



**Direct
Energy.**
Business



COMPLETED

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April 16, 2009

California Energy Commission
Melissa Jones, Executive Director
1516 Ninth Street, MS-39
Sacramento, CA 95814-5512

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|------------------|--------------------|
| DOCKET | |
| 09-IEP-1B | |
| DATE | <u>APR 16 2009</u> |
| RECD. | <u>APR 21 2009</u> |

RE: Docket 09-IEP-1B Electricity Resource Plans

Ms. Jones:

Pursuant to Mr. Jim Woodward's March 19, 2009 correspondence and subsequent discussions with Mr. Woodward, enclosed are the *Revised* Electricity Resource Plans (Docket 09-IEP-1B) of Direct Energy Business, LLC (ESP #1351).

In addition, please find a *Revised* Application for Designation of Confidential Records for the information and data set forth in the Electricity Resource Plans.

If you feel that we have not fully demonstrated the need for confidential treatment of the requested data, we would appreciate your contacting us with any deficiencies prior to a formal designation so that we may attempt to remedy them.

If you have any questions or comments regarding this submission, please feel free to contact me at 412.644.3120 or carl.boyd@directenergy.com.

Sincerely,

Carl Boyd
Manager of Regulatory Compliance & Licensing
Direct Energy Business, LLC

**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION**

In the Matter of:

2009 Integrated Energy Policy Report (IEPR)

Docket No. 09-IEP-1B
(Electricity Resource Plans)

**APPLICATION OF DIRECT ENERGY BUSINESS, LLC
FOR DESIGNATION OF CONFIDENTIAL RECORDS**

Pursuant to Section 25322 of the Public Resources Code (“PRC”) and Section 2505(a) of Title 20 of the California Code of Regulations (“CCR”), Direct Energy Business, LLC, formerly Strategic Energy, L.L.C. (“Applicant”), hereby requests that the Commission designate as confidential the information specified herein and originally submitted by Applicant on February 17, 2009 (revised and resubmitted on April 17, 2009), concerning Applicant’s forecast monthly peak load data, forecast monthly energy demand data, and bilateral contract information contained in Electricity Resource Planning Forms S-1, S-2 and S-5.

I. ELECTRICITY RESOURCE PLANNING FORMS

A. Form S-1 – Capacity Resource Accounting Tables

Applicant has submitted an aggregate Form S-1 (all UDCs) as well as Form S-1s for each utility distribution area in which it has forecasted load, with each Form S-1 containing the following information:

- Applicant’s forecast annual peak-hour load, in megawatts (“MW”), for the seven-year period 2007-2013.
- Applicant’s forecast annual peak-hour load (MW) for existing customer contracts for the seven-year period 2007-2013.
- Applicant’s forecast annual peak-hour load (MW) for new and renewed customer contracts for the seven-year period 2007-2013.
- Applicant’s adjusted Peak-Hour Demand for End Use Customers for the seven-year period of 2007-2013.
- Applicant’s Coincident Peak-Hour Demand for the seven-year period of 2007-2013.
- Applicant’s Other Bilateral Contract Resources for the seven-year period of 2007-2013 (aggregate Form S-1 only).
- Applicant’s Capacity Balance Summary for the seven-year period of 2007-2013.

- Applicant's Historic Actual LSE Non-Coincident Peak Load for the two-year period of 2007-2008.

Additionally, Applicant has submitted an aggregate Form S-1 (all UDCs) and separate Form S-1s for each utility distribution area containing information about Applicant's forecast monthly peak-hour load and planning reserve requirements, as well as detailed information about Applicant's existing and planned capacity resources, for 2010.

