURTHER AFFIANT SAITH NOT.

Dennis M. Zupan  
Dennis M. Zupan

STATE OF INDIANA )  
COUNTY OF Hendricks ) SS:

Subscribed and sworn to before me this 18<sup>th</sup> day of October 2006.

Diane M. Clack  
(Diane M. Clack ) Notary

Public

My Commission Expires:  
April 17, 2014

My County of Residence:  
Hendricks

**AFFIDAVIT  
OF  
DIANE L. JENNER**

COMES NOW Diane L. Jenner, being duly sworn, deposes and says:

1. My name is Diane L. Jenner. I am employed as Director, Integrated Resource Planning, by Duke Energy Shared Services, Inc. I was responsible for preparing the 2005 Integrated Resource Plan (“IRP”) of Duke Energy Indiana, Inc. (“Duke Energy Indiana”)
2. This Affidavit is being filed with the Indiana Utility Regulatory Commission (“IURC” or “Commission”) in support of Joint Petitioners’ Motion for Protection of Confidential Information pursuant to I.C. 8-1-2-29 and I.C. 5-14-3 filed herewith in Cause No. 43114. Joint Petitioners have filed a Joint Petition and Application in such proceeding requesting, among other matters, that the Commission issue to each Petitioner a certificate of public convenience and necessity authorizing Joint Petitioners to construct and own an integrated gas combined cycle (“IGCC”) power plant in Edwardsport, Indiana, on the site of Duke Energy Indiana’s existing power plant (“the IGCC Project”).
3. I am a witness with pre-filed testimony supporting the above referenced Joint Petition and Application. In that testimony I discuss the development of and information contained in Duke Energy Indiana’s 2005 IRP (the “2005 IRP”) of Duke Energy Indiana, including certain confidential and proprietary information and data from the IRP. Some of this data, as described below, is the confidential information of third parties who take reasonable steps to protect their confidential information, such as only releasing such information subject to confidentiality agreements. Some of the data is the confidential information of Duke Energy Indiana.

4. A part of the data for which Duke Energy Indiana seeks confidential treatment in the Petition is the load forecast dataset. In developing the 2005 IRP, we used the state-of-the-art STRATEGIST<sup>®</sup> model developed by NewEnergy Associates, L.L.C. (“NewEnergy”) which is subject to a Licensing Agreement with NewEnergy. This Licensing Agreement contains confidentiality provisions to protect NewEnergy’s proprietary format of the dataset.

5. In developing the 2005 IRP, we used forecasts of wholesale power market prices, SO<sub>2</sub> emission allowance prices, NO<sub>x</sub> emission allowance prices, mercury emission allowance prices, coal prices, gas prices, and oil prices developed by ICF Resources, Inc. We agreed with ICF Resources, Inc. to keep such information confidential.

6. In developing the 2005 IRP, we used certain data developed by an alliance of General Electric Company and Bechtel Corporation (“GE/Bechtel”) which GE/Bechtel considers to be confidential and proprietary. We agreed not to publish or make available to others such information without GE/Bechtel’s prior written consent.

7. In developing the 2005 IRP, we used certain data developed by the Electric Power Research Institute (“EPRI”) which EPRI considers to be confidential and proprietary. We agreed not to publish or make available to others such information without EPRI’s prior written consent.

8. In developing the 2005 IRP, we used data developed by Moody’s Economy.com (“Economy.com”) which Economy.com considers to be confidential and proprietary. We agreed not to publish or make available to others such information without Economy.com’s prior written consent.

9. In developing the 2005 IRP, we used certain data developed by Sargent & Lundy, LLC (“S&L”) which S&L considers to be confidential and proprietary. We agreed not to publish or make available to others such information without S&L’s consent.

10. In developing the 2005 IRP, we used certain cost estimates and spreadsheet programs developed internally by Duke Energy Indiana engineers. These estimates and programs provide actual or potential independent economic value for Duke Energy Indiana and its customers and should be treated as confidential. For example, if equipment vendors knew the estimates for new equipment developed by Duke Energy Indiana, such vendors would have an advantage in pricing such equipment, to the detriment of Duke Energy Indiana, and its customers.

11. In developing the 2005 IRP, we used certain unit-specific results from mercury emissions testing performed by Western Kentucky University (“WKU”). These WKU test results provide actual or potential independent economic value for Duke Energy Indiana and its customers and should be treated as confidential. For example, if equipment vendors or fuel suppliers knew the unit-specific test results, such vendors or fuel suppliers would have an advantage in pricing equipment or coal, to the detriment of Duke Energy Indiana, and its customers.

