

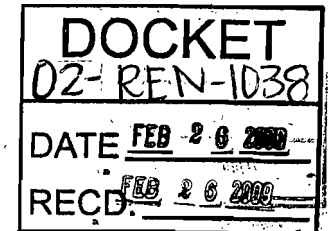
CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512



February 26, 2009

Alex Sugaoka
Wadham Energy LP
6247 Myers Road
Williams, CA 95987



RE: **Existing Renewable Facilities Application**
Application for Confidentiality
Wadham Energy L.P.
Docket No. 02-REN-1038

Dear Mr. Sugaoka:

On January 28, 2009, Wadham Energy LP (Wadham) filed an Application for Confidentiality for information related to the Funding Eligibility Existing Renewable Facilities Program Application (Docket No.02-REN-1038). The Application seeks confidentiality for information in invoices and Form CEC 1250E-2 supporting material filed for 2009. Specifically, you request confidentiality for the following data parts of those materials:

- A. Invoices
- B. Time-of-use energy pricing
- C. Generation information
- D. Fuel information
- E. all supporting material
- F. all supplier information on Form CEC-1250E-4

You state that the information should be confidential because it is trade secret, as it is sensitive business information, including Wadham's "pricing information, fuel costs, and marginal operating costs." You go on to state:

This information has value because it is not publicly available and not known to Wadham Energy's competitors. . . If this information were to be made available to the public, it would give competitors of Wadham Energy a business advantage over Wadham Energy in negotiations with suppliers and customers. . . Public disclosure of such sensitive pricing information would lead to a loss of competitive bidding in the energy market. . .

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, § 1040.) 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. Howe* (1971) 19 Cal.App.3d 194, 207-208, from the Restatement of Torts, vol. 4, § 757, comments b, p.5.)

As to some of the items in the Funding Eligibility Existing Renewable Facilities Program Application, Wadham's confidentiality application makes a reasonable claim of confidentiality. Item "A," Wadham's invoices with PG&E, and item "B," time-of-use energy pricing, is information which, if revealed, could harm Wadham's proprietary business interests. Gov. Code § 6254 (k). As such, the invoices and time-of-use energy pricing information is exempt from public disclosure since it constitutes a trade secret. Item "F," the supplier information provided on Form CEC-1250E-4, is also deemed confidential. Accordingly, this data is granted confidentiality until December 31, 2012.

With regards to the remaining information in the request, the generation information and fuel information, as well as the supporting documents, the request is denied. This data can either be derived from existing public information or is information that the Energy Commission must disclose to the Legislature. The Energy Commission has concluded that disclosing this information would not harm Wadham. However, any time-of-use pricing or supplier information that is included in any of the non-confidential documents will be redacted in the event that the Energy Commission receives a petition to inspect or copy the records.

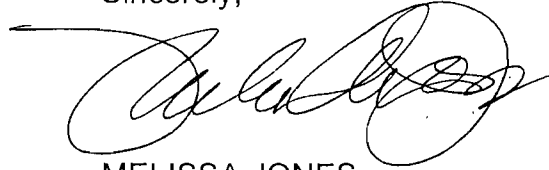
Persons may petition to inspect or copy the records that I have designated as confidential. The procedures and criteria for filing, reviewing, and acting upon such petitions are set forth in the California Code of Regulations, title 20, section 2506.

Any appeal of my decision to grant confidentiality must be filed within fourteen days from the date of this decision. The procedures and criteria for appealing any part of this decision are set forth in the California Code of Regulations, title 20, section 2505. If you

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have any questions concerning this matter, please contact Deborah Dyer, Senior Staff Counsel, at (916) 654-3870.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melissa Jones', with a large, stylized loop at the end.

MELISSA JONES
Executive Director

cc: Docket Unit
Jason Orta, Energy Efficiency & Renewables Division