

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512



May 27, 2011

DOCKET 11-IEP-1B
DATE 5-27-11
RECD. 5-31-11

Mr. Randy Howard
Power System Compliance Officer
Los Angeles Department of Water and Power
111 North Hope Street, Room 921
Los Angeles, CA 90012

RE: **Application for Confidentiality,
Los Angeles Department of Water and Power
IEPR Electricity Resource Plan Submission
Docket No. 11-IEP-1B**

Dear Mr. Howard:

On April 29, 2011, the California Energy Commission (Energy Commission) received an application for confidentiality filed by the Los Angeles Department of Water and Power (LADWP). This application, dated April 28, 2011, and a set of electricity resource plans were filed in the above-captioned Docket in connection with the *2011 Integrated Energy Policy Report*.

LADWP seeks to protect from public disclosure certain information on one type of electricity supply form:

- Form S-5 Bilateral Contracts and Power Purchase Agreements

On seven individual S-5 electricity supply forms, LADWP seeks to protect four categories of information: Contract Name, Supplier/Seller, Fuel Type, and Generating Units Specified. In support of its request for confidentiality, LADWP's Application states, in part:

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. ...

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. ...

The information was acquired in confidence from LADWP's counterparties under the express terms of Par. 30 of the WSPP agreement ... (Application at pp. 2-3)

LADWP's Application states that without the consent of those counterparties, disclosure of the counterparty names and their generating units or supply portfolios, could place LADWP in violation of the terms and conditions of its agreements.

The contracts contain confidentiality provisions which the counterparty has asked to be honored. (Application at p. 3)

LADWP has clearly identified on seven S-5 forms (in Excel) the specific categories for which it is seeking confidentiality. On five of these forms (contracts G, H, I, J, and K), LADWP has asked that yellow highlighted data be kept confidential through the end of 2013. On two of these forms (contracts B and N), LADWP has asked for confidentiality through the end of 2016. For these last two S-5 supply forms (contracts B and N), LADWP provided this information previously for the 2009 IEPR along with a confidentiality request dated March 19, 2009. A grant of confidentiality by the Energy Commission Executive Director dated April 23, 2009, still applies to the contract B and N information that was resubmitted in 2011, and will continue through December 31, 2016.

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." LADWP's confidentiality application makes a reasonable claim to grant confidentiality for the data identified in its application. The information described in LADWP's Application could place LADWP in violation of contract confidentiality provisions if disclosed, and is granted confidentiality based on trade secret.

The identified confidential information contained on the five above-named S-5 supply resource forms (contracts G, H, I, J, and K) as provided by LADWP will be kept confidential until December 31, 2013.

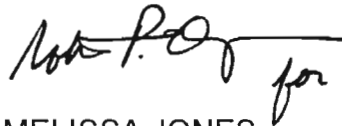
To prevent disclosure, confidential data that may be used in publicly available reports and presentations will be aggregated with resource plan information from other load-serving entities in order to conceal the confidential specifics of LADWP's individual supply contracts.

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

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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 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" followed by a stylized flourish and the word "for".

MELISSA JONES
Executive Director

cc: Docket Unit