

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

DOCKET 09-IEP-1C	
DATE	MAR 19 2009
RECD.	MAR 19 2009

March 19, 2009

Mr. Andrew B. Brown
Ellison, Schneider & Harris
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816-5905

RE: **Application for Confidentiality, Constellation NewEnergy, Inc.
IEPR Electricity Demand Forecast Submission
Docket No. 09-IEP-1C**

Dear Mr. Brown:

On February 17, 2009, the California Energy Commission received from Constellation NewEnergy, Inc. (CNE) an application for confidentiality in the above-captioned Docket. The application seeks confidentiality for information contained in:

FORM 7: Data, disaggregated by utility distribution areas for annual metered sales, annual peak demand and customer counts, for years 2007-2011.

FORM 8.1(a)(ESP): Data disaggregated, for estimated power-supply costs for bilateral contracts and residual market transaction, and the sum of both these costs for years 2007-2011.

CNE asserts that this information should be designated confidential because:

(1) the information is not otherwise publicly available or readily discoverable in the form or detail provided, (2) the information is market sensitive and constitutes trade secrets in terms of supply portfolio development and risk management, and (3) the release of this information will result in loss of competitive advantage in the wholesale and retail marketplaces relative to CNE'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, . . .

Data in the above-named forms for the year 2006 was previously granted confidentiality through December 31, 2009. CNE is asking that the 2007-2011 data be granted confidentiality through December 31, 2012.

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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."

CNE's confidentiality application makes a reasonable claim to grant confidentiality for the data identified above in its entirety. The information contained in Form 7 and Form 8.1(a)(ESP) constitutes a trade secret, and would place CNE at a competitive disadvantage if disclosed.

The Energy Commission will aggregate the information submitted by CNE as follows:

1. For individual ESPs, data aggregated at the statewide level by major customer sector.
2. For the sum of all ESPs, data aggregated at the service area, planning area, or statewide levels by major customer sector.

The identified confidential information contained on Form 7 and Form 8.1(a)(ESP) will be kept confidential until December 31, 2012.

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. Be advised that an appeal of this decision 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 have any questions concerning this matter, please contact Kerry Willis, Senior Staff Counsel, at (916) 654-3967.

Sincerely,



MELISSA JONES
Executive Director

cc: Docket Unit