

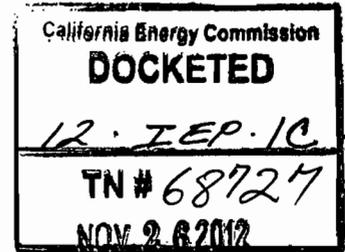
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GWF POWER SYSTEMS

November 26, 2012

California Energy Commission
Docket Office
Attn: Docket 12-IEP-1c
1516 Ninth Street – MS-4
Sacramento, CA 95814-5512



RE: Information Request for As-Operating Project Costs – Hanford, Henrietta and Tracy Power Plants

To Whom It May Concern:

In accordance with the request for information GWF Energy LLC respectfully submits the following Operating Cost information for:

- Hanford Energy Park Peaker (01-EP-07C)
- Henrietta Peaker Plant (01-AFC-18C)
- Tracy Peaker Plant (01-AFC-16C)

Additionally, GWF Energy LLC has completed the Application for Confidential Designation - Docket Number (12-IEP-1c) for information pertaining to each of the above power plants. Per the instructions, GWF is only submitting a hard copy of the requested information along with our request that the information provided be granted confidential status.

If you have any questions regarding our submittal, please feel free to contact Mark Kehoe, Director, Environmental and Safety Programs for GWF Energy LLC at 925.431.1440 or via email at mkehoe@gwfpower.com . Thank you for your time and consideration regarding the information provided.

Respectfully,

GWF Energy LLC

Mark Kehoe
Director, Environmental and Safety Programs

Enclosures: Attachment 1 – As-Operating Information Request *5 copies each*
Attachment 2 – Application for Confidential Designation (12-IEP-1c) *1 copy each*

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**APPLICATION FOR CONFIDENTIAL DESIGNATION
(Cal. Code Regulations, Title 20, § 2505)
DOCKET NUMBER: (12-IEP-1c)**

Applicant: GWF Energy, LLC

Address of Applicant: 4300 Railroad Avenue, Pittsburg, CA 94565

1. (a) Title, data, and description of the record:

The As-Operating Cost Information Request Form issued by the California Energy Commission (Energy Commission) for the Hanford, Henrietta, and Tracy Power Plants.

(Note: **See attached records**)

(b) Specify the part(s) of the record for which you request confidential designation.

GWF Energy, LLC is requesting confidential designation for the following information items listed below.

1. *Hanford Energy Park Peaker (01-EP-07C) As-Operating Information Request – All Parameters (other than #2 and #3, which we understand are public information)*
2. *Henrietta Peaker Plant (01-AFC-18C) As-Operating Information Request – All Parameters (other than #2 and #3, which we understand are public information)*
3. *Tracy Peaker Plant (01-AFC-16C) As-Operating Information Request – All Parameters (other than #2 and #3, which we understand are public information)*

2. State and justify the length of time the Energy Commission should keep the record confidential.

GWF Energy LLC is a privately held company and requests that all records be maintained on a confidential basis for 15 years from the submittal date. Release of this data during any period when it may still have market relevance, such that it could be used by other companies or individuals to evaluate the efficiency and cost effectiveness of GWF's operations, would place GWF at a competitive disadvantage relative to future markets.

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 record confidential, and explain why the provision(s) applies to the record.

The completed forms requested by the Energy Commission contain information that is commercially sensitive, which the applicant considers to be confidential. Each type of information requested by the Energy Commission is discussed individually below:

Total annual operating costs; Water supply source/cost/consumption; Staffing (average annual cost); Ongoing operating costs; Estimate of actual annual maintenance costs. This information constitutes trade secret information exempt from disclosure under the California Public Records Act, Government Code § 6254(k). Trade secret information includes any information that “[d]erives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use...and [i]s the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” Cal. Civil Code § 3426.1(d). All of the information listed above pertains to specific, internal operating costs of the various facilities. This information derives potential independent economic value from not being known to the public or competitors. Disclosure of this information would cause a loss of competitive advantage for the company because competitors could attempt to determine, among other things, the price of contracts the facilities have in place for items such as maintenance, personnel, and water supplies, the parties or vendors with which the facilities contract for these services, or the methods and/or means by which the facilities conduct maintenance or operations. The trade secret nature of this information is discussed in more detail in section (b) below.

MW net/gross. This information should be automatically designed as confidential under 20 CCR § 2505(a)(5). This information has not been previously released to the public and falls within the category of protected information in subsection (6) of 20 CCR § 2505(a)(5)(B). This subsection states that “electric power plant specific hourly generation data” is confidential. Because the operating hours and startup/shutdown hours which are being submitted to the Energy Commission are designated public information, any person could determine the facilities’ hourly generation data by dividing the operating hours by net/gross MW generation if the MW net/gross information is also made public.

