

**DECLARATION OF ANDREW B. BROWN
IN SUPPORT OF CLAIMS OF CONFIDENTIALITY
OF CONSTELLATION NEWENERGY, INC.**

I, Andrew B. Brown, declare as follows:

1. I am an attorney representing Constellation NewEnergy, Inc. (“CNE”) in this matter.
2. I have reviewed, or caused to be reviewed, the November 10, 2011 Revised August 2011 RPS Compliance Report of CNE.
3. The statements in this declaration are based on my knowledge, information, or belief.
4. An officer of CNE is not located within the County of Sacramento and was not available to execute this Declaration at the time the materials were prepared.
5. I have been authorized to make this declaration on behalf of CNE.
6. Those portions of CNE’s RPS Compliance Report identified in Table 1 below are eligible for confidentiality protection pursuant to Decision (“D.”) 06-06-066 and D.08-04-023 and the Matrix of Allowed Confidential Treatment for Energy Service Provider Data (“ESP Matrix”) attached as Appendix B to the latter decision.
7. The data for which CNE requests confidentiality and thereby protection from public disclosure are of the types and correspond to the category (or categories) in the ESP Matrix specified below:

TABLE 1: IDENTIFICATION OF CONFIDENTIAL INFORMATION

<i>RPS Compliance Report Worksheet Location</i>	<i>Type of Data</i>	<i>Matrix Category</i>
Worksheet “Summary 2010”: RPS Summary Report: Cells D9:D10, E11, D12-E13 (Current Year Total Retail Sales MWh, Annual Procurement Target MWh, Total RPS-Eligible Procurement percentage, Annual Procurement Surplus/(Deficit) MWh, Adjusted Procurement Percentage); Flexible Compliance: Cells D37:D38 (Banked Procurement Applied and Total Flexible Compliance MWhs); Deficits and Penalties: Cells D42:D44 (Preliminary Procurement (Deficit), Adjusted Annual Procurement Deficit,	Actual procurement and procurement targets and associated percentages within “window of confidentiality” period. Percentages redacted because disclosure could allow calculation of protected data.	I – Renewables Portfolio Standard (RPS) Information. A) RPS compliance filings required by CPUC, by ESP: data redacted because disclosure of first three years of forecast retail sales and resource mix data (MWh) and of historical retail sales and supply data (MWh) for prior year would reveal entire net short of ESP. B) Annual RPS compliance filings, by ESP: data redacted because disclosure of first three years of forecast retail sales and supply data would reveal the

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Adjusted Deficit Deferred MWhs)		entire net short of ESP.
Worksheet “Accounting” MWh detail for RPS Procurement and Targets: Cells K13:O13, K15:O17, K19:O20 (for 2010-2014: Actual and Forecast Bundled Retail Sales in MWhs; Annual Procurement Target MWhs; Incremental Procurement Target MWhs; Preliminary Procurement Surplus/(Deficit) MWhs; Actual Procurement Percentage; Adjusted Procurement Percentage.)	Retail sales (MWhs) for prior year, current year and 3 years of retail sales forecasts, actual procurement and procurement targets for same “window of confidentiality” period.	I – Renewables Portfolio Standard (RPS) Information. A) RPS compliance filings required by CPUC, by ESP: data redacted because disclosure of first three years of forecast retail sales and resource mix data (MWh) and of historical retail sales and supply data (MWh) for prior year would reveal entire net short of ESP. B) Annual RPS compliance filings, by ESP: data redacted because disclosure of first three years of forecast retail sales and supply data would reveal the entire net short of ESP.
Worksheet “Accounting” MWh detail for Flexible Compliance – IPT Deferral: Cells K25:O25 (for 2010-2014: Maximum Deficit Eligible for Deferral MWhs)	MWhs applied for flexible compliance within window of confidentiality period. Disclosure would allow calculation of retail sales and forecasts procurement / requirements.	I – Renewables Portfolio Standard (RPS) Information. A) RPS compliance filings required by CPUC, by ESP: data redacted because disclosure of first three years of forecast retail sales and resource mix data (MWh) and of historical retail sales and supply data (MWh) for prior year would reveal entire net short of ESP. B) Annual RPS compliance filings, by ESP: data redacted because disclosure of first three years of forecast retail sales and supply data would reveal the entire net short of ESP.

