

DOCKETED

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Project Title:	Electricity Resource Plans
TN #:	239768
Document Title:	Pilot Power Group, LLC's Application for Confidential Designation
Description:	PPG CEC 21 IEPR 2021 Resource Plan Confidentiality Application
Filer:	Andy Anderson
Organization:	Pilot Power Group, LLC
Submitter Role:	Applicant Representative
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6333 Greenwich Drive, Suite 230
San Diego, CA 92122

September 17, 2021

Drew Bohan, Executive Director
California Energy Commission
1516 Ninth Street, MS-39
Sacramento, CA 95814-5504

Re: Docket No. 21-IEPR-02 2021 Integrated Energy Policy Report – Electricity Resource Plans

Dear Mr. Bohan:

Pilot Power Group, LLC, hereby submits the attached Application For Confidential Designation pursuant to Section 25322 of the Public Resources Code and Section 2505(a) of Title 20 of the California Code of Regulations, to protect certain data and information provided to the Commission in the Electricity Resource Planning Forms.

Please accept Pilot Power Group's enclosed filings in connection with the 2021 Integrated Energy Policy Report. In addition to its Application for Confidential Designation, also attached hereto please find the spreadsheet template with the following confidential information highlighted in yellow:

1. Form S-1;
2. Form S-2; and
3. Forms S-5

If you have any questions regarding the foregoing, or any of the information in the attachments, please feel free to call me at 858-678-0118.

Sincerely,

/S/

Andy Anderson
Director Regulatory

**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION**

In the matter of:)
)
Preparation of the 2021 Integrated Energy) Docket No. 21-IEPR-02
Policy Report (IEPR)) Pilot Power Group, LLC Electricity Resource Plan
_____)

**APPLICATION OF PILOT POWER GROUP, LLC
FOR CONFIDENTIAL DESIGNATION**

TO: ENERGY COMMISSION EXECUTIVE DIRECTOR, Drew Bohan, MS-39

APPLICANT: PILOT POWER GROUP, LLC

ADDRESS: 6333 Greenwich Drive, Suite 230, San Diego, CA 92122

Pursuant to Section 25322 of the Public Resources Code (“PRC”) and Section 2505(a) of Title 20 of the California Code of Regulations (“CCR”), Pilot Power Group, LLC (“Applicant”) hereby requests that the Commission designate as confidential the information contained in the Electricity Resource Planning forms submitted under seal with this Application.

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

A. Form S-1 – Capacity Procurement Requirement Table. Applicant has submitted a Form S-1 containing all information requested on a statewide basis. The submitted Form S-1 covers the period from 2019 through 2030. Confidential designation is requested for the following information:

- i. Peak LSE Load Calculations – lines 1-11
 - (a) Notes pertaining to line 1
 - a. Cells B53 and B55
- ii. Energy Demand Calculations – lines 12-18
 - (a) Notes pertaining to line 12
 - a. Cells B54 and B55
- iii. Historic LSE Peak Load – lines 19-25

B. Form S-2 – Capacity Supply Resources Table. Applicant has submitted a Form S-2 containing all information requested on a statewide basis. The submitted Form S-2 covers the period from 2019 through 2030. Confidential designation is requested for the following information:

- i. Energy Demand Calculations – lines 6a-8
- ii. Capacity/Energy Balance Summary – lines 9-14

- C. Form S-5 – Bilateral Contracts. Form S-5 contain detailed information about Applicant’s bilateral contracts that it has executed with suppliers of capacity and/or energy. The sensitive contract information contained in Form S-5 includes supplier name, term of contract, amount of capacity and/or energy, product, availability, identity of unit(s), delivery point, and other material terms and conditions. Applicant has provided information in Form S-5 for each bilateral contract that specified a supply of capacity and/or energy of three or more months.

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

Because (1) the information is not otherwise publicly available or readily discoverable in the form or detail provided, (2) the information is market sensitive and constitutes trade secrets in terms of supply portfolio development and risk management, and (3) the release of this information will result in loss of competitive advantage in the wholesale and retail marketplaces relative to Applicant’s ability to negotiate future contracts for the purchase or resale of energy and/or capacity at wholesale, or negotiation of contracts with retail customers, Applicant asks that the identified data be held in confidence for a period of at least three (3) years from the time of production to the Commission. This requested period of time is appropriate as the detailed data is expected to retain validity and market value over that period insofar as it can be used with other data to disclose Applicant’s market strategies, risk management efforts, and/or expectations of future market activities, and because any lesser period would undermine existing protection of the same or substantially similar data by other entities, including the California Public Utilities Commission (“CPUC”) and the California Independent System Operator (“CAISO”). Applicant has also fashioned this request to reflect the scope of confidentiality protection afforded energy service provider data in CPUC Decision 06-06-066, Appendix B (“ESP Matrix”) as modified by Decision 08-04-023. Public release of the specified information, particularly to competitors and/or existing and potential customers, would result in a loss of competitive advantage for Applicant in the wholesale and retail markets, and could result in a loss of the ability to secure a favorable margin or return.

