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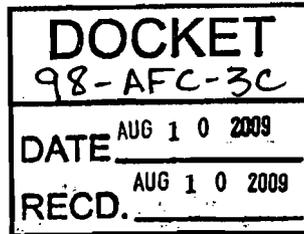
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COMPLETED

August 10, 2009



Melissa Jones  
Executive Director  
California Energy Commission  
1516 Ninth Street  
Sacramento, CA 95814

RE: Delta Energy Center – 98-AFC-03C  
Application for Confidential Designation: Output and Heat Rate

Dear Ms. Jones:

Pursuant to Title 20 California Code of Regulations (CCR) Sections 2501 *et seq.*, Delta Energy Center, LLC (the “Applicant”) hereby submits this “Application for Confidential Designation” for the Delta Energy Center.

I am submitting the Application and confidential material directly to you without docketing at the Docket Unit. Enclosed are twelve copies plus an original of this request and five copies of the confidential information it concerns. 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 our request.

Sincerely,

  
Gregory L. Wheatland  
Attorneys for the Applicant

enc.

# APPLICATION FOR CONFIDENTIAL DESIGNATION

Delta Energy Center 99-AFC-03C  
Delta Energy Center, LLC (the "Applicant")

## Output and Heat Rate

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

The information that should be kept confidential is the output and heat rate data for the Delta Energy Center, as set forth in the attached document.

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

This technical data must remain confidential for the operating life of the power plant (approximately 30 years). This information states the power plant's operating efficiencies and enables "back calculation" of trade secret project designs, and as such is itself a trade secret.

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.*

The Public Records Act exempts "trade secrets" from public disclosure, including "any formula, plan, ... production data, or compilation of information ..., 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 ... and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it." (Govt. Code § 6254.7(d).)

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 Commission's regulations provide for information to be designated as confidential if it "contains a trade secret or its disclosure would otherwise cause a loss of a competitive advantage." (20 CCR § 2505(a)(1)(D)).

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.*

The Applicant considered whether it would be possible to aggregate or mask the information. However, no feasible method of aggregating or masking the information could be identified that would not either disclose the information or render the information provided useless.

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.*

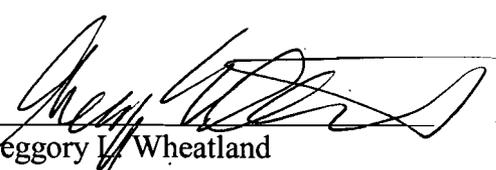
Except as set forth in this email addressed to CEC Compliance Staff (attached), Applicant has not disclosed any of the subject information to anyone other than its employees, attorneys and consultants working on the project. Moreover, this information has not been disclosed to persons employed by, or working for, Applicant except on a confidential, "need-to-know" basis.

*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 Applicant.*

Dated: August 10, 2009

ELLISON, SCHNEIDER & HARRIS L.L.P.

By: \_\_\_\_\_

  
Gregory J. Wheatland  
Ellison, Schneider & Harris L.L.P.  
Attorneys for Applicant