

CALIFORNIA ENERGY COMMISSION

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www.energy.ca.gov



May 1, 2009

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

DOCKET**09-IEP-1B**DATE May 01 2009RECD. May 01 2009

RE: Application for Confidentiality—Direct Energy Business, LLC
Electricity Resource Plan Forms
Docket No. 09-IEP-1B

Dear Mr. Boyd,

On April 16, 2009, Direct Energy Business, LLC (Direct Energy) submitted a revised Application for Designation of Confidential Records. This application and a revised set of electricity resource plans in the above-captioned Docket were filed in connection with the *2009 Integrated Energy Policy Report*. The revised application and resource plans were received at the California Energy Commission (Energy Commission) on April 21, 2009, and they replace the original application and resource plan submitted by Direct Energy on February 17, 2009.

Direct Energy is seeking to protect from public disclosure data and information on the following forms:

- Form S-1 Capacity Resource Accounting Tables (CRATS)
- Form S-2 Energy Resource Balance Accounting Tables, and
- Form S-5 Bilateral Contracts and Power Purchase Agreements

Direct Energy has submitted aggregated S-1, S-1 Monthly, S-2, and S-2 Monthly forms concerning all of Direct Energy's forecast and historical peak load and energy demand. For each utility distribution area in which it has forecasted load, Direct Energy has submitted separate (disaggregated) S-1, S-1 Monthly, S-2, and S-2 Monthly forms that concern the same forecast and historical period, 2007 through 2013.

In support of its request for confidentiality, the Application from Direct Energy references "substantially similar" electricity resource plan information that was submitted to the Energy Commission on February 13, 2007, and for which the Executive Director granted the applicant's confidentiality request by letter dated February 27, 2007. In the current Application, Direct Energy states, in part:

The Executive Director found [in 2007] that the aforesaid information constitutes a trade secret and that Applicant had made a reasonable argument for classifying the information as confidential since 'it would place [Applicant] at a competitive disadvantage if made public.'

The Electricity Resource Planning information for which Applicant is seeking a confidential designation is substantially similar to the Electricity Resources Planning information that was previously granted confidentiality as discussed above... (Application at p. 3.)

In addition, the Direct Energy Group requests that the Energy Commission keep the information confidential:

Applicant requests that all of the information contained on each Form S-1 and Form S-2 be designated as confidential for three (3) years including the reporting year, i.e., to December 31, 2011. In addition, Applicant requests that all of the information contained in Form S-5 be designated as confidential for three years including the reporting year (i.e., to December 31, 2011) or through the end of the contract term, whichever is later. (Application at p. 3.)

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." In addition, the Commission may approve an application for confidentiality "that is substantially similar to information that was previously deemed confidential..." (Cal. Code Regs., tit. 20 §2505(a)(4).)

Direct Energy's April 16, 2009, confidentiality application makes a reasonable claim to grant confidentiality for information on the above-described electricity resource planning forms. The information that is described in Direct Energy's Application and which is highlighted on the forms submitted by Direct Energy constitutes a trade secret, and would place Direct Energy at a competitive disadvantage if disclosed.

The Energy Commission may use the information submitted by Direct Energy 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 Direct Energy's load forecasts, resource portfolio, or individual supply contracts.

The Energy Commission appreciates the efforts by Direct Energy staff to answer technical questions related to its resource plan filing, and to provide Energy Commission staff with additional data deemed necessary to make this filing complete

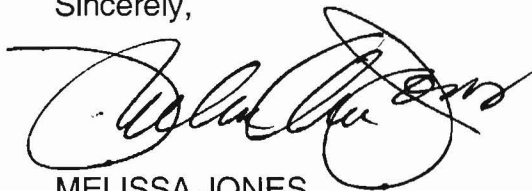
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and adequate in accordance with the adopted forms and instructions.

Information contained on the S-1 and S-2 forms produced by Direct Energy on and subsequent to February 17, 2009, will be kept confidential until December 31, 2011. Information contained on the S-5 forms will be kept confidential until December 31, 2011, or until the contract expiration date, whichever is later.

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', with a large, stylized flourish at the end.

MELISSA JONES
Executive Director

cc: Docket Unit
Jim Woodward, Electricity Analysis Office