

CALIFORNIA ENERGY COMMISSION

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April 23, 2009

Mr. Aram Benyamin
Senior Assistant General Manager—Power System
Los Angeles Department of Water and Power
111 N. Hope Street, Room 921
Los Angeles, CA 90012

DOCKET**09-IEP-1B**DATE APR 23 2009RECD. APR 23 2009

**RE: Application for Confidentiality—City of Los Angeles Department of
Water and Power
Electricity Resource Plans
Docket No. 09-IEP-1B**

Dear Mr. Benyamin,

On March 2, 2009, the City of Los Angeles Department of Water and Power (LADWP) submitted electricity resource plans in the above-captioned Docket, in connection with the *2009 Integrated Energy Policy Report*. On March 23, 2009, the California Energy Commission received LADWP's Application for Confidential Designation of Certain Data Included in the Electricity Resource Plans. This application seeks confidentiality for certain information in 14 electricity supply contracts contained on Electricity Resource Planning Form S-5. Seven contracts are for non-renewable ("Brown") energy, and for non-renewable contracts 1-7, LADWP is asking only to protect from public disclosure the contractual counterparty name (the Supplier/Seller).

Seven contracts are for renewable ("Green") energy. For renewable contracts 1-7, LADWP is also asking to protect from public disclosure the contractual counterparty name (the Supplier/Seller), along with identification of generating unit information. As specified on Excel worksheets submitted on March 17, 2009, the confidentiality application includes the following:

- Locational Attributes of Unit(s) on Green contracts 1 and 6
- Generating Unit(s) Specified on Green contracts 1-2 and 4-7
- Unit Contingent / LD Contract on Green contracts 2, 4 and 6
- Transmission Contingent & Path on Green contract 1

In support of its request for confidentiality, the Application from LADWP states, in part:

The public interest served by not disclosing the record clearly outweighs the public interest in disclosure because the express terms of the Western System Power Pool (WSPP) agreement require that the terms of any transaction and all information exchanged between purchaser and seller remain confidential. (See Par. 30 of WSPP). The public interest of the LADWP in honoring its contract commitment to keep information confidential clearly outweighs the public interest in disclosure. Failure of the LADWP to comply with its contract commitments would not only expose LADWP to a potential breach action but could also result in a refusal on the part of counterparties to conduct business with the LADWP. ...

Disclosure of the counterparty and unit identification information without a request for confidentiality may place LADWP in violation of the terms and conditions of its agreements. (Application at pp. 2-3.)

In addition, LADWP requests that the Energy Commission keep this information confidential:

Yellow highlighted data shall be kept confidential through the end of 2012 for all contracts, except through the end of 2016 for the County of Los Angeles and UCLA contracts. (Application at p. 2.)

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."

LADWP's application makes a reasonable claim to grant confidentiality for the information on Electricity Resource Planning Form S-5 for the reasons stated above. LADWP has contractual obligations to keep confidential the information as described above and contained on these forms. Based on the contractual agreements that require these terms to be kept confidential, such terms in these agreements fall within the definition of trade secret. Therefore, these terms are granted confidentiality as disclosure of these terms may place LADWP in violation of its contractual obligations.

Confidential bilateral contract information contained on the above-referenced S-5 forms produced by LADWP will be kept confidential through December 31, 2012, or until one year after contract expiration, whichever comes first, except that contracts with the County of Los Angeles and UCLA will be kept confidential through December 31, 2016.

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The Energy Commission may use the information submitted by LADWP in publicly available reports and presentations, but without disclosing confidential information to market participants. To prevent disclosure, confidential data that may be used in reports and presentations will be aggregated with resource plan information from other load-serving entities in order to conceal the confidential specifics of LADWP's confidential supply contracts.

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. Finally, 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,

A handwritten signature in black ink, appearing to read "Melissa Jones", written in a cursive style.

MELISSA JONES
Executive Director

JW:ch

cc: Docket Unit
Jim Woodward, Electricity Analysis Office