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<p>Worksheet “Accounting” MWh detail for Flexible Compliance – Earmarking: Cells K56:O56 (for 2010-2014: Portion of Current Year Deficit Eligible for Earmarking MWhs)</p>	<p>MWhs applied for flexible compliance within window of confidentiality period. Disclosure would allow calculation of retail sales and forecasts procurement / requirements.</p>	<p>I – Renewables Portfolio Standard (RPS) Information. A) RPS compliance filings required by CPUC, by ESP: data redacted because disclosure of first three years of forecast retail sales and resource mix data (MWh) and of historical retail sales and supply data (MWh) for prior year would reveal entire net short of ESP. B) Annual RPS compliance filings, by ESP: data redacted because disclosure of first three years of forecast retail sales and supply data would reveal the entire net short of ESP.</p>
<p>Worksheet “Accounting” MWh detail for Bundled Surplus Procurement Bank: Cells K79:O82 (for 2010-2014: Surplus Procurement Bank Balance as of Prior Year MWhs; Application of Banked Surplus Procurement to Current Year Deficit MWhs; Adjusted Current Year Annual Surplus Procurement MWhs; Cumulative Surplus Procurement Bank Balance MWhs.)</p>	<p>Bundled Surplus Procurement Bank MWhs within window of confidentiality period if disclosed would allow calculation of retail sales and forecasts / procurement needs.</p>	<p>I – Renewables Portfolio Standard (RPS) Information. A) RPS compliance filings required by CPUC, by ESP: data redacted because disclosure of first three years of forecast retail sales and resource mix data (MWh) and of historical retail sales and supply data (MWh) for prior year would reveal entire net short of ESP. B) Annual RPS compliance filings, by ESP: data redacted because disclosure of first three years of forecast retail sales and supply data would reveal the entire net short of ESP.</p>

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<i>RPS Compliance Report Worksheet Location</i>	<i>Type of Data</i>	<i>Matrix Category</i>
<p>Worksheet “Accounting” MWh detail for TREC Surplus Procurement Bank: Cells K85:O90 (for 2010-2014: Surplus Procurement Bank Balance as of Prior Year MWhs; Surplus TRECs in Current Year MWhs; Total Banked TRECs MWhs; Banked TRECs Eligible to Apply to Current Year MWhs; Application of Banked Surplus Procurement to Current Year Deficit MWhs; Cumulative Surplus Procurement Bank Balance MWhs.)</p>	<p>TREC Surplus Procurement Bank MWhs within window of confidentiality period if disclosed would allow calculation of retail sales and forecasts / procurement needs.</p>	<p>I – Renewables Portfolio Standard (RPS) Information. A) RPS compliance filings required by CPUC, by ESP: data redacted because disclosure of first three years of forecast retail sales and resource mix data (MWh) and of historical retail sales and supply data (MWh) for prior year would reveal entire net short of ESP. B) Annual RPS compliance filings, by ESP: data redacted because disclosure of first three years of forecast retail sales and supply data would reveal the entire net short of ESP.</p>
<p>Worksheet “Accounting” MWh detail of Adjusted Deficit: Cells K95:O96 (for 2010-2014: Adjusted Annual Procurement Deficit MWhs; Adjusted Deficit Deferred MWhs)</p>	<p>Adjusted Deficit MWhs within window of confidentiality period if disclosed would allow calculation of retail sales and forecasts / procurement needs.</p>	<p>I – Renewables Portfolio Standard (RPS) Information. A) RPS compliance filings required by CPUC, by ESP: data redacted because disclosure of first three years of forecast retail sales and resource mix data (MWh) and of historical retail sales and supply data (MWh) for prior year would reveal entire net short of ESP. B) Annual RPS compliance filings, by ESP: data redacted because disclosure of first three years of forecast retail sales and supply data would reveal the entire net short of ESP.</p>

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<i>RPS Compliance Report Worksheet Location</i>	<i>Type of Data</i>	<i>Matrix Category</i>
<p>Worksheet “Procurement Detail” MWh detail of Procurement Summary: Cells J15:M16 (25% of APT, TREC Limit for 2010-2013)</p>	<p>Retail sales (MWhs) for prior year, current year and retail sales forecasts, actual procurement and procurement targets if disclosed would allow calculation of retail sales and forecasts / procurement needs.</p>	<p>I – Renewables Portfolio Standard (RPS) Information. A) RPS compliance filings required by CPUC, by ESP: data redacted because disclosure of first three years of forecast retail sales and resource mix data (MWh) and of historical retail sales and supply data (MWh) for prior year would reveal entire net short of ESP. B) Annual RPS compliance filings, by ESP: data redacted because disclosure of first three years of forecast retail sales and supply data would reveal the entire net short of ESP. C) RPS Contracts: Contract summaries public, including counterparty, resource type, location, capacity, expected deliveries, delivery point, length of contract and online date. Other terms confidential for three years; or until one year following expiration, whichever comes first.</p>

8. The data for which CNE is claiming confidentiality is not already public.
9. The confidentiality of the data for which CNE is claiming confidentiality would not be compromised if it were first aggregated with the equivalent data of all other load serving entities before being made public. Other than by the aforesaid process, the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.
10. CNE’s customers may be harmed by the loss of confidentiality insofar as members of the public not eligible to review the data as non-market participating parties—primarily other market participants such as other ESPs or suppliers—can use this data to derive detailed estimates of CNE-specific procurement requirements and CNE’s current compliance position.

Declared under penalty of perjury that the aforesaid is true of my own knowledge, except as to matters that are stated on information or belief and as to those matters I believe them to be true.



Dated: November 10, 2011

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