

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

California Energy Commission

DOCKETED
00-AFC-13CTN 70899
MAY 20 2013

May 20, 2013

Kristen Castanos
Stoel Rives LLP
500 Capitol Mall, Suite 1600
Sacramento, CA 95814

RE: Huntington Beach Generating Station Application for Designation of Confidential Records
Docket No. 00-AFC-13C

Dear Ms. Castanos:

On April 18, 2013, the Applicant, AES Huntington Beach, LLC, filed an application for confidentiality seeking strategic equipment installation data to be designated as confidential.

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." The California Public Records Act allows for the non-disclosure of trade secrets and proprietary information. (Gov. Code, §§ 6254(k), 6254.7, 6254.15 Evid. Code, § 1060.) The California courts have traditionally used the following definition of trade secret:

a trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. . . .

(*Uribe v. Howe* (1971) 19 Cal.App.3d 194, 207-208, from the Restatement of Torts, vol. 4, § 757, comments b, p.5.)

California Code of Regulations, title 20, section 2505(a)(1)(D) states that if the applicant for confidential designation believes that the record should not be disclosed because it contains trade secrets, or its disclosure would otherwise cause loss of a competitive advantage, the application shall state: 1) the specific nature of the advantage; 2) how the advantage would be lost; 3) the value of the information to the applicant; and 4) the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

The application states that the submitted Information pertains to strategic equipment installation activities that derive independent economic value from not being disclosed to the public or competitors. The submitted information is also subject to a nondisclosure agreement between AES Huntington Beach, LLC and Siemens, the equipment manufacturer. The information is valuable to Siemens because it has been developed by Siemens for the purpose of deriving economic value to Siemens and, if released, the value would be diminished and Siemens would experience a loss of competitive advantage. AES Huntington Beach, LLC and Siemens' strategic installation activities derive independent economic value from not being disclosed to the public or to competitors.

In addition to trade secrets, Government Code section 6254.15 exempts from disclosure the following types of information:

Corporate financial records, corporate proprietary information including trade secrets, and information relating to siting within the state furnished to a government agency by a private company for the purpose of permitting the agency to work with the company in locating a facility within California.

In this case the information subject to the confidentiality application relates to a facility sited within California.

Applicant has made a reasonable claim that the law allows the Energy Commission to keep the underlying strategic equipment installation information confidential on the grounds that they are proprietary and trade secret information. The information has been developed exclusively by Applicant, contains information that is not public, and has the potential for economic advantage.

Based on the above discussion, the Applicant's confidentiality application is granted. The data subject to this confidentiality designation will be kept confidential until the synchronous condensers are decommissioned or if the facility is not built, 5 years.

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Be advised that 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. If you have any questions concerning this matter, please contact Jared Babula, Senior Staff Counsel, at (916) 651-1462.

Sincerely,



Robert P. Oglesby
Executive Director

cc: Docket Unit
Christina Stora, Energy Commission Compliance Project Manager