

Department of Water and Power



the City of Los Angeles

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DOCKET
DATE 4/29/11
RECD. 4/29/11

RONALD O. NICHOLS
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CONFIDENTIAL

April 28, 2011

Ms. Melissa Jones, Executive Director
California Energy Commission
1216 Ninth Street, MS-39
Sacramento, California 95814-5504

RECEIVED
APR 29 2011
EXECUTIVE DIRECTOR

Dear Ms. Jones:

COMPLETED

Subject: Application for Confidentiality Designation of Certain Data Included in the Electricity Resource Plans (Docket #11-IEP-1B) Submittal to the California Energy Commission (CEC) for the 2011 Integrated Energy Policy Report (IEPR)

The Los Angeles Department of Water and Power (LADWP) is requesting confidentiality designations for certain data as described below, consistent with Title 20 of the California Code of Regulations, § 2505 et. Seq. Reasons for this request are provided, and data has been highlighted in yellow on the enclosed S-5 form.

Applicant Name, Address, and Contact Information

Mr. Randy Howard
Power System Compliance Officer
Los Angeles Department of Water and Power
111 N. Hope Street, Room 921
Los Angeles, CA 90012
Office: (213) 367 - 0381
Email: Randy.Howard@ladwp.com

1(a). Title, date, and description (including number of pages) of the information or data for which you request confidential designations. Information or data seeking a designation of confidentiality must be included with this application.

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Electricity Resource Planning Form S-5, as submitted to the CEC on 04/28/2011. We have identified 7 contracts with confidential information.

1(b). Specify the part(s) of the information or data for which you request confidential designation.

All information highlighted in yellow (counterparty and identification of generating unit information).

2. State and justify the length of time the Energy Commission should keep the information or data confidential.

Yellow highlighted data shall be kept confidential through the end of 2013 for all contracts except through the end of 2016 for the County of Los Angeles and UCLA contracts.

3(a). State the provision(s) of the public Records Act (Gov. Code, § 6250 et seq.) or other law that allows the Energy Commission to keep the information or data confidential, and explain why the provision apply to that material.

California Code of Regulations, Title 20, Section 2502(b) Other Public Entities. When another state or local agency possesses information pertinent to the responsibilities of the Commission that has been designated by that agency as confidential under the Public Records Act or the Freedom of Information Act, the Commission, the Executive Director, or the Chief Counsel may request, and the agency shall submit the information to the Commission without an application for confidential designation. The Commission shall designate this information confidential.

The 7 supply contracts that the Commission has requested information from contain counterparty confidential information.

Furthermore, the following Gov. Code provisions are also applicable: Section 6255 – 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 that 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 the LADWP to a potential breach action but could also result in a refusal on the part of the counterparties to conduct business with the LADWP.

Section 6254(k) – These records are also exempted or prohibited from disclosure pursuant to state law, specifically, Evidence Code Section 1040 as “official information.” The information was acquired in confidence from LADWP’s counterparties under the express terms of Par. 30 of the WSPP agreement and such information is against the public interest because the express terms of the WSPP agreement require that the terms of any transaction and all information exchanged between purchaser and seller remain confidential (see Par. 30 of the WSPP Agreement).

3(b). Discuss the public interest in nondisclosure of the material submitted for a confidential designation. If the material contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please 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.

The contracts included in this request allow for the deliver of renewable energy and its attributes (and non-renewable energy). 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.

4. State whether the information or data can 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.

The information may be disclosed if it is aggregated with other information to a degree that it conceals the identified confidential information in the contracts.

5. State how the material is kept confidential by the applicant and whether it has even been disclosed to a person other than an employee of the applicant.

The contracts contain confidentiality provisions which the counterparty has asked to be honored. The contracts are available to employees of the City of Los Angeles Department of Water and Power and the counterparties.

Ms. Melissa Jones

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I certify under penalty or 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 the Los Angeles Department of Water and Power.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy S. Howard", is written over a horizontal line.

Randy Howard

Power System Compliance Officer

OAA:oh

Enclosures