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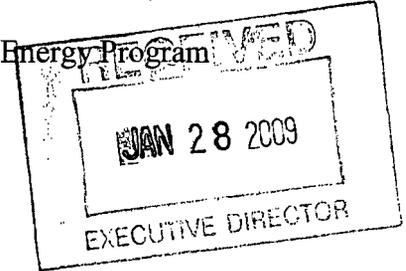


WADHAM ENERGY LP

MEMORANDUM

January 27, 2009

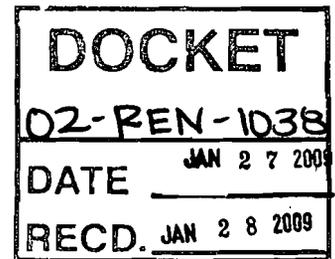
To: Executive Director, California Energy Commission - Renewable Energy Program
From: Alex Sugaoka
Re: Applications for Existing Renewable Facilities Program
Cc: Jason Orta, Tim St. Cyr



On December 12, 2008, Wadham submitted an application package for January – November of 2008. As requested by Jason Orta, Wadham revised the CEC-1250E-2 supplemental information and resubmitted the application package on January 6, 2009. A few days later, Wadham received notification that the Application for Confidential Designation was incomplete.

Please find the attached forms for the Existing Renewable Facilities Program:

- Revised Application for Confidential Designation
- CEC-1250E-2 for December 2008 with summary sheet
- PGE Invoice for December 2008



If you have any questions about the enclosed materials please contact Diana Tharp or myself at (925) 244-1100.

**Revised Application for
Confidential Designation**

APPLICATION FOR CONFIDENTIAL DESIGNATION

(Title 20 Cal. Code. Regs., § 2505 et seq.)

TO: ENERGY COMMISSION EXECUTIVE DIRECTOR, MS - 39 ENERGY COMMISSION
CONTRACT/DOCKET NO. (IF APPLICABLE):

APPLICANT: Wadham Energy Limited Partnership
ADDRESS: 6247 Myers Road, Williams, CA 95987

1(a). Title, date, and description (including number of pages) of the information or data for which you request confidential designation. **Information or data for which you are seeking a designation of confidentiality must be included with this application.**

Wadham Energy Limited Partnership’s (“Wadham Energy”) application is contingent on confidentiality being recognized, otherwise we understand that our application will be returned and not disclosed to the public.

Wadham Energy Limited Partnership invoices and supporting materials.

	Invoice	1250E-2 Support
June 2008	4 Pages	1 Page
July 2008	4 Pages	1 Page
August 2008	4 Pages	1 Page
September 2008	4 Pages	1 Page
October 2008	4 Pages	1 Page
November 2008	4 Pages	1 Page

1250E-2 Supplemental Information

All Supplier information to be provided in January 2009 on Form CEC-1250E-4. Wadham’s supply agreements also contain confidentiality provisions to be provided with submission of the CEC-1250E-4 form.

1(b). Specify the part(s) of the information or data for which for which you request confidential designation.

All invoices, time-of-use energy pricing, generation, fuel information and the supporting documents provided should not be disclosed because they contain trade secrets or disclosure would otherwise cause loss of a competitive advantage.

2. State and justify the length of time the Energy Commission should keep the information or data confidential.

Term of the agreements, which is 10 years for the PPA, plus 3 years because the amounts/data provided contain confidential market and operating information that would cause a loss of competitive advantage

3(a). State the provision(s) of the Public Records Act (Gov. Code, § 6250 et seq.) or other law that allows the Energy Commission to keep the information or data confidential, and explain why the provision(s) apply to that material.

Wadham Energy requests that the California Energy Commission (“CEC”) designate and maintain the above-identified information as confidential. Wadham Energy’s request is based the Public Records Act, Government Code § 6254.7, which exempts trade secrets from public disclosure and authorizes the CEC to maintain the designated information as confidential, specifying that:

(d) Except as otherwise provided in subdivision (e) and Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code, trade secrets are not public records under this section. "Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

Additionally, Section 6254(k) of the Public Records Act states that:

nothing in this chapter shall be construed to require disclosure of records that are any of the following: Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

The Evidence Code, Section 1060, protects trade secrets from disclosure. Trade secrets are defined by the Evidence Code as “information, including a formula, pattern, compilation, program, device, method, technique, or process, that: (1) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and (2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” *See* Civil Code § 3426.1(d).

The information Wadham Energy seeks to protect as confidential is sensitive business information, including Wadham Energy’s pricing information, fuel costs, and marginal operating costs. This information has value because it is not publicly available and not known to Wadham Energy’s competitors. Wadham Energy employs various methods to maintain the confidentiality of this information, as discussed further in Section 5 below. If this information were to be made available to the public, it would give competitors of Wadham Energy a business advantage over Wadham Energy in negotiations with suppliers and customers.

3(b). Discuss the public interest in nondisclosure of the material submitted for a confidential designation. If the material contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please state how it would be lost, the value of the information to the applicant and the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

The public interest would best be served by keeping the requested information confidential. Public disclosure of such sensitive pricing information would lead to a loss of competitive bidding in the energy market, ultimately resulting in higher energy prices for utilities such as Pacific Gas and Electric (“PG&E”) and, in turn, ratepayers. Additionally, the State of California has expressed that the development of renewable resources is in the public interest, *see* Pub. Util. Code § 399.15 *et seq.*, and the

disclosure of Wadham's competitive pricing information would chill the market for the development of renewable energy resources, thereby hampering the development of such resources.

Specifically, Wadham Energy operates in a narrow, limited market, and keeping such pricing information confidential is essential. Wadham Energy acquires rice hulls in a relatively illiquid market. It is understood that the rice hull market is around 400,000 tons on a year-to-year basis. It is not public knowledge as to from whom Wadham Energy generally purchases about 33 to 50% of all the rice hulls produced in a given year, or for how much. If that information were to become public, competitors could strategize and raise or lower pricing to Wadham Energy's economic disadvantage. If Wadham Energy's cost of power increases, Wadham Energy would need to curtail production, thus reducing the availability of cleaner renewable power and marginal power production generally priced lower for PG&E's ratepayers' benefit.

4. State whether the information or data can be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identity of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why.

If the data is aggregated with all other biomass fuels (e.g. wood), then that would be most likely be acceptable.

5. State how the material is kept confidential by the applicant and whether it has even been disclosed to a person other than an employee of the applicant. If it has, explain the circumstances under which disclosure occurred.

Wadham distributes and aggregates fuel data on a "need to know basis," and the information dissemination is limited. Disclosure is provided to investors and counsel as requested to understand Wadham's economic situation. Recipients of the information have agreed to keep such terms confidential. In addition, Wadham's power purchase and fuel supply agreements contain confidentiality clauses which specifically limit disclosure.

I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge and that I am authorized to make the application and certification on behalf of the applicant.

Dated: January 27, 2009

Signed: 
Name: Alex Sugaoka

Title: Vice President of the General Partnership
Representing: Wadham Energy Limited Partnership