12. Duke Energy Indiana also seeks confidential treatment of the Present Value Revenue Requirement (“PVRR”) of the chosen plan in the IRP. This PVRR provides actual or potential independent economic value for Duke Energy Indiana and its customers and should be treated as confidential. If equipment vendors knew this PVRR, such equipment vendors would be able to discern the relative differences in cost between various equipment and technologies and be able to price their equipment or technology accordingly, to the detriment of Duke Energy Indiana, and its customers. In addition, Duke Energy Indiana seeks confidential treatment of the Present Value Revenue Requirement and pricing information related to the Benton County Wind Farm Project and any plan that includes the Benton County Wind Farm Project.

13. The other data for which Duke Energy Indiana seeks confidential treatment in the Verified Petition are unit cost and unit performance information contained in the STRATEGIST<sup>®</sup> input and output files (“Confidential Information”). This Confidential Information provides actual or potential independent economic value for Duke Energy Indiana and its customers and should be treated as confidential. If fuel suppliers knew Duke Energy Indiana’s forecasted fuel prices, by station, such fuel suppliers would have an advantage in negotiating future fuel prices, to the detriment of Duke Energy Indiana, and its customers. If emission allowance brokers or emissions equipment vendors knew Duke Energy Indiana’s forecasted emissions, by station, such brokers or vendors would have an advantage in negotiating future emission allowance or emissions control equipment sales, to the detriment of Duke Energy Indiana, and its customers. Furthermore, if competitors of Duke Energy Indiana knew of such forecasts, they would have an advantage in competing for new business against Duke Energy Indiana.

14. Duke Energy Indiana takes all reasonable steps in order to protect the Confidential Information, including, but not limited to, only sharing such information internally on a need to know basis, and not releasing such information outside of Duke Energy without appropriate confidentiality protection.

FURTHER AFFIANT SAITH NOT.

Diane L. Jenner  
Diane L. Jenner

STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF Hendricks )

Subscribed and sworn to before me this 18<sup>th</sup> day of October 2006.

Diane M. Clack  
(Diane M. Clack            ) Notary Public

My Commission Expires:  
April 17, 2014

My County of Residence:  
Hendricks

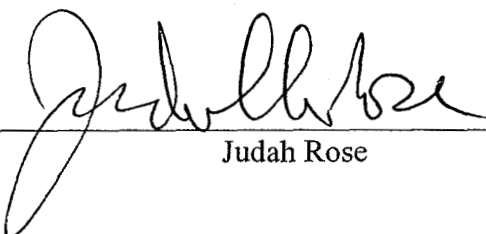
**AFFIDAVIT  
OF  
JUDAH ROSE**

COMES NOW Judah Rose, being duly sworn, and deposes and says:

1. My name is Judah Rose. I am a Managing Director of ICF International. My business address is 9300 Lee Highway, Fairfax, VA 22031. I direct ICF International's wholesale power practice, providing assistance to electric utilities, financial institutions, government regulators, power marketers, fuel companies, and independent power producers.
2. This Affidavit is being filed with the Indiana Utility Regulatory Commission ("TURC" or "Commission") in support of Joint Petitioners' Motion for Protection of Confidential Information in Cause No. 43114 seeking a determination that certain information Joint Petitioners wish to file as a part of their testimony and exhibits (and certain information that may be produced in discovery) is confidential pursuant to Indiana law.
3. Part of the data for which Duke Energy Indiana, Inc. seeks confidential treatment consists of data relating to ICF International's forecasts, primarily, of wholesale power, fuel, and emission allowance prices, as referenced in my prefiled testimony in Cause No. 43114 (the "Confidential Information").
4. ICF International regularly develops forecasts of wholesale power, fuel, and emission allowance prices and considers such forecasts (and underlying data) to be confidential and highly proprietary. The Confidential Information clearly has actual or potential independent economic value for ICF International and should be treated as confidential. If competitors of ICF International were able to obtain ICF International's forecasts (and underlying data), they would obtain an unfair competitive advantage, to the detriment of ICF International.

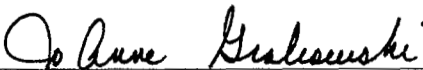
5. ICF International takes all reasonable steps in order to protect the Confidential Information, including, but not limited to, only sharing such information internally on a need to know basis, and not releasing such information externally without appropriate confidentiality protections.

FURTHER AFFIANT SAITH NOT.

  
\_\_\_\_\_  
Judah Rose

STATE OF VIRGINIA     )  
                                  ) SS: 228649665  
COUNTY OF Fairfax     )

Subscribed and sworn to before me this 11 day of October, 2006.

  
\_\_\_\_\_  
( Jo Anne Grabowski ) Notary Public

My Commission Expires:  
31 March 2009

My County of Residence:  
Fairfax