

## CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512  
www.energy.ca.gov



May 24, 2013

California Energy Commission

**DOCKETED****13-IEP-1B**

TN 70963

MAY 24 2013

Mr. Andrew B. Brown  
Ellison, Schneider & Harris, LLP  
Attorneys for Constellation NewEnergy, Inc.  
2600 Capitol Avenue, Suite 400  
Sacramento, CA 95816

RE: Constellation NewEnergy's Application for Confidentiality for the *2013 Integrated Energy Policy Report* Electricity Resource Plan Submission  
Docket No. 13-IEP-1B

Dear Mr. Brown:

On April 26, 2013, the California Energy Commission (Energy Commission) received an application for confidentiality from Constellation NewEnergy, Inc. (CNE) dated April 26, 2013. This application and a set of electricity resource plans were filed in the above-captioned Docket in connection with the *2013 Integrated Energy Policy Report*.

CNE requests that specific information be held confidential. Form S-1, the Capacity Resource Accounting Table, contains information about actual and forecasted capacity purchases for the years 2012-2016, including annual historical and forecasted peak loads for these years. CNE is not requesting that information on capacity data for the years 2011 or 2017 be held confidential.

Form S-2, the Energy Balance Accounting Table, contains information about actual and forecasted energy purchases for the years 2013-2016, including historical and forecasted annual energy demand by direct access customers served by CNE. CNE is not requesting that information on renewable energy purchases be held confidential and is not requesting that information on energy data for the years 2011, 2012, or 2017 be held confidential.

Table S-5, listing Bilateral Contract and Power Purchase Agreements, contains information on 63 non-renewable bilateral contracts including the Supplier/Seller, Starting and Expiration Dates, Contract Capacity, and Scheduling Coordinator. CNE is not requesting that similar information related to renewable wind and biomass purchases from Constellation Energy Commodities Group, Inc. be held confidential.

These designations correspond to a previous application dated May 27, 2011. The designations on the above-named forms also correspond to a previous grant of confidentiality by the Executive Director dated June 24, 2011.

CNE asserts that this information be designated confidential:

Because (1) the information is not otherwise publicly available or readily discoverable in the form or extensive detail provided, (2) the information is market sensitive and constitutes trade secrets in terms of supply portfolio development and risk management, and CNE's internal portfolio management practices, and (3) the release of this information will result in loss of competitive advantage in the wholesale and retail marketplaces relative to CNE's ability to negotiate future contracts for the purchase or resale of energy and/or capacity at wholesale, or negotiation of contracts with retail customers,...

CNE requests that the above information be granted confidentiality for three years. The data can be released immediately if aggregated with data submitted on electricity resource plans by all other energy service providers.

A properly filed application for confidentiality shall be granted under California Code of Regulations, Title 20, Section 2505(a)(3)(A), "if the applicant makes a reasonable claim that the California Public Records Act or other provision of law authorizes the [Energy] Commission to keep the record confidential."

CNE's confidentiality application makes a reasonable claim to grant confidentiality for the data identified above. The peak demand calculations, annual capacity purchases, annual energy demand, and annual bilateral contracted generation (other than renewable energy supplies) as described above are granted confidentiality based on trade secret. This information and data could place CNE at a competitive disadvantage if disclosed.

To prevent disclosure that would cause harm, 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 protect the confidential specifics of CNE's load forecasts, resource portfolio, or individual non-renewable supply contracts.

The identified confidential information contained on Form S-1, Form S-2, and Table S-5 will be kept confidential until December 31, 2016.

Persons may petition to inspect or copy the records that I have designated as confidential. The procedures and criteria for filing, reviewing, and acting upon such petitions are set forth in California Code of Regulations, Title 20, Section 2506. Be advised that an appeal of this decision must be filed within 14 days from the date of this

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decision. The procedures and criteria for appealing any part of this decision are set forth in 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 blue ink, appearing to read 'R. P. Oglesby', with a long horizontal line extending to the right.

Robert P. Oglesby  
Executive Director

cc: Docket Unit  
Sylvia Bender