

## CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512

April 4, 2007

<b>DOCKET</b>	
<b>00-SB-1305</b>	
<b>DATE</b>	<b>APR 04 2007</b>
<b>RECD.</b>	<b>APR 05 2007</b>

Ms. Jenine Schenk  
APS Energy Services  
400 E. Van Buren Street, Suite 750  
Phoenix, AZ 85004

RE: **Application for Confidentiality:  
Annual Power Source Information  
Docket No. 00-SB-1305**

Dear Ms. Schenk:

On March 21, 2007, APS Energy Services (APS) filed an application for confidential designation in the above-captioned proceeding. Your application requests the following data be kept confidential:

- Schedule 1: Power Purchases and Resales – Confidential designation requested for all information and data.
- Schedule 2A: Retail Sales – Confidential designation requested for all information and data, except product names.
- Schedule 2B: Balancing Sheet – Confidential designation requested for all information and data.
- Schedule 2C: Power Content Label Calculator - Confidential designation requested for megawatt-hour ("MWh") data for Specific Purchases.

APS states, in part:

That information could be used by wholesale suppliers to better estimate Applicant's supply requirements for 2007, and to determine what types of resources Applicant is likely to need to meet those requirements, thereby enabling the suppliers to extract higher prices from Applicant in negotiations for supply arrangements than they would otherwise.

APS is requesting a confidential designation "for one year, starting from the date of submittal." In addition, APS states that the data for which it seeks a confidential designation "cannot be aggregated or masked in such a way to protect confidentiality."

Ms. Jenine Schenk

April 4, 2007

Page 2

The California Public Records Act allows for non-disclosure of trade secrets. (Gov. Code, § 6254(k), Evid. Code, § 1060.) The California Courts have traditionally used the following definition of trade secret:

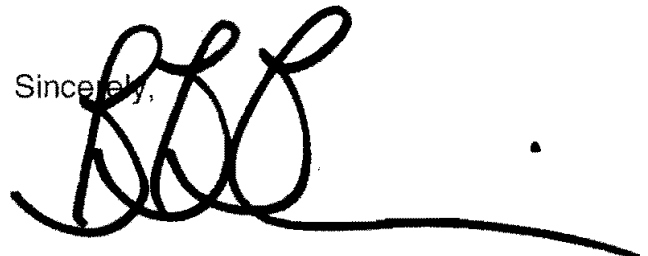
a trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. . . .

(*Uribe v. Howie* (1971) 19 Cal.App.3d 194, 207-208, 96 Cal.Rptr. 493, 500-501, from the Restatement of Torts, vol. 4, sec. 757, comment b, p. 5.)

Your application does not make a reasonable argument under the Energy Commission's regulations for classifying the information that you have submitted as a trade secret. (Cal. Code Regs., tit. 20, § 2505.) Therefore, I must deny your request for confidentiality. Specifically, the information contained in schedules 1, 2A, 2B and 2C is public or will be public when this information is filed with the Energy Commission and/or California Public Utilities Commission as part of the "CEC-RPS-Track" and/or RPS Guidebook.

The procedures and criteria for appealing this decision are set forth in the California Code of Regulations, title 20, section 2505. Be advised that an appeal of this decision must be filed within 14 days from my decision. If you have any further questions regarding this decision, please contact Fernando De Leon, Senior Staff Counsel, at (916) 654-4873.

Sincerely,

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long horizontal stroke at the bottom.

B. B. BLEVINS  
Executive Director

cc: Project Manager, 06-AFC-10  
Docket Unit