

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov



April 15, 2009

Mr. Stephen J. Sciortino
City of Anaheim, Public Utilities Department
201 S. Anaheim Boulevard, Suite 802
Anaheim, CA 92805

DOCKET**09-IEP-1B**DATE APR 15 2009RECD. APR 15 2009

RE: **Application for Confidentiality—City of Anaheim**
Docket No. 09-IEP-1B

Dear Mr. Sciortino:

On February 12, 2009, the City of Anaheim, Public Utilities Department (Anaheim) submitted an Application for Confidential Designation in the above-captioned Docket, received at the California Energy Commission on February 13, 2009. The application was deemed to be deficient on February 18, 2009. On April 9, 2009, the City of Anaheim submitted supplemental information to complete the application. This application seeks confidentiality for certain information contained in Anaheim's Electricity Resource Plan filing submitted in connection with the *2009 Integrated Energy Policy Report*. Anaheim is seeking to protect from public disclosure data and information on four S-5 supply forms related to bilateral contracts with the following three counterparties:

- PPM Energy, Inc.
- OrHeber2
- Thermo No. 1, LLC.

In support of its request for confidentiality, the Application from Anaheim states, in part:

All of the data listed on Form S-5, Tab "S-5 Confide.Bilateral Contracts" for the above listed contracts is deemed confidential per our terms and agreements with the counter-party...

The contracts included in this request allow for the delivery of renewable energy and renewable energy attributes. Disclosure of the requested information without a request for confidentiality may place Anaheim in violation of the terms and conditions of its agreements and potentially jeopardize its renewable energy goals. (Application at p. 1.)

Anaheim requests that the Energy Commission keep this information confidential for two years after the expiration dates of the contracts:

PPM Energy Inc.'s contracts expire on June 30, 2023 and June 30, 2026. OrHeber2, Inc's contract expires on December 31, 2031. Thermo No. 1 LLC's contract expires on March 1, 2029. (Application at p.1.)

A properly filed application for confidentiality shall be granted under the California Code of Regulations, Title 20, section 2505(a)(3)(A), "if the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the Energy Commission to keep the record confidential. "

Anaheim's confidentiality application makes a reasonable claim to grant confidentiality for the described S-5 forms in their entirety. The information contained on these forms constitutes a trade secret, and could place Anaheim at a competitive disadvantage if disclosure led to early termination of these contracts by the counterparty.

On March 1, 2007, Anaheim provided S-5 supply forms on three of these same four contracts in a filing related to the 2007 IEPR. On March 19, 2007, then-Executive Director B. B. Blevins granted Anaheim's request to designate as confidential all three S-5 forms. Two contracts were with PPM Energy (now Iberdrola Renewables); the third contract is with OrHeber2 Inc. The grant of confidentiality was for the full term of each contract to their expiration dates in 2023, 2026, and 2031. The information contained on S-5 forms submitted in 2009 is substantially similar and, in most ways, identical to the information contained on S-5 forms submitted in 2007.

Therefore, confidential bilateral contract information contained on the above-referenced S-5 forms produced by Anaheim on February 12, 2009 will be kept confidential until the expiration date of each contract in 2023, 2026, 2029, and 2031, not for a period of two years after the expiration of the contracts.

The Energy Commission may use the information submitted by Anaheim in publicly available reports and presentations, but without disclosing confidential information to market participants. To prevent disclosure, confidential data that may be used in reports and presentations will be aggregated with resource plan information from other load-serving entities in order to conceal the confidential specifics of Anaheim's confidential supply contracts.

Persons may petition to inspect or copy the records that I have designated as confidential. The procedures and criteria for filing, reviewing, and acting upon such petitions are set forth in the California Code of Regulations, title 20, section 2506. Finally, an appeal of this decision must be filed within fourteen days from the date of this

Mr. Stephen Sciortino
April 15, 2009
Page 3

decision. The procedures and criteria for appealing any part of this decision are set forth in the California Code of Regulations, title 20, section 2505. If you have any questions concerning this matter, please contact Kerry Willis, Senior Staff Counsel, at (916) 654-3967.

Sincerely,

A handwritten signature in black ink, appearing to read "Melissa Jones", with a large, stylized circular flourish at the end.

MELISSA JONES
Executive Director

cc: Docket Office
Jim Woodward, Electricity Analysis Office