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.**

Applicant is submitting the information and data sets described above in accordance with the Forms and Instructions adopted by the Commission in March, 2021.

Under Public Resources Code Section 25322, the Commission is required to grant a request for confidential designation of information collected pursuant to Pub. Res. Codes Section 25301(a) if:

- a. the information is exempt from disclosure under the California Public Records Act (Govt. Code Sections 6250 et seq.);
- b. the information meets the confidentiality requirements set forth in the Commission’s regulations; or
- c. on the facts of the particular case, the public interest served by not disclosing the information outweighs the public interest served by disclosure.

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 Section 6254.7(d)).

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 Section 2505(a)(1)(D)).

The information identified above for which Applicant requests confidential designation, and any supporting data submitted by Applicant, contains trade secrets or otherwise commercially sensitive data the disclosure of which would cause loss of a competitive advantage. As an ESP operating in the highly competitive and dynamic retail energy markets, as well as a net purchase in the highly competitive wholesale markets, Applicant closely holds information on its retail and wholesale market positions in confidence. The materials identified above should be subject to a three-year confidentiality protection because the information is commercially sensitive and not publicly available and/or constitutes trade secrets the public disclosure of which would harm Applicant. Moreover, this information clearly identifies and/or can be used to identify and determine Applicant’s market position and business plans to the detriment of Applicant and its customers. Accordingly, Applicant requests that all of the information and data sets contained in those documents more specifically described in section 1 above, and any related, supporting data that may be provided pursuant to a subsequent Staff request, be designated as confidential.

Applicant believes that the public interest in having an open, public debate on key energy issues facing the state can be satisfied by disclosure of information submitted by Applicant and the other ESPs collectively aggregated on a state-wide basis. Any greater granularity in the data released, including disclosure of any Applicant-specific data this is not aggregated with other ESPs, could expose Applicant’s market position to its competitors, including other ESPs and the investor-owned utilities (“IOUs”).

Applicant further requests that the identified information also be deemed confidential for the following reasons: The information is commercially sensitive and constitutes a trade secret and is therefore exempt from disclosure. Evidence Code Section 1060; Civil Code Section 3426.1(d). The public interest in nondisclosure clearly outweighs the public interest in disclosure insofar as release of this economic information may directly harm (1) Applicant’s existing and future commercial opportunities, (2) Applicant’s ability to secure a return in the marketplace, and (3) Applicant’s customers (by foreclosing or harming favorable commercial opportunities). See Gov’t Code Section 6255. Moreover, the public interest in non-disclosure and the public interest in disclosure can both be fully satisfied by disclosure of Applicant’s data and information only as part of an aggregation of the data and information of other ESPs.

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.**

Applicant has considered whether it would be possible to aggregate or mask the identified information. Applicant can support the aggregation of Applicant-specific information with similar

information from all other ESPs and solely disclosed on a statewide aggregated basis. Applicant believes that disclosure of Applicant-specific data of the types collected here, even if aggregated on a statewide basis but specific to Applicant, would lead to the disclosure of Applicant's wholesale and retail market positions, thereby harming Applicant and its ability to remain competitive. Given the intense competition between ESPs, and between ESPs and the IOUs, Applicant contends that any ESP-specific listing of data by utility territory would result in disclosure of trade secrets, commercially sensitive data, and confidential data.

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

Applicant has not previously disclosed any of the subject information to anyone other than its employees or consultant's in Applicant's employ, except for disclosures made to government agency employees such as the CEC, the CPUC, and/or the CAISO subject to confidentiality protection. Applicant routinely keeps information of significant commercial value like the subject information in strictest confidence. All officers, employees and consultants of Applicant are required to maintain the confidentiality of Applicant's market sensitive data, however acquired, except when disclosure is required by law.

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, Pilot Power Group, LLC.

Dated: September 17, 2021

By: /S/
Andy Anderson
Director Regulatory
Pilot Power Group, LLC