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Filer:	Andy Anderson
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5151 Shoreham Place, Suite 240
San Diego, CA 92122

June 1, 2023

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

RE: Docket 23-PSDP-01 - Application for Confidential Designation – Pilot Power Group, LLC Power Source Disclosure Form

Dear Mr. Bohan:

Pilot Power Group, LLC, (“PILOT”) by this Application for Confidential Designation respectfully requests protection of certain information provided to the Commission in the attached Power Source Disclosure form consistent with Title 20 California Code of Regulations (“CCR”) Sections 2501 *et seq.*

Please feel free to contact me at (858) 355-9128 should you or Staff have any questions or require additional information regarding this Application. Thank you for your consideration of our request.

Sincerely,

Andy Anderson
Director of Regulatory Compliance

Confidential Materials Attached

APPLICATION FOR CONFIDENTIAL DESIGNATION
Pilot Power Group, LLC
Power Source Disclosure Form
June 1, 2023

1. *Specifically indicate those parts of the record which should be kept confidential.*

PILOT requests that the following information remain confidential, as also indicated by the orange* highlighted cells on the attached PSD Report in Excel worksheet format:

Form	Information to be held confidential
PSDP Schedule 1	Retail Sales MWh and Specified/Unspecified procurement MWh totals in cells N7:N15 Directly Delivered Renewable MWh purchases in cells H18:K46; Firmed-And Shaped Import MWh purchases in cells H49:K53; End Uses Other Than Retail Sales in cells B72:B77
PSDP Schedule 2	Total Unbundled RECs in cell E9; Retired Unbundled RECs: Total Retired MWh in cells E12:E42.
PSDP Schedule 3	Adjusted Net Procured MWh in cells B13:B25; Total Retail Sale MWhs in cell C27.

*Additionally, for ease of identification, PILOT has shaded all cells containing information it seeks to keep confidential orange, except for all Schedule 3 cells, which are all locked.

2. *State the length of time the record should be kept confidential, and provide justification for the length of time.*

PILOT requests that the identified information be kept confidential until June 1, 2024. This specific term is requested to align the protection of data provided to the CEC in this form with treatment provided in other contexts, most specifically by the CPUC under its confidentiality program.

This information should be kept confidential because: (1) the information is not otherwise publicly available or readily discoverable in the form or detail provided at this time; (2) the information is market sensitive and constitutes trade secrets in terms of disclosing PILOT's very recent wholesale and retail activities, and (3) the release of this information will result in loss of competitive advantage in the wholesale and retail marketplaces relative to PILOT'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.

PILOT asks that the identified data be held in confidence until June 1, 2024. This requested period of time is appropriate as the data is expected to retain validity and market value over 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 California Public Utilities Commission (“CPUC”), the California Air Resources Board and the California Independent System Operator (“CAISO”). PILOT has also fashioned this request to reflect the scope of protection provided to energy service provider (“ESP”) data in CPUC Rulemaking 05-06-040, and, in particular, Decision (“D.”) 06-06-066, Appendix B (“ESP Matrix”) and related modifications made in D.08-04-023, in an effort to have consistency across California energy agencies.¹ The public release of the specified information, particularly to competitors and potential customers, would result in a loss of competitive advantage for PILOT in the wholesale and retail markets, and may result in a loss in the ability to secure a favorable margin or return or result in disclosure of information about internal operating practices.

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.*

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 §§ 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 § 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 § 2505(a)(1)(D).)

¹ While PILOT understands and acknowledges that the confidentiality rules granted by the California Public Utilities Commission and the California Energy Commission are different in some respects, PILOT seeks to maintain consistency in the data it makes publically available. Consistency also prevents PILOT from inadvertent disclosures of confidential information.

The information identified above contains trade secrets or otherwise commercially sensitive data the disclosure of which would cause loss of a competitive advantage. As an entity operating in the competitive and dynamic retail energy markets, as well as a net purchaser in the competitive wholesale markets, PILOT closely holds information on its retail and wholesale market positions in confidence. The materials identified above should be protected for the requested period because the information is commercially sensitive and not publicly available and/or constitutes trade secrets the public disclosure of which would harm PILOT. Moreover, this information can be used to directly or indirectly determine PILOT's market position to the detriment of PILOT and its customers. Accordingly, PILOT requests that all of the information described in section 1 above, and any related, supporting data that may be provided pursuant to a subsequent Staff request, be designated as confidential.

PILOT 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 PILOT and the other ESPs collectively aggregated on a state-wide basis. Any greater granularity in the data released, including disclosure of any PILOT-specific data that is not aggregated with other ESPs, could expose PILOT's market position to its competitors, including other ESPs and the investor-owned utilities ("IOUs").

PILOT requests that the identified information also be deemed confidential for the following additional reasons: The information is commercially sensitive and constitutes a trade secret and is therefore exempt from disclosure. Evidence Code §1060, Civil Code §3426.1(d). Moreover, the public interest in nondisclosure clearly outweighs the public interest in disclosure insofar as release of this economic information may directly harm PILOT's existing and future commercial opportunities and its ability to secure a return in the marketplace, and disclosure may also harm PILOT's electric customers by foreclosing favorable commercial opportunities. Govt. Code § 6255.

4. *State whether the information may be disclosed if it is aggregated with other information or masked to conceal certain portions, and if so the degree of aggregation or masking required.*

PILOT has considered whether it would be possible to aggregate or mask the identified information. PILOT can support the aggregation of PILOT-specific information with similar information from all other ESPs and solely disclosed on a *statewide aggregated basis*. PILOT believes that disclosure of PILOT-specific data of the types collected here, even if aggregated on a statewide basis but specific to PILOT, could lead to the disclosure of PILOT's wholesale and retail market positions and thereby result in harm to PILOT. Given the degree of competition between ESPs, and between ESPs and the IOUs, PILOT asserts that any ESP-specific listing of data by utility territory would result in disclosure of confidential data.

5. *State whether and how the information is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant, and if so under what circumstances.*

PILOT has not disclosed any of the subject information to anyone other than their employees, working with the Company, or government agency employees or employees of the CAISO subject to confidentiality protection. PILOT routinely keeps information of commercial value, like the subject information identified herein, confidential.

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. I also certify that I am authorized to make the application and certification on behalf of Pilot Power Group, LLC



Dated: June 1, 2023

Andy Anderson
Director of Regulatory Compliance

Attachment