

DOCKETED

Docket Number:	23-PSDP-01
Project Title:	Power Source Disclosure Program - 2022
TN #:	250460
Document Title:	Application for Confidential Designation of 2022 PSDP Report
Description:	N/A
Filer:	Bryan White
Organization:	Calpine Energy Solutions, LLC
Submitter Role:	Applicant
Submission Date:	6/1/2023 3:08:41 PM
Docketed Date:	6/1/2023

**APPLICATION FOR CONFIDENTIAL DESIGNATION
Calpine Energy Solutions, LLC (“Calpine Solutions”)
Power Source Disclosure Annual Report (Year 2022)**

Attachment 1(b)

Calpine Solutions requests that the following information remain confidential:

Information to be held confidential:

PSDP Schedule 1

- Unspecified Power purchase data in cell N9, and
- Total Retail Sales information in cell N7.

PSDP Schedule 3

- Total and Renewable Specific Purchases: Percent of Total Retail Sales in cells C13:C18, C20, C23:C24;
- Unspecified Power in cell B24
- Total Retail Sales in cells B25 and C27

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Attachment 2

Calpine Solutions requests that the identified information be kept confidential until December 31, 2024. This specific term is requested to align the protection of data provided by the California Energy Commission (“CEC”) with the protection of data provided by the California Public Utility Commission’s (“CPUC”) confidentiality program.

Calpine Solutions’ power source information should be kept confidential because: (1) the specificity of this information is not otherwise publicly available or readily discoverable; (2) a summary of Calpine Solutions’ very recent wholesale and retail activities is market sensitive and constitutes trade secrets; and (3) releasing Calpine Solutions’ confidential commercial information would result in loss of competitive advantage in the wholesale and retail marketplaces relative to Calpine Solutions’ ability to negotiate future contracts for the purchase or resale of energy and/or capacity at wholesale, or negotiation of contracts with retail customers.

Maintaining the confidentiality of data until December 31, 2024 is appropriate because the data is expected to retain validity and market value through that period, and because any lesser period would undermine existing protection of the same or substantially similar data by other regulators or market entities, including the CPUC, the California Air Resources Board and the California Independent System Operator (“CAISO”). Calpine Solutions has also fashioned this request to reflect the scope of protection provided to energy service provider (“ESP”) data in CPUC Decision (“D.”) 06-06-066, Appendix 2 (“ESP Matrix”) and related modifications made in D.08-04-023, in an effort to have consistency across California energy agencies.¹

¹While Calpine Solutions understands and acknowledges that the confidentiality rules granted by the CPUC and the CEC are different in some respects, Calpine Solutions seeks to maintain consistency in the data it makes publically available. Consistency also prevents Calpine Solutions from inadvertent disclosures of confidential information.

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Attachment 3(a)

The California 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.”² Under the California Evidence Code, information that is commercially sensitive is also considered a “trade secret.”³ CEC regulations provide for information to be designated as confidential if such information “contains a trade secret or its disclosure would otherwise cause a loss of a competitive advantage.”⁴

The information identified in Attachment 1(b) contains trade secrets or otherwise commercially sensitive data. Disclosing these trade secrets and commercially sensitive data would cause Calpine Solutions loss of a competitive advantage. Calpine Solutions operates in the competitive and dynamic retail electricity markets and is a net purchaser in the competitive wholesale markets. To protect its commercial advantages over other ESPs and investor-owned utilities (“IOUs”), Calpine Solutions has taken reasonable steps to preserve information on its retail and wholesale market positions in strict confidence. The data identified in Attachment 1(b) should be protected for the requested period because the information is commercially sensitive, not publicly available, and is otherwise unknown to those outside of Calpine Solutions. The public interest in nondisclosure clearly outweighs the public interest in disclosure insofar as the release of Calpine Solutions’ commercial data could be used to directly or indirectly determine Calpine Solutions’ market position and procurement strategy to the detriment of Calpine Solutions and its customers.⁵

Accordingly, Calpine Solutions requests that all of the information described in Attachment 1(b), and any related, supporting data that may be provided pursuant to a subsequent CEC request, be designated as confidential.

²Cal. Gov. Code § 6254.7(d).

³Cal. Evid. Code § 1060; Cal. Civ. Code § 3426.1(d).

⁴Tit. 20, Cal. Code Regs., § 2505(a)(1)(D).

⁵See Cal. Gov. Code § 6255(a) (establishing balancing test).

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Attachment 3(b)

Calpine Solutions would be harmed by public disclosure of the information identified in Attachment 1(b) because the information reflects Calpine Solutions' historical retail sales for the year 2022. If disclosed, this information could be used to directly or indirectly determine Calpine Solutions' market position to the detriment of Calpine Solutions and its customers. Competitors could be able to ascertain Calpine Solutions' Renewables Portfolio Standards obligations and make Calpine Solutions' power procurement and compliance obligations more expensive, which could increase costs for Calpine Solutions and its customers.

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Attachment 4

Calpine Solutions has considered whether it would be possible to aggregate or mask the information identified in Attachment 1(b), and has concluded that it could support the aggregation of Calpine Solutions-specific information with similar information from all other Electric Service Providers (“ESPs”) and solely disclosed on a statewide aggregated basis. Calpine Solutions believes that disclosure of Calpine Solutions-specific data of the types collected here, even if aggregated on a statewide basis but specific to Calpine Solutions, could lead to the disclosure of Calpine Solutions’ wholesale and retail market positions and thereby result in harm to Calpine Solutions.

Given the degree of competition between ESPs, Calpine Solutions asserts that any ESP-specific listing of data by utility territory would result in disclosure of confidential data.

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Attachment 5

Calpine Solutions has not disclosed any of the information identified in Attachment 1(b) to anyone other than its employees, attorneys and consultants working with Calpine Solutions, or government agency or CAISO employees subject to confidentiality responsibilities. Calpine Solutions routinely keeps information of commercial value, like the subject information identified herein, confidential. In fact, all Calpine Solutions employees, officers and directors are required to maintain the confidentiality of information entrusted to them by Calpine Solutions or its customers, suppliers, business partners or others in the course of conducting business with the Company, except when disclosure is authorized or legally mandated.