



COMPLETED

CONFIDENTIAL

July 20, 2009

Ms. Melissa Jones
Executive Director
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

DOCKET

09-AFC-4

DATE JUL 20 2009

RECD JUL 20 2009

**Subject: Request for Confidential Designation
Confidential Offset Strategy
Contra Costa Generating Station (09-AFC-4)**

Dear Ms. Jones,

Contra Costa Generating Station, LLC (CCGS, LLC), a wholly owned subsidiary of Radback Energy, is the owner of the Contra Costa Generation Station (CCGS). CCGS, LLC requests that the attached information be designated confidential pursuant to 20 CCR Section 2505. This information is being supplied to the California Energy Commission (CEC) in an effort to achieve data adequacy on the CCGS Application for Certification.

In support of its application for confidential designation, CCGS, LLC provides the following information:

APPLICANT: Contra Costa Generating Station, LLC

ADDRESS: P.O. Box 1690
Danville, California 94526

1(a). Title, date and description (including number of pages) of the record for which you request confidential designation.

Confidential Offset Strategy

July 17, 2009

CCGS, LLC requests the entire document titled "Confidential Offset Strategy" and associated documentation be granted confidential designation.

1(b). *Specify the part(s) of the record for which you request confidential designation.*

The entire Confidential Offset Strategy document and associated documentation.

2. *State and justify the length of time the Commission should keep the record confidential.*

The Confidential Offset Strategy should be kept confidential until mutually binding contracts for all required offsets are signed.

3. *State the provisions of the Public Records Act or other law that allows the Commission to keep the record confidential, and explain why the provision(s) apply to the record. Discuss the public interest in nondisclosure of the record. If the record contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please also state how it would be lost, the value of the information to the applicant, and the ease or difficulty with which the information could be legitimately acquired or duplicated by others.*

Government Code Section 6254(k) provides for the protection from disclosure of trade secrets. Under the controlling case of Uribe v. Howie (1971) 10 Cal App 3d 194, 207-208, 96 Cal Rptr 493, 500-501:

“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.” (Emphasis Added)

The information submitted is a special compilation developed by CCGS, LLC and provides CCGS, LLC with an advantage over potential competitors who have not developed such a compilation of information, offset holders, and offset pricing strategies (the material does not include air emissions data which is susceptible to public disclosure under Government Code Section 6254.7). In addition to the complete offset strategy, disclosure of potential sources of emissions offsets may hinder current negotiations.

4. *State whether the record may be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identity of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why.*

At this time masking or aggregating the information for public disclosure would not be feasible since it would, in effect, disclose the trade secret information.

5. *State how the record is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant. If it has, explain the circumstances under which disclosure occurred.*

CCGS, LLC has not disclosed any of the subject information to anyone other than its employees, attorneys, and consultants working on the CCGS. Moreover, this information has not been disclosed to persons employed by or working for CCGS, LLC except on a "need-to-know" basis. CCGS, LLC is marking this information "Confidential" and is instituting a policy that it be segregated from other CCGS files and that access to it be restricted to a designated confidential information manager within CCGS, LLC or its attorneys/consultants.

I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct and complete to the best of my knowledge and that I am authorized to make the application and certification on behalf of the applicant.

A handwritten signature in black ink, appearing to read 'David Wiseman', with a stylized, flowing script.

David Wiseman
Counsel for Contra Costa Generating Station, LLC