

CALIFORNIA ENERGY COMMISSION

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June 10, 2013

California Energy Commission

DOCKETED**13-IEP-1B**

TN 71210

JUN 10 2013

Ms. Angela Gregory
Compliance Officer
Direct Energy Business, LLC
12 Greenway Plaza, Suite 250
Houston, Texas 77046-1211

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

Dear Ms. Gregory:

On May 16, 2013, the California Energy Commission (Energy Commission) received an application for confidentiality from Direct Energy Business, LLC (Direct Energy) dated May 9, 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*.

Specifically, Direct Energy requests that the following information be held confidential:

Form S-1, the Capacity Resource Accounting Table, contains information about actual and forecasted capacity purchases for the years 2011-2017, including annual historical and forecasted peak loads for these years.

Form S-2, the Energy Balance Accounting Table, contains information about actual and forecasted energy purchases for the years 2011-2017, including historical and forecasted annual energy demand by direct access customers served by Direct Energy.

Table S-5, listing Bilateral Contract and Power Purchase Agreements, contains information on 254 bilateral contracts including the Supplier/Seller, Starting and Expiration Dates, Contract Capacity, and Scheduling Coordinator.

These designations correspond to previous applications by Direct Energy dated February 13, 2007, April 6, 2009, and April 29, 2011. The designations on the above-named forms also correspond to previous grants of confidentiality by the Executive Director dated February 27, 2007, May 1, 2009, and May 25, 2011.

Direct Energy requests that this information be designated confidential because:

Section 2505(a)(4) of the Commission's regulations provides that an application for designation of confidential records will be granted if the information for which the applicant is seeking a confidential designation is "substantially similar to information that was previously deemed confidential by the Commission."

At the time Applicant submitted the above Electricity Supply forms, it submitted an application to the Executive Director requesting that the information reported in the forms be designated confidential on the grounds that the information contains trade secrets, and that disclosure of the information would cause Applicant to suffer a loss of competitive advantage.

The Executive Director found that the aforesaid information constitutes a trade secret and that Applicant had made a reasonable argument for classifying the information as confidential since "it would place [Applicant] at a competitive disadvantage if made public."

The Electricity Resource Planning information for which Applicant is seeking a confidential designation is substantially similar to the Electricity Resources Planning information that was previously granted confidentiality as discussed above.

Direct Energy requests that all the information contained in each Form S-1 and Form S-2 be granted confidentiality "for three (3) years, including the reporting year, i.e., to December 31, 2015." Direct Energy requests that all of the information contained on Table S-5 be designated as confidential to December 31, 2015 or to contract expiration, whichever is later. Direct Energy states the Applicant-specific information can be released immediately if aggregated with similar information submitted on electricity resource plans by all other electric service providers and disclosed on a statewide aggregated basis.

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."

Direct Energy'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 as described above are granted confidentiality based on trade secret. This information and data could place Direct Energy 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

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information from other load serving entities in order to protect the confidential specifics of Direct Energy's load forecasts and portfolio of contractual supply resources.

The identified confidential information contained on Form S-1, Form S-2, and Table S-5 will be kept confidential until December 31, 2015, or to the contract expiration date, whichever is later.

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 fourteen days from the date of this 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,


Robert P. Oglesby
Executive Director

cc: Docket Unit
Sylvia Bender