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COMPLETED

July 22, 2011

RECEIVED  
JUL 22 2011  
EXECUTIVE DIRECTOR

Robert P. Oglesby  
Executive Director  
California Energy Commission  
1516 Ninth Street  
Sacramento, CA 95814-5512

DOCKET  
03-RPS-1078  
DATE JUL 22 2011  
RECD. JUL 22 2011

RE: Docket 03-RPS-1078  
Application for Confidential Designation – Praxair Plainfield, Inc.  
Supplemental Report to the California Energy Commission – Procurement of  
Renewable Energy Generation from RPS Certified Facilities

Dear Executive Director Oglesby:

Praxair Plainfield, Inc. (“Plainfield”), by this Application for Confidential Designation, seeks to protect certain information provided to the Commission in the attached RPS Procurement Report submission consistent with Title 20 California Code of Regulations (“CCR”) Sections 2501 *et seq.*

Please feel free to contact me at (916) 447-2166 should you or Staff have any questions or require additional information regarding this Application. Thank you for your consideration of our request.

Sincerely,



Andrew B. Brown  
Jedediah J. Gibson  
Ellison, Schneider & Harris, LLP  
Attorneys for Praxair Plainfield, Inc.

Confidential Materials in Sealed Enclosure.

**APPLICATION FOR CONFIDENTIAL DESIGNATION  
03-RPS-1078**

**Praxair Plainfield, Inc.**

**Supplemental Report to the California Energy Commission – Procurement of Renewable  
Energy Generation from RPS Certified Facilities  
July 22, 2011**

1. *Specifically indicate those parts of the record which should be kept confidential.*

Praxair Plainfield, Inc. (“Plainfield”) requests that the following information remain confidential:

<b>Report</b>	<b>Information to be held confidential</b>
CEC Summary of RPS Procurement (kWh) for 2008	2008 RPS Summary tab, cell B13 (retail sales)

2. *State the length of time the record should be kept confidential, and provide justification for the length of time.*

Because (1) the information is not otherwise publicly available or readily discoverable in the form or detail provided, (2) the information is market sensitive and constitutes trade secrets in terms of supply portfolio development and risk management, and (3) the information constitutes customer-specific data, *Plainfield asks that the identified data be held in confidence until December 31, 2012.*

This requested period of time is appropriate for two reasons. First, the Commission has previously granted a request by Plainfield for similar protection for this type of data.<sup>1</sup> Second, for the time period at issue, this request reflects customer-specific consumption data that is considered a trade secret by Plainfield’s customer.

3. *Cite and discuss (i) the provisions of the Public Records Act or other law which allow the commission to keep the record confidential and (ii) the public interest in nondisclosure of the record.*

Plainfield is submitting the information and data described above in accordance with Public Utilities Code Section 399.11 *et seq.*, Section IV.A of the Commission’s *RPS Eligibility Guidebook*, and the February 5, 2008 letter<sup>2</sup> from the Commission to retail providers of electricity containing reporting requirements.

<sup>1</sup> See, January 16, 2009 letter from CEC to Andrew Brown regarding Appeal of Praxair Plainfield, Inc. Application for Confidential Designation of RPS Track Form Submission, Docket No. 03-RPS-1078. In that letter the Commission granted confidentiality protection to retail sales data for a period of five years (2007 data was granted confidentiality through the end of 2011).

<sup>2</sup> The February 5, 2008 Commission letter is available at [http://www.energy.ca.gov/sb1305/documents/2008-02-08\\_ANNUAL\\_REPORTING.PDF](http://www.energy.ca.gov/sb1305/documents/2008-02-08_ANNUAL_REPORTING.PDF).

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).)

The information identified above, and any supporting data submitted by Plainfield, contain trade secrets or otherwise commercially sensitive data the disclosure of which would cause loss of a competitive advantage *for Plainfield’s customer*. Plainfield’s customer considers data on its specific levels of consumption to be a trade secret as information about consumption can provide insight into the customer’s costs of production due to energy intensity of its products. The materials identified above should be subject to the requested confidentiality protection because the information is commercially sensitive and not publicly available and/or constitutes trade secrets the public disclosure of which would harm Plainfield’s customer. Accordingly, Plainfield requests that the information described in section 1 above, and any related, supporting data that may be provided pursuant to a subsequent Staff request, be designated as confidential.

Plainfield believes that the public interest in having an open, public debate on key energy issues facing the state can be satisfied by disclosure of information submitted by Plainfield on a state-wide aggregated basis with information from other ESPs or LSEs. Any greater granularity in the data released, including disclosure of any Plainfield-specific data that is not aggregated with other LSEs, could expose Plainfield’s customer’s detailed information to competitors, including other ESPs and the investor-owned utilities (“IOUs”), as well as potential suppliers.

Plainfield requests that the identified information also be deemed confidential for the following additional reasons: The information is commercially sensitive and constitutes a trade secret and is therefore exempt from disclosure. Evidence Code §1060, Civil Code §3426.1(d). Moreover, the public interest in nondisclosure clearly outweighs the public interest in disclosure insofar as release of this detailed procurement information may directly harm Plainfield’s customer’s existing and future commercial opportunities. Gov’t Code § 6255.

4. *State whether the information may be disclosed if it is aggregated with other information or masked to conceal certain portions, and if so the degree of aggregation or masking required.*

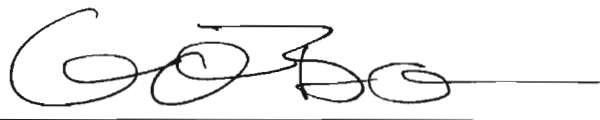
Plainfield has considered whether it would be possible to aggregate or mask the identified information. Plainfield can support the aggregation of Plainfield-specific information with similar information from all other ESPs or LSEs where disclosed on a *statewide aggregated basis*. Plainfield believes that disclosure of Plainfield-specific data of the types collected here, even if aggregated on a statewide basis but specific to Plainfield, could lead to the disclosure of Plainfield's customer's detailed monthly procurement practices and thereby result in harm to Plainfield's customer.

5. *State whether and how the information is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant, and if so under what circumstances.*

Plainfield has not disclosed any of the subject information to anyone other than its employees, attorneys and consultants working with the Company, or government agency employees or employees of the CAISO subject to confidentiality protection. Plainfield routinely keeps information of commercial value, like the subject information identified herein, confidential. Moreover, Plainfield is informed that its customer maintains confidentiality over its consumption data. Accordingly, Plainfield requests confidentiality of the retail sales data until the end of 2012.

*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 belief. I am authorized to make the Application and Certification on behalf of Praxair Plainfield, Inc.*

Dated: July 22, 2011



Andrew B. Brown

Ellison, Schneider & Harris L.L.P.  
Attorneys for Praxair Plainfield, Inc.