

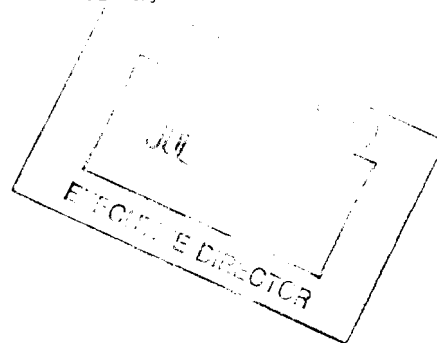
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July 16, 2008



Ms. Melissa Jones
Executive Director
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: Appeal of Corona Department of Water and Power Regarding Application for Confidentiality, RPS Track Form Submission, Docket No. 03-RPS-1078

Dear Ms. Jones:

Corona Department of Water and Power ("Corona") is in receipt of your letter dated July 2, 2008 regarding our May 19, 2008 application for confidentiality in the above-cited docket.

Corona's application sought confidentiality for the following calendar year 2007 data:

1. CEC-RPS-Track Schedule 1: (Columns A-N); and
2. CEC-RPS-Track Schedule 2: (Columns A-R, and row 29)

Corona wishes to thank you for granting the majority of Corona's request. However, with respect to those portions of our application for confidentiality that were denied, i.e. the information in Schedule 1, Column N, and in Schedule 2, Column R and Row 29, Corona appeals your determination and requests reconsideration.

The following rationale for denying protection for certain information is provided in your letter at page 2:

However, Corona's confidentiality application does not make a reasonable claim to grant confidentiality to the aggregated data identified in Schedule 1 column N, the aggregated data identified in Schedule 2 column R, and row 29 since this information would not harm Corona if publicly disclosed or could it be reverse engineered to somehow reveal confidential information. Consequently, the Energy Commission has determined that this information does not rise to level of a trade secret and this data is denied confidentiality. (Gov. Code, § 6254 (k).)

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Corona respectfully disagrees with your findings, and requests your reconsideration and submits

simplicity. What the Commission would gain in exchange -- a relatively short additional period of public disclosure, certainly does not justify the inconsistency and attendant difficulties and expense associated with protecting trade secret data.

The duration requested in the original application for the types of trade secret data is appropriate in the case of Corona for the following reasons:

- (1) Total Annual Retail Sales in 2007 (Schedule 2, Cell A29):
 - a. This information, particularly when used in conjunction with other information at issue here (or presently public) regarding Corona's commercial activities and status of its current RPS portfolio, constitutes a compilation of information, otherwise known only to Corona, which is used in its business and the provision of services and which gives it an opportunity to obtain an advantage over competitors, and the disclosure of which would cause Corona a loss of competitive advantage.
 - b. 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).)
 - c. The data at issue here is not otherwise public at this point in time, and its disclosure would constitute for Corona a loss of competitive advantage. Corona's competitors could not be able to otherwise discern, duplicate or develop this information on their own with this degree of specificity. Moreover, as explained throughout this request for reconsideration, Corona places a high value on maintaining the confidentiality of information concerning its market share and means and methods of providing services to the extent permitted by law. Corona's original application was intended to convey these facts and positions pursuant to 20 CCR § 2505(a)(1)(D).
 - d. This annual retail sales number is a commercially sensitive trade secret value that reflects Corona's most recent calendar year 2007 retail market share data, information that is not otherwise available to Corona's retail competitors, including other ESPs. The sensitivity of this data is elevated due to the suspension of direct access, which has created a limited universe of contestable customers and relatively little variability in load shares as between the ESPs. Disclosure of this information would result in a loss of competitive advantage

insofar as there is no other potential source for this type of contemporaneous information.

