

CALIFORNIA ENERGY COMMISSION

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March 18, 2009

DOCKET**09-IEP-1B**DATE MAR 18 2009RECD. MAR 20 2009

Mr. Carl Boyd
Direct Energy
Two Gateway Center
Pittsburgh, Pennsylvania 15222-1458

RE: Docket 09-IEP-1B Direct Energy Confidentiality Application and Resource Plan Submission

Dear Mr. Boyd,

I have been asked to review the Application of Direct Energy Business, LLC for Designation of Confidential Records (Application) submitted February 17, 2009. This Application was received in our Executive Director's office on February 18, and was docketed that same day.

The Application and the resource supply plan forms are not complete in several areas. Requested data was not provided on the submitted forms, as detailed below. The Application in part D on page two included an overbroad request "...that all of the information contained in each Form S-1 and Form S-2 be designated as confidential for three (3) years, ..."

According to published instructions for this proceeding, load-serving entities submitting spreadsheet data with an application are expected to clearly designate "On Excel forms provided with data that may be determined to be confidential, identification of specific cells using yellow fill that are consistent with the confidentiality application." The forms submitted by Direct Energy only have the following rows highlighted in yellow:

- S-1 forms, lines 1a-1c, and 6
- S-2 Monthly forms, lines 1a-1c

None of S-1 Monthly, S-2, or S-5 forms provide highlighting, color, or other demarcations that identify specific data considered to be confidential. This makes the forms inconsistent with the Application.

An application to make resource plan data confidential must contain several types of information. According to Appendix 1, page 63 of the adopted instructions, each application must contain "a clear description of the length of the time series of data and the period for which confidentiality is being sought, *with an appropriate justification, for each confidential data category request*" (emphasis added). The Application by Direct Energy does not provide an appropriate justification for specifically named categories and time series of data. For example,

the S-1 form, line 6, identifies California Solar Initiative (CSI) resources as information that should be protected. The Application needs to identify this data category and time series with an appropriate justification. The Application in part E on page three describes the data provided in 2009 as “substantially similar” to the data granted confidentiality in 2007. In 2007, however, CSI data was neither requested nor provided. And of equal importance, data needs to be provided in all columns for this line, representing CSI capacity in years 2007–2013.

Direct Energy provided separate S-1 (capacity) and S-2 (energy) forms for each of the three investor-owned utility service areas. This level of disaggregation was not necessary for all load and resource categories on the S-1 and S-2 forms. According to instructions adopted by the Energy Commission on December 17, 2008:

“ESPs are asked to file a separate S-1 and S-2 form for each UDC service area (PG&E, SCE, and SDG&E) in which they have forecasted loads. These separate filings by local distribution company only need to identify the amounts of energy and capacity shown on lines 1a, 1b, and 1c of the S-1 and S-2 forms. Single S-1, S-2, and S-5 forms from each ESP (along with Single S-1 Monthly and S-2 Monthly forms for 2010) will suffice for reporting all other categories of requested resource plan information.” (Forms and Instructions for Submitting Electricity Resource Plans, CEC-100-2008-010-CMF, page 11)

It is not a requirement to report aggregated load and resource data on single consolidated S-1, S-1 Monthly, S-2, and S-2 Monthly form. However, that is the preference of Energy Commission staff. Please consider aggregating this data while providing other data described below.

Form S-1 CRATs (Capacity Resource Accounting Tables)

- The Application requests confidentiality for data on S-1 forms that “covers the five year period from 2009 through 2013.” Data for years 2007 and 2008 is required on S-1 forms. The Application should be corrected to include years 2007 and 2008 where that data is specifically included in the request.
- Line 9, actual peak load (MW) data is required for 2007 and 2008. This capacity amount is also used to calculate lines 27 and 31.
- Line 22c through line 22x (as many lines as needed), data is required for each individual bilateral supply contract for which there is an S-5 form. Resources listed on the S-1 and S-2 forms should be complete and consistent with the S-5 forms. For example, for a “capacity only” resource adequacy contract with J. Arom might have been listed on form S-1, line 22c with 20 (MW) in 2009, and also be listed on form S-2, line 19c with 0 (zero GWh).
- Line 22a is the sum of all bilateral contract capacity. The S-1 forms only included data for 2009 through 2013. Capacity procurement amounts for 2007 and 2008 need to be provided on line 22a, but are not required for lines 22c through 22x. Informally, we agreed not to require “data mining” for capacity and energy amounts attributable to specific contracts for these historical years. However, we did communicate an expectation that the sums in

particular categories (such as line 22a) would be provided as a reasonable estimate for 2007 and 2008, and that more disaggregated data will be required in future years.

Form S-1 Monthly CRATs (Capacity Resource Accounting Tables) and
Form S-21 Monthly Energy Balance

- The disaggregated data on these forms is complete except for the listing of individual bilateral supply contract resources, lines 22c through 22x, and lines 19c through 19x, respectively. (A single S-1 Monthly and S-2 Monthly form with aggregated data may be more convenient and appropriate, as Direct Energy may decide.)

Form S-2 Energy Balance

- Line 9 total annual Energy Demand for 2007 and 2008 is required. This energy amount is also used to calculate lines 11 and 26h.
- Line 19c through line 19x (as many lines as needed), as noted above for the S-1 form, a listing of annual energy expected from each bilateral contract is required for 2009-2013.
- Line 19a is the sum of all bilateral contract energy. Informally, we agreed not to require "data mining" for energy amounts attributable to specific contracts for historical years. However, a reasonable estimate of sums in particular categories (such as line 19a) is required.
- Line 27, please include data on Retail Sales for years 2007 and 2008.

A set of completed/corrected supply forms corresponding to this Application should be provided within 14 days. Please use the attached, edited versions of the submitted confidential supply forms. This submitted data that is covered by the Application will continue to be protected from disclosure while we await a complete set of supply forms due April 1, 2009.

Please feel free to contact me at (916) 654-5180 or jwoodwar@energy.state.ca.us should you or Direct Energy staff have any questions or require additional information related to this Application. Thank you for already providing the vast majority of information and data requested by the Energy Commission in this proceeding.

Sincerely,

Jim Woodward
Electric Generation System Specialist I
Electricity Analysis Office

JW:sdf

cc: Kerry Willis, Legal Office