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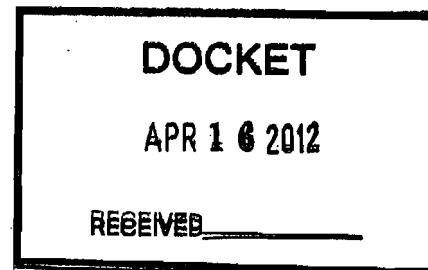
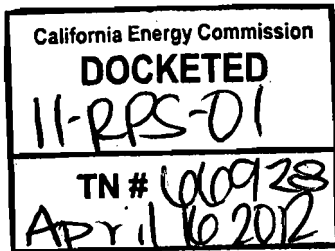
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April 16, 2012

Robert Oglesby  
Executive Director  
California Energy Commission  
1516 Ninth Street  
Sacramento, CA 95814



**Re: Calpine Corporation, on behalf of Pastoria Energy Facility, L.L.C. (RPS ID - 61064C), Los Medanos Energy Center, L.L.C. (RPS ID - 61048C), and Metcalf Energy Center, L.L.C. (RPS ID - 61923C), request for confidential designation of portions of responses to Form CEC-RPS-Bio, Certification Supplement-Biomethane.**

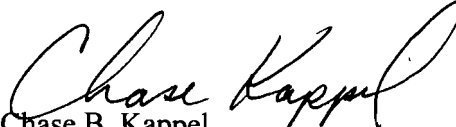
Dear Mr. Oglesby:

Pursuant to Title 20 California Code of Regulations Sections 2501 *et seq.*, Calpine Corporation, on behalf of the above identified facilities, hereby submits this "Application for Confidential Designation" for portions of its responses to Form CEC-RPS-Bio. Specifically, Form CEC-RPS-Bio seeks certain information associated with confidential terms and conditions of transaction contracts, which are protected from public disclosure by the Public Records Act. The confidential information associated with this application is being provided on 5 CDs.

There is no docket number associated with this request. The confidential information being submitted was requested by the Energy Commission in connection with the RPS eligibility certification of Pastoria Energy Facility, L.L.C. (RPS ID - 61064C), Los Medanos Energy Center, L.L.C. (RPS ID - 61048C), and Metcalf Energy Center, L.L.C. (RPS ID - 61923C).

Please feel free to contact me at (916) 447-2166 should you have any questions or require additional information. Thank you for your consideration of this request.

Sincerely,

  
Chase B. Kappel  
Ellison, Schneider & Harris L.L.P.

Attorneys for Calpine Corporation

**APPLICATION FOR CONFIDENTIAL DESIGNATION  
Form CEC-RPS-Bio: Certification Supplement – Biomethane  
California Renewables Portfolio Standard Program**

**Pastoria Energy Facility, L.L.C. (RPS ID - 61064C),  
Los Medanos Energy Center, L.L.C. (RPS ID - 61048C), and  
Metcalf Energy Center, L.L.C. (RPS ID – 61923C)**

Pursuant to Title 20, California Code of Regulations § 2505, and as permitted by the Overall Program Guidebook (Third Edition, 2011),<sup>1</sup> Calpine Corporation (“Calpine”), on behalf of the above identified facilities, hereinafter “the Applicants,” hereby requests confidential designation of certain information requested in Form CEC-RPS-Bio, “Certification Supplement – Biomethane California Renewables Portfolio Standard Program.” Form CEC-RPS-Bio was distributed to the Applicants on April 6, 2012 and responses are requested by April 16, 2012.

1. *Specifically indicate those parts of the record which should be kept confidential.*

Calpine requests confidential treatment of the information provided in the attachment hereto, which is responsive to the following sections of Form CEC-RPS-Bio: Section III, Section V, and the Supplemental Information attachment to Form CEC-RPS-Bio for the Pastoria Energy Facility, L.L.C. (RPS ID - 61064C), Los Medanos Energy Center, L.L.C. (RPS ID - 61048C), and Metcalf Energy Center, L.L.C. (RPS ID – 61923C)

2. *State the length of time the record should be kept confidential, and provide justification for the length of time.*

Consistent with applicable law, this information should be held confidential indefinitely in order to protect the proprietary and confidential information identified therein as confidential trade secrets, as described below. The disclosure of this information is also inconsistent with the confidential provisions of the biogas transaction agreements.

3. *Cite and discuss (i) the provisions of the Public Records Act or other law which allow the commission to keep the record confidential and (ii) the public interest in nondisclosure of the record.*

Under the Public Records Act “trade secrets” are not public records. (Govt. Code §

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<sup>1</sup> *Final Committee Draft, Renewable Energy Program: Overall Program Guidebook Third Edition.* California Energy Commission, Efficiency and Renewable Energy Division, Publication number: CEC-300-2010-008-CMF, p. 11; see also *Committee Draft, Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition.* California Energy Commission, Efficiency and Renewable Energy Division, Publication number: CEC-300-2010-007-CMF, p. 44.

6254.7(d.) "Trade secret" includes, but is 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." (*Ibid.*)

The California Civil Code Section 3426.1(d) defines a "trade secret" as follows:

- (d) "Trade secret" means 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.

The descriptions and excerpts of the terms and conditions of the biogas transaction agreements provided in response to Form CEC-RPS-Bio contain confidential information which is protected from disclosure by a confidentiality provision, and considered by the parties to be trade secret because it is information that is the result of confidential negotiations of commercial trades and services and disclosure would provide a competitive advantage to its competitors who do not know or use it.

4. *State whether the information may be disclosed if it is aggregated with other information or masked to conceal certain portions, and if so the degree of aggregation or masking required.*

If quantitative data is aggregated with all data gathered from other RPS certification applicants served with CEC-RPS-Bio, then Calpine believes that the aggregated information regarding quantities of biomethane delivered or contracted for may be disclosed. This information is responsive to questions in Sections III and V of Form CEC-RPS-Bio, and is provided in the attached.

5. *State whether and how the information is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant, and if so under what circumstances.*

The biogas transaction agreements are subject to confidentiality clauses protecting the terms and conditions of the agreements. The contents of the agreements are known only

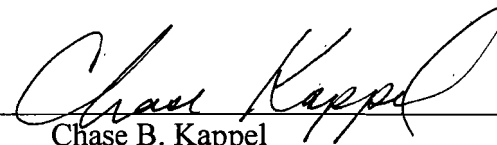
to Calpine and the counterparties, and Calpine has not disclosed any of the subject information to anyone other than its employees and attorneys.

*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 belief. I am authorized to make the Application and Certification on behalf of Calpine and Applicants.*

Dated: April 16, 2012

ELLISON, SCHNEIDER & HARRIS L.L.P.

By:



Chase B. Kappel

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