

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

DOCKET**11-IEP-1B**DATE May 25 2011RECD. May 25 2011

May 25, 2011

Ms. Angela Gregory
Upstream Compliance
Direct Energy
Two Gateway Center
Pittsburgh, PA 15222-1458

RE: **Application for Confidentiality, Direct Energy Business, LLC**
IEPR Electricity Resource Plan Submission
Docket No. 11-IEP-1B

Dear Ms. Gregory:

On April 29, 2011, the California Energy Commission (Energy Commission) received an application for confidentiality filed by the Direct Energy Business, LLC (Direct Energy) in the above-captioned Docket. This application and a set of electricity resource plans were filed in the above-captioned Docket in connection with the *2011 Integrated Energy Policy Report*.

Direct Energy seeks to protect from public disclosure certain data and information on the following electricity supply forms or tables:

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

In support of its request for confidentiality, Direct Energy's Application states, in part:

Section 2505(a)(4) of the Commission's regulations provides that an application for designation of confidential records will be granted if the information for which the applicant is seeking a confidential designation is "substantially similar to information that was previously deemed confidential by the Commission."

With reference to a previous application, Direct Energy states:

At the time Applicant submitted the above Electricity Supply forms, it submitted an application to the Executive Director requesting that the information reported in the forms be designated as confidential on the grounds that the information contains trade secrets, and that disclosure of the information

would cause Applicant to suffer a loss of competitive advantage.
(Application at p. 3)

Direct Energy has clearly identified on these forms (Excel worksheets) specific categories and specific time periods of data for which it is seeking confidentiality. These designations match what is requested in Direct Energy's Application, and they correspond to previous applications dated February 13, 2007, and April 6, 2009. The designations on the above-named forms also correspond to previous grants of confidentiality by the Executive Director dated February 27, 2007, and May 1, 2009.

Direct Energy has requested that certain "information contained in 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, 2013." Direct Energy has requested that certain "information contained in each Form S-5 be designated as confidential for three years ... to December 31, 2013, or through the end of the contract term, whichever is later." (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." Direct Energy's confidentiality application makes a reasonable claim to grant confidentiality for the data identified in its application. The information specifically listed in Direct Energy's Application could place Direct Energy at a competitive disadvantage if disclosed, and is granted confidentiality based on trade secret. Consistent with previous grants of confidentiality, the identified confidential information contained on Direct Energy's S-1 and S-2 supply resource forms will be kept confidential until December 31, 2013. Identified information on S-5 forms will be kept confidential until December 31, 2013, or to the contract expiration date, whichever is later.

To prevent disclosure, confidential data that may be used in publicly available 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.

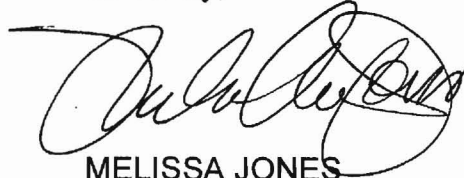
The Energy Commission appreciates the efforts by Direct Energy staff to answer technical questions related to its resource plan filing.

Persons may petition to inspect or copy 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. Be advised that appeal of this decision must be filed within fourteen days from

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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 over a circular stamp or seal.

MELISSA JONES
Executive Director

cc: Docket Unit