Natural gas average annual price. This category of information should be automatically designated as confidential pursuant to 20 CCR § 2505(a)(5). This information has not been previously released to the public and falls within the category of protected information in subsection (4) of 20 CCR § 2505(a)(5)(B) for “fuel price data provided pursuant to subdivision (d) of Section 1308 of Article 1 of Chapter 3.” The price of the natural gas delivered to each individual electric generator here has been previously provided to the Energy Commission pursuant to 20 CCR § 1308(d) and thus this information automatically qualifies as confidential.

In addition, this information constitutes trade secret information exempt from disclosure under the California Public Records Act, Government Code § 6254(k). Trade secret information includes any information that “[d]erives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use...and [i]s the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” Cal. Civil Code § 3426.1(d). The cost of the natural gas provided to the facilities is information with independent economic value which would be lost if the information were made public or made available to competitors. Making public the price of natural gas that the facilities pay for their operations would cause the facilities to lose a competitive advantage over other facilities as each natural gas contract is independently negotiated and agreed upon and the confidential nature of that contract and relationship is necessary to the effective workings of the facilities. The trade secret nature of this information is discussed in more detail in section (b) below.

Fixed versus variable O&M costs definition. This information constitutes trade secret information exempt from disclosure under the California Public Records Act, Government Code § 6254(k). Trade secret information includes any information that “[d]erives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use...and [i]s the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” Cal. Civil Code § 3426.1(d). The determination of O&M costs as fixed versus variable is confidential information which has economic value to the company. Knowing whether certain costs are fixed or variable would give competitors information about the way that the company runs its business, and could result in a loss of competitive advantage over those competitors. The trade secret nature of this information is discussed in more detail in section (b) below.

(b) If the record contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please also 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.

Total annual operating costs; Water supply source/cost/consumption; Staffing (average annual cost); Ongoing operating costs; Estimate of actual annual maintenance costs. Disclosure of this information would cause a loss of competitive advantage for the company because competitors could attempt to determine, among other things, the price of contracts the facilities have in place for items such as maintenance, personnel, and water supplies, the parties or vendors with which the facilities contract for these services, or the methods and/or means by which the facilities conduct maintenance or operations. With this knowledge competitors could, among other things, attempt to interfere with the facilities’ relationships with said vendors and/or attempt to model their

operations and maintenance activities after these facilities in order to obtain a competitive advantage from this information. All of this information is an important part of the way the company conducts its business and the operation and maintenance decisions the facilities make, and thus provides value to the company. None of this information is public and it could not be legitimately acquired by competitors in any form. Further, there is no way in which competitors could attempt to duplicate the facilities' business practices or methods of operation and maintenance without being privy to this information.

Natural gas average annual price. Making public the price of natural gas that the facilities pay for their operations would cause the facilities to lose a competitive advantage over other facilities as each natural gas contract is independently negotiated and agreed upon. A competitor could use this information to leverage a better price for natural gas with the facilities' suppliers, disrupting the facilities' current contracts or causing an increase in price for the facilities' natural gas supplies. This information is an important part of the company's business model and thus provides value to the company. This information is not public, it could not be acquired by competitors, and there is no way in which a competitor could duplicate the natural gas contracts or pricing that exist for the facilities without knowing this information.

Fixed versus variable O&M costs definition. Making this information public would allow competitors to ascertain whether the facilities have fixed contracts for items such as natural gas, electricity, water and sewer, and facility personnel or whether these costs are variable. This would give competitors the ability to model their business practices after the facilities and/or to disrupt the facilities contracts. This information is an important part of the way the facilities conduct their business and thus provides value to the facilities. None of this information is public and it could not legitimately be acquired by competitors. Competitors are also unable to duplicate, or attempt to duplicate, the company's business practices unless they are privy to this information.

- 4. State whether the record may 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 it is aggregated or masked, explain why.**

Confidential treatment of the information is not necessary if it is aggregated with information submitted by other companies in a manner that prevents any portion of the information from being attributed or traced back to GWF Energy generally or to the Hanford, Henrietta or Tracy plants in particular. Neither the name GWF Energy, nor the names of the individual plants, may appear in any aggregation or other presentation of data.

5. **State how the record is kept confidential by the Applicant and whether it has ever been disclosed to a person other than an employee of the Applicant. If it has, explain the circumstances under which disclosure occurred.**

Trade secret information must be “the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” Cal. Civil Code § 3426.1(d). All of the information asserted to be confidential and trade secret in this submission is maintained on a confidential basis within the company. The information is kept in a secure location within the company and is shared only with those employees who have a “need to know” based on their job description. Further, the information is not disclosed to the public. Some of the information discussed above has been previously disclosed to the Energy Commission under other data submission requirements, but the company has consistently maintained that this information is confidential, treated it in a confidential manner, and marked it as such when submitting it to the Energy Commission. Thus, the information has not lost its confidential nature by virtue of prior submissions to the Energy Commission. All of these actions demonstrate that the company has consistently treated this information as confidential and trade secret and will continue to do so.

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 that I am authorized to make the application and certification on behalf of the Applicant.

Dated: November 26, 2012

Signed:  _____

Name: Mark Kehoe

Title: Director, Environmental and Safety Programs