- e. This number could be used by potential RPS suppliers to much more accurately determine Corona's present-day RPS compliance status and the relative magnitude of its procurement requirements as it is part of the calculation to determine Corona's current RPS percentage. Because in other public reports Corona's RPS procurement percentage is released (but not the current year's retail sales figure), disclosing the retail sales figure would permit competitors or potential suppliers to accurately estimate Corona's present-day RPS procurement needs, resulting in a loss of competitive advantage.
 - f. If the Commission were to grant the duration of confidentiality originally requested by Corona, it would maintain the same degree and duration of confidentiality provided to the same type of data by the CPUC, which is under the same overarching legal obligation to comply with the California Public Records Act. However, denying Corona's requested duration for confidentiality would deny Corona the protection presently provided by the CPUC, creating inter-agency conflict and more confusion among market participants about the degree of protection afforded to market sensitive, trade secret data.
- (2) Annual Generation Procurement (Schedule 1, Column "N" and Schedule 2, Column "R")
- a. Disclosure of the data contained in rows of Schedule 1, Column N and Schedule 2, Column R, would disclose: (i) the total quantity (or absence) of RPS eligible procurement undertaken in the prior year; (ii) the number counterparty suppliers and/or RPS eligible resources in the portfolio and (iii) the relative magnitudes as between different resources and/or suppliers.
 - b. This information, particularly when used in conjunction with other information regarding Corona's commercial activities and status of its current portfolio, constitutes a "compilation of information" which Corona uses in its business, which is not known by others, and the disclosure of which would result in loss of competitive advantage.
 - c. This information—the relative contribution to Corona's RPS portfolio—is commercially sensitive trade secret information that reflects Corona's most recent RPS procurement efforts and nature of its portfolio. Corona seeks to maintain the confidence of this information so that it is not otherwise available to Corona's retail competitors, including other ESPs, or to its potential RPS-eligible suppliers. Corona believes that the sensitivity of this data is elevated due to the relatively

limited universe of RPS suppliers with presently operating projects not already tied up under long-term contracts with the large investor owned utilities (“IOUs”) or municipal entities, the high level of demand for such resources, and the regulatory uncertainty about the reopening of direct access.

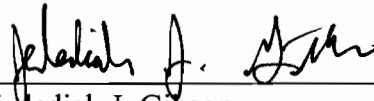
- d. Disclosure of the data contained in rows of Schedule 1, Column N and Schedule 2, Column R, would disclose the magnitude of RPS eligible procurement undertaken in the prior year and thereby disclose the entirety of Corona’s RPS procurement activity and thereby its RPS compliance status and future procurement needs. Such a disclosure will notify competitors and RPS suppliers of Corona’s RPS status and harm Corona’s competitive advantage in procuring RPS eligible resources.
- (3) Total Certified Renewables Procured (Schedule 2, Cell H29):
- a. This information, particularly when used in conjunction with other information at issue here (or presently public) regarding Corona’s commercial activities and status of its current RPS portfolio, constitutes a compilation of information, otherwise known only to Corona, which is used in its business and the provision of services and which gives it an opportunity to obtain an advantage over competitors, and the disclosure of which would cause Corona a loss of competitive advantage.
 - b. This figure is not presently public, and although it is the sum of individual supplies (i.e., it is the sum of the data presented in Schedule 1, Column N and also provided in Schedule 2, Column R), its disclosure would permit competitors or potential suppliers to calculate total retail energy sales (and thereby market share) and determine Corona’s current RPS compliance status, and hence forward-looking net RPS procurement requirements, which are trade secrets. Accordingly, disclosure would result in loss of competitive advantage.
 - c. The delayed release reflected in the duration of confidentiality originally requested in the application strikes a balance between Corona’s legitimate commercial concerns and need to protect trade secret data and the public’s interest in data regarding RPS compliance. Corona believes other information that it has made public on a contemporaneous basis helps in that respect. Moreover, as previously discussed, this information is not presently disclosed
 - d. Disclosure of the data contained in Schedule 2, Cell H29, would disclose the extent of Corona’s RPS eligible procurement undertaken in the prior year and thereby disclose the entirety of Corona’s RPS procurement activity the status of its RPS procurement, and its current-year RPS procurement needs. Such a

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disclosure will notify competitors and RPS suppliers of Corona's RPS status and harm Corona's competitive advantage in procuring RPS eligible resources.

In conclusion, Corona respectfully requests that you reconsider your denial of confidentiality protection for the duration originally requested by Corona. For the reasons set forth above, reconsideration is appropriate because the information presently constitutes trade secret data and the very limited duration of the protection requested strikes the appropriate balance between protection of Corona's legitimate trade secrets and the public's use of detailed, LSE-specific data consistent with the Public Records Act. Moreover, granting the protection originally requested would avoid an inter-agency policy conflict as to the appropriate scope and limited duration of protection for these types of data.

Respectfully submitted,



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Power