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Melissa Jones, Executive Director

Docket No. 11-IEP-1C

California Energy Commission

1516 North Street, MS-39

Sacramento, CA 95814-5504

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APR 12, 2011

EXECUTIVE DIRECTOR

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**NOBLE AMERICAS ENERGY SOLUTIONS LLC'S APPLICATION FOR
CONFIDENTIAL DESIGNATION FOR FORM 7 AND FORM 8.1A (ESP) - THE
ELECTRICITY DEMAND FORECAST FORMS, DOCKET NO. 11-IEP-1C**

Pursuant to Section 2505 et seq. of Title 20 of the California Code of Regulations ("CCR"), Noble Americas Energy Solutions LLC ("Noble Solutions") hereby respectfully submits an application for confidential designation of the information and data set forth in the Electricity Demand Forecast Form 7, Form 8.1a (ESP) and data filed on compact disk ("Application").

Form 7 contains information about the actual and forecasted annual energy purchases for the years 2004-2022, annual and forecasted peak loads for the years 2004-2022 and customer counts for the years 2004-2022.

The information from year 2010-2014 on Form 7 has not been released to the public, is based on contracts Noble Solutions has in place at the time of the forecast's creation and is considered proprietary and confidential information.

Form 8.1a (ESP) contains information on Noble Solutions' historical and forecasted energy procurement costs 2008-2015. The information for all years has not been released to the public, is based on historical records Noble Solutions has in place at the time of the forecast's creation and is considered proprietary and confidential information.

Noble Solutions is submitting the information and data set forth in the above-mentioned forms in accordance with the Forms and Instructions adopted by the Commission in Order No. 04-1103-03. The Commission adopted the Forms and Instructions pursuant to its authority under PRC Section 25301(a), which authorizes the Commission to collect information and data from energy market participants that the Commission needs in order to prepare the biennial Integrated Energy Policy Report ("IEPR").

Noble Solutions submits that the information on Form 7, specifically the years 2010 through 2014, and the historical and forecasted procurement costs on Form 8.1a (ESP) are directly

derived from energy consumption metering as per CCR Title 20, subsection 2505 (a)(5)(B)(1). Under PRC Section 25322, the Commission is required to grant a request for confidential designation of information collected pursuant to Section 25301(a) if:

- (a) the information is exempt from disclosure under the California Public Records Act (Govt. Code §§ 6250 et seq.);
- (b) the information meets the confidentiality requirements set forth in the Commission's regulations; or
- (c) on the facts of the particular case, the public interest served by not disclosing the information outweighs the public interest served by disclosure.

The Public Records Act exempts "trade secrets" from public disclosure, including "any formula, plan,...production data, or compilation of information..., which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service...and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it." (Govt. Code § 6254.7(d).)

The Commission's regulations provide for information to be designated as confidential if it "contains a trade secret or its disclosure would otherwise cause a loss of a competitive advantage." (20 CCR § 2505(a)(1)(D).)

Form 7 and Form 8.1a (ESP), as submitted by Noble Solutions, contains trade secrets or otherwise commercially sensitive data. As the Executive Director correctly observed, this information "could provide significant insight into business strategies in a way that could harm the competitive situation of the filer."¹ For example, the information could be used to determine Noble Solutions' historical and forecasted power and capacity needs. That information in turn could be used by Noble Solutions' competitors to refine their business strategies and cause competitive harm to Noble Solutions. It could also be used by suppliers, to Noble Solutions' disadvantage, when negotiating the price and terms of procurement transactions. Customers could use this information to extract better terms in contract negotiations with Noble Solutions. These examples are not meant to be exhaustive, but rather illustrative in that the disclosure of the data provided would cause Noble Solutions a loss of competitive advantage at several levels. Accordingly, Noble Solutions respectfully requests that all of the information as set forth of Form 7 and Form 8.1a (ESP) and the data submitted on compact disk be designated as confidential.


Noble Solutions further requests that the designation of confidentiality be for a 3-year period. However, the data can be released immediately if aggregated with all the other energy service providers' ("ESP") demand forecasts.

The undersigned is authorized to make this application and the following certification on behalf of Noble Solutions:

¹ Docket 04-IEP-1, *Guidance on Confidentiality of Electricity Demand and Retail Price Information* (Nov. 5, 2004), p. 3.

"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. I also certify that I am authorized to make the application and certification on behalf of Noble Americas Energy Solutions LLC."

NOBLE AMERICAS ENERGY SOLUTIONS LLC

By: 

Name: Greg Bass

Title: Director, Retail Commodity Operations

Date: April 11, 2011

Enclosure