

**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 TO FILE UNDER SEAL
UNREDACTED VERSION OF
2013 RENEWABLES PORTFOLIO STANDARD PROCUREMENT PLAN
OF DIRECT ENERGY BUSINESS, LLC**

Pursuant to Rule 11.4 of the Commission’s Rules of Practice and Procedure and in accordance with Decision (D.) 06-06-006 and D.08-04-023, Direct Energy Business, LLC (“ESP”) hereby submits this motion for leave to file under seal and confidential treatment of the unredacted version of its 2013 Renewables Portfolio Standard Procurement Plan (“RPS Plan”) filed concurrently with this motion.

In D.06-06-066, the Commission adopted rules governing the confidentiality of certain categories of electric procurement data routinely submitted to the Commission by investor owned utilities (“IOUs”) and electric service providers (“ESPs”). In addition, the Commission adopted two “matrices” —one for IOU data (the “IOU Matrix”) and one for ESP data (the “ESP Matrix”)—specifying the confidential treatment to be afforded to certain categories of data, as identified in the applicable matrix, that are routinely submitted to the Commission. Subsequently, in D.08-04-023, the Commission clarified

the categories of data that are eligible for confidential treatment under D.06-06-066 and made corresponding modification to the ESP Matrix.¹

D.08-04-023 provides that where, as in