

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Continue
Implementation and Administration of California
Renewables Portfolio Standard Program.

Rulemaking 11-05-005
(Filed May 5, 2011)

**MOTION OF CONSTELLATION NEWENERGY, INC. FOR
LEAVE TO FILE CONFIDENTIAL MATERIAL UNDER SEAL**

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On behalf of Constellation NewEnergy, Inc.

August 31, 2012

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Pursuant to Rules 11.1 and 11.4 of the California Public Utilities Commission (“CPUC” or “Commission”) Rules of Practice and Procedure, Constellation NewEnergy, Inc. (“CNE”) moves for leave to file its August 15, 2012 Revised Renewables Portfolio Standard (“RPS”) Procurement Plan under seal. CNE filed and served the public version of its Revised RPS Procurement Plan on August 15, 2012. CNE also submitted the confidential version of its Revised RPS Procurement Plan to the Commission Energy Division and other Commission staff in accordance with email instructions from Commission staff on August 15, 2012. In accordance with instructions from the Commission Docket Office, the confidential version of CNE’s Revised RPS Procurement Plan is being tendered under seal in hard copy today.

Those portions of CNE’s Revised RPS Procurement Report identified in Table 1 below are eligible for confidentiality protection pursuant to Decision (“D.”) 06-06-066, D.08-04-023, the Matrix of Allowed Confidential Treatment for Energy Service Provider Data (“ESP Matrix”) attached as Appendix B to the latter decision, and the provisions of the August 2, 2012 Ruling of ALJ DeAngelis.¹ The data for which CNE requests confidentiality and thereby protection from

¹ ALJ DeAngelis Ruling is available at <http://docs.cpuc.ca.gov/efile/RULINGS/171999.pdf>.

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		
Revised RPS Procurement Plan Location	Type of Data	Authority / Matrix Category
<p>Table 1 “CNE Revised RPS Plan Forecast RNS” 2012-2015 values for: Forecast Bundled Retail Sales (Cells B4:E4) Forecast Annual RNS(Cells B7:E7) Forecast CP RNS(Cells B8:F8)</p>	<p>Retail sales (MWhs) and renewable net short (RNS) for current year and 3 years of retail sales forecasts, and procurement targets for same “window of confidentiality” period.</p>	<p>ALJ DeAnglis RNS Ruling, Attachment A, Table 1, “Confidentiality” (page 5): “The confidentiality period for reporting the RNS includes 1) the first partial year in which the RNS is submitted and 2) the following annual three full years.”</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 / or of historical retail sales and supply data (MWh) for prior year would reveal entire net short of ESP.</p> <p>B) Annual RPS compliance filings, by ESP: data redacted because disclosure of first three years of forecast retail sales and resource mix data (MWh) or of historical retail sales and supply data would reveal the entire net short of ESP.</p>

The data for which CNE is claiming confidentiality is not already public. 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 wholesale suppliers or RPS supplies—can use this data to derive CNE-specific RPS procurement requirements (net short) and CNE’s current compliance

position, particularly in light of the relative scarcity of such resources eligible for the product content category one resources.

Accordingly, CNE respectfully requests that the above identified portions of its Revised RPS Procurement Plan be treated as confidential material and protected from public disclosure. CNE requests that the data remain under seal until December 31, 2015. CNE also requests a ruling granting leave to file the confidential version of its Revised RPS Procurement Plan under seal.

Dated: August 31, 2012

Respectfully submitted,

/s/

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[PROPOSED] RULING

On August 31, 2012, Constellation NewEnergy, Inc. (CNE) filed a motion for leave to file certain material under seal. In particular, CNE seeks seal of the confidential version of its Revised Renewable Portfolio Standard Procurement Plan (Revised RPS Plan). CNE had previously filed a public version of its Revised RPS Plan and submitted a confidential version of its Revised RPS Plan on August 15, 2012 in accordance with the August 2, 2012 Ruling of ALJ DeAngelis (August 2 Ruling) in this proceeding.

The data which CNE seeks to seal is eligible for confidentiality protection pursuant to Decision (“D.”) 06-06-066, D.08-04-023, the Matrix of Allowed Confidential Treatment for Energy Service Provider Data (“ESP Matrix”) attached as Appendix B to the latter decision, and the provisions of the August 2 Ruling. Therefore, good cause showing, CNE’s motion is granted. The data shall remain sealed for until December 31, 2015. The sealed data shall not be made accessible or disclosed to anyone other than the Commission and Commission staff except pursuant to written protective order, or upon further order or ruling of the Commission, the assigned Commissioner, the assigned Administrative Law Judge, or the Administrative Law Judge then designated as the Law and Motion Judge.

Dated _____, 2012 at San Francisco, California

Administrative Law Judge

VERIFICATION

I am the attorney for Constellation NewEnergy, Inc. (“Constellation”) and am authorized to make this verification on its behalf. Constellation is absent from the County of Sacramento, California, where I have my office, and I make this verification for that reason. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 31, 2012 at Sacramento, California.

/s/

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