

DOCKETED

Docket Number:	00-SB-1305
Project Title:	Rulemaking Proceeding for SB-1305 - Proposed Amendment of Regulations Governing Electricity Generation Source Disclosure
TN #:	211701
Document Title:	Calpine PowerAmerica-CA, LLC's Application for Confidential Designation
Description:	Confidential Cells O10, Q10, P24 and P28 in PSDP Schedule 1 tab of and D14-D25 in 2 tab and C27-D27, C29-D29 and C31 in PSDP Schedule 2 tab of PSDP Report.
Filer:	Patty Paul
Organization:	Calpine Power-America-CA, LLC
Submitter Role:	Applicant
Submission Date:	6/2/2016 9:37:11 AM
Docketed Date:	6/2/2016

May 31, 2016

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



Subject: Application of Calpine PowerAmerica-CA, LLC for Confidential Designation of Information Contained in the Annual Report to the California Energy Commission: Power Source Disclosure Program for Year Ending 12/31/2015

Dear Mr. Oglesby,

Calpine PowerAmerica – CA, LLC (“CPA”) requests that certain information included as part of its completed Proposed Annual Report to the California Energy Commission: Power Source Disclosure Program (“PSDP Report”) be designated confidential pursuant to Title 20 Cal. Code. Regs., § 2505 et seq.

In support of its application for confidentiality designation, CPA provides the following information:

Contact Information

Applicant: Calpine PowerAmerica-CA, LLC
Address: 717 Texas Avenue
Houston, TX 77002

All correspondence regarding this filing should be sent by letter and transmitted via facsimile or electronically to the attention of:

Jason Armenta
Director
Calpine Corporation
717 Texas Avenue Suite 1000
Houston, Texas 77002
Tel: 713-830-8362
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VP & Assistant General Counsel
Calpine Corporation
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Dublin, CA 94568
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Description of Confidential Information

CPA seeks confidential treatment of certain designated portions of its Report that have been redacted in the public version of the PSDP Report. The confidential portions of the Report relate to CPA’s total retail sales.

Specific Indication of Those Parts of the Record to Be Kept Confidential

CPA requests confidential treatment of cells O10, Q10, P24 and P28 in the PSDP Schedule 1 tab of the PSDP Report. This information has been redacted in the public version of the PSDP Report.

CPA requests confidential treatment of cells D14 – D25 in the PSDP Schedule 2 tab of the PSDP Report. This information has been redacted in the public version of the PSDP Report.

CPA requests confidential treatment of cells C27 - D27, C29 - D29 and C31 in the PSDP Schedule 2 tab of the PSDP Report. This information has been redacted in the public version of the PSDP Report.

Length of Time the Information Should Be Kept Confidential

CPA requests that the information regarding CPA's total retail sales be kept confidential, and not publicly disclosed, for a period of one year. Protecting this information from public disclosure for one year is consistent with the confidentiality protection given to this type of information by the California Public Utilities Commission ("CPUC").¹

Provisions of Law Allowing the Commission to Keep the Documentation Confidential

The designated information is market sensitive information that constitutes a trade secret under California law. A trade secret is "information . . . 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."² To determine whether certain information is a trade secret, one must evaluate whether the matter sought to be protected is information (1) which is valuable because it is unknown to others, and (2) which the owner has attempted to keep secret.³ If it is not protected from disclosure, information which can be used to calculate CPA's total retail sales would allow sellers of power to know how much capacity CPA needs. Sellers of power could then use this information to "manipulate the market," resulting in CPA and its retail customers paying more for power.⁴ For these reasons, CPA has taken steps to maintain the secrecy of this information.

In addition, Government Code section 6254.15 exempts corporate proprietary information, including trade secrets, from disclosure under the California Public Records Act ("PRA").

Government Code section 6255 also permits public agencies to withhold any public record where "the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." These provisions govern the CEC's treatment of the designated information in relation to a PRA request. As discussed above, the disclosure of information which can be used to calculate CPA's total retail sales could lead to increased costs

¹ See CPUC Decision 06-06-066, as modified by Decision 08-04-023.

² Civ. Code § 3426.1(d).

³ Whyte v. Schlage Lock Co. (2002) 101 Cal.App.4th 1443, 1454.

⁴ See CPUC Decision 08-04-023, mimeo at 13-14.

to CPA and its customers. This potential harm is not outweighed by any potential public interest in the information being disclosed.

CPA is providing the confidential, unredacted, version of the Report in a sealed envelope. CPA requests that the sealed envelope only be opened if the Executive Director determines the designated information will be designated confidential. If the Executive Director determines the designated information should not be protected from public disclosure, CPA requests that the sealed envelope be returned unopened.

Aggregation and Masking of Confidential Information

The total retail sales information which CPA seeks to protect from disclosure has been redacted as minimally as possible in the "public" version of the Report. This information, however, may be disclosed if it is aggregated with the total retail sales of all other Energy Service Providers or Load Serving Entities, and steps are taken to ensure CPA specific retail sales information cannot be ascertained from the aggregated information.

The Submitted Information is Presently Confidential

CPA does not publicly disclose its total retail sales and related information which can be used to calculate CPA's total retail sales. This type of information is periodically provided to the CPUC and is protected from public disclosure by the CPUC.

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.

Dated: May 31, 2016

Calpine PowerAmerica-CA, LLC

A handwritten signature in blue ink that reads "Jason Armenta".

Jason Armenta
Director

Attachments

ANNUAL REPORT TO THE CALIFORNIA ENERGY COMMISSION:
Power Source Disclosure Program
June 2016

for the year ending December 31, 2015

ATTESTATION FORM

Applicable to: All participants in the Power Source Disclosure Program

I, Jason Armenta, Director Power Trading, declare under penalty of perjury, that the statements contained in Schedules 1 & 2 are true and correct and that I, as an authorized agent of Calpine PowerAmerica - CA, LLC, have authority to submit this report on the company's behalf. I further declare that the kilowatt-hours claimed as specific purchases as shown in these Schedules were, to the best of my knowledge, sold once and only once to retail consumers.

Signed: _____

Jason Armenta

Dated: _____

5/31/16

CONTACT INFORMATION

Name

Jason Armenta

Title

Director Power Trading

Company Name

Calpine PowerAmerica - CA, LLC

Address

717 Texas Ave, # 1000

City, State, Zip

Houston, TX 77002

Phone

713 830 8362

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E-mail

jason.armenta@calpine.com

**PROPOSED ANNUAL REPORT TO THE
CALIFORNIA
ENERGY COMMISSION:
Power Source Disclosure Program
For Year ending: 12/31/2015**

GENERAL INSTRUCTIONS

Company Name
Calpine PowerAmerica - CA, LLC - 1362

Fill out the schedules that apply to your company's filing requirements.
Please print, sign the attestation, scan and e-mail or mail the attestation to
the address shown below.

California Energy Commission
1516 9th St. MS-45
Sacramento, CA 95814
e-mail: <kevin.chou@energy.ca.gov>

If you have questions, contact Kevin Chou at (916) 653-1628 or
<kevin.chou@energy.ca.gov>.

NOTE: Information submitted in this report is not
automatically held confidential. If your company wishes the
information you submit to be held in confidence, it will be
necessary to submit an application for confidentiality.

ANNUAL REPORT TO THE CALIFORNIA ENERGY COMMISSION: Power
June 2016
for the year ending December 31, 2015
SCHEDULE 2: ANNUAL POWER CONTENT LABEL CALCULATION
Applicable to: Load Serving Entities

INSTRUCTIONS: Total specific purchases (by fuel type) and enter these numbers in the first column. Null power purchases should be included with Unspecified Power. REC only purchases should be included as part of the fuel type they represent. The remainder of this schedule will be automatically populated with net generic purchase and total retail sales information from Schedule 1. Any difference between total net purchases and total retail sales will be applied pro-rata to each non-renewable fuel type. The pro-rata calculations will then be divided by total retail sales to calculate fuel mix percentages.

	Net Purchases (kWh)	Percent of Total Retail Sales (kWh)
Specific Purchases		
Renewable	126,196	
Biomass & Biowaste	1,286	
Geothermal	-	
Eligible hydroelectric	-	
Solar	-	
Wind	124,910	
Coal	-	
Large hydroelectric	-	
Natural Gas	-	
Nuclear	-	
Other	-	
Total Specific Purchases	126,196	
Unspecified Power (kWh)		
Total		
Total Retail Sales (kWh)		

COMMENTS: