

DOCKETED

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CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512



May 3, 2017

John S. Friderichs
Director
Pilot Power Group, Inc.
8910 University Center Lane, Suite 520
San Diego, CA 92122

RE: **Application for Confidential Designation for 2017 IEPR Electricity
Resource Plans
Docket No. 17-IEPR-02**

Dear Mr. Friderichs:

The California Energy Commission is in receipt of an Application for Confidentiality submitted on behalf of Pilot Power Group, Inc. (Applicant). The application seeks confidential designation for the following data submitted as part of the 2017 Integrated Energy Policy Report (IEPR) Electricity Resource Plans (Confidential Records):

1. Form S-1 – Capacity Resource Accounting Table:
 - a. Peak LSE Load Calculations – lines 1-2e, 5-11;
 - b. Capacity Supply Resources – lines 18a-20;
 - c. Capacity Balance Summary – lines 27-33;
2. Form S-2 – energy Balance Resource Planning Table:
 - a. Energy Demand Calculations – lines 1-11;
 - b. Energy Supply Resources – lines 18a-20;
 - c. Energy Balance Summary – lines 21-25;
3. Form S-5 – Bilateral Contracts.

The application states that confidentiality is sought for commercially sensitive information. Applicant states that it is feasible to aggregate and mask the data with other energy service providers' demand forecasts on a statewide basis. The Confidential Records for the years listed have not been previously disclosed to the public.

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.” The California Public Records Act allows for the non-disclosure of trade secrets. (Gov. Code, § 6254(k); Evid. Code, § 1060.)

California courts have traditionally used the following definition of trade secret:

A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. . . .

(*Uribe v. Howe* (1971) 19 Cal.App.3d 194, 207, citing the Restatement of Torts, vol. 4, § 757, comment b, p.5.)

California Code of Regulations, title 20, section 2505(a)(1)(D), states that if an applicant for confidential designation believes that the record should not be disclosed because it contains trade secrets, or its disclosure would otherwise cause loss of a competitive advantage, an application shall state: 1) the specific nature of the advantage; 2) how the advantage would be lost; 3) the value of the information to an applicant; and 4) the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

The application addresses these four elements: 1) the Confidential Records contain market sensitive information and constitute trade secrets in terms of supply portfolio development and risk management; 2) public disclosure of the information would result in the loss of competitive advantage in the wholesale and retail marketplaces relative to Applicant's ability negotiate future contracts for the purchase or resale of energy and capacity at wholesale, or negotiation of contracts with retail customers; 3) the data has commercial value to Applicant which provides a competitive advantage; and 4) the Confidential Records are not publicly available or readily discoverable.

The application is clear that confidentiality is being sought for trade secret information. Therefore, Applicant has made a reasonable claim that the law allows the California Energy Commission to keep the specified portions of the Confidential Records from public disclosure.

Applicant requests that the information be kept confidential for a three year period. The trade secret information has market value for approximately three years after its production to the California Energy Commission; therefore, it is appropriate to grant confidentiality for three years.

For the reasons stated above, the request for confidential designation for the Confidential Record is granted. The information will remain confidential for three years.

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This grant of confidentiality is only for those years of the Confidential Records specified above. Please file a public version of the forms to the docket. This public document should be redacted only to the point necessary to protect confidentiality.

Be advised that persons may petition to inspect or copy 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.

If you have any questions concerning this matter, please contact Michelle Chester, Staff Counsel, at (916) 651-2935.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. P. Oglesby', with a long horizontal flourish extending to the right.

Robert P. Oglesby
Executive Director

cc: Docket Unit, California Energy Commission
John Hingtgen, California Energy Commission