B. Form S-2 – Energy Resource Balance Accounting Tables

Applicant has submitted an aggregate Form S-2 (all UDCs) and separate Form S-2s for each utility distribution area in which it has forecasted load, with each Form S-2 containing the following information:

- Applicant's forecast annual energy demand, in gigawatt-hours ("GWh"), for the seven-year period of 2007-2013.
- Applicant's forecast monthly and total energy demand (GWh) for existing customer contracts for the five-year period of 2007-2013.
- Applicant's forecast monthly and total energy demand (MWh) for new and renewed customer contracts for the five-year period of 2007-2013.
- Applicant's adjusted energy demand/consumption (GWh) for the seven-year period 2007-2013.
- Applicant's firm LSE energy requirement (GWh) for the seven-year period of 2007-2013.
- Applicant's energy balance summary (GWh) for the seven-year period of 2007-2013
- Applicant's additional needs for energy (renewable) (GWh) for the seven-year period of 2007-2013
- Applicant's renewable energy accounting (GWh) for the seven-year period of 2007-2013.

Additionally, Applicant has submitted an aggregate Form S-2 (all UDCs) and separate Form S-2s for each utility distribution area in which it has forecasted load containing information about Applicant's forecast monthly energy demand, detailed information about Applicant's existing and planned energy resources, additional needs for energy (renewable) and renewable energy accounting for 2010.

C. Form S-5 – Bilateral Contracts and Power Purchase Agreements

Applicant has submitted a separate Form S-5s containing detailed information about each bilateral contract and power purchase agreement with a term of three months or more that it has signed with suppliers of energy and capacity. The confidential contract information contained in each Form S-5 includes supplier name, contract/agreement capacity; scheduling coordinator; and other material terms and conditions (unit contingent/LD contract specification; firm delivery obligation; and contract/agreement type).

D. Request for Confidential Designation

Applicant requests that all of the information contained in each Form S-1 and Form S-2 be designated as confidential for three (3) years including the reporting year, i.e., to December 31, 2011. In addition, Applicant requests that all of the information contained and that all of the information contained in Form S-5 be designated as confidential for three years including the reporting year (i.e., to December 31, 2011) or through the end of the contract term, whichever is later.

E. Grounds for Confidential Designation

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."

On February 13, 2007, Applicant submitted its responses to the Commission's Electricity Resources data requests for the 2005 IEPR. Applicant's responses included the following Electricity Supply forms:

- Form S-1 – Capacity Resource Accounting Tables
- Form S-2 – Energy Resource Balance Accounting Tables
- Form S-5 – Bilateral Contracts

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 as 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.

By letter dated February 27, 2007, the Executive Director granted Applicant's confidentiality application for the information reported in Form S-1 and Form S-2 for a period of three (3) years ending December 31, 2009, except for information contained on Line 67 of Form S-2. In addition, the Executive Director granted confidentiality for the bilateral contract information reported in Form S-5 until December 31, 2009, or the end of the contract term, whichever is later. 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. Accordingly, all of the information contained in the attached 2007 IEPR Electricity Resource Planning forms should be designated as confidential.

F. Aggregation of Data

The data and information submitted by Applicant in the attached Electricity Resource Planning forms may be released to the public if first aggregated with the data and information submitted by other load-serving entities (“LSEs”) as follows:

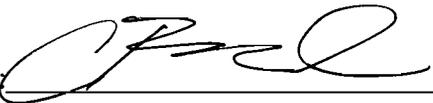
1. Geographic-level data in Form S-1 and Form S-2 should be aggregated with the geographic-level data of all other LSEs serving load in the applicable geographic area (utility service territory).
2. Statewide-level data and information about existing and planned resources in Form S-1 and Form S-2 should be aggregated with the statewide-level data and resource information of all electric service providers (“ESPs”).
3. Bilateral contract information in Form S-5 should be aggregated with the bilateral contract information of all other ESPs.

Certification

The undersigned is authorized to make this application and the following certification on behalf of Applicant:

“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.”

DIRECT ENERGY BUSINESS, LLC

By: 

Name: CARL W. BEND

Title: Mgr, Regulatory Compliance & Licensing

Date: 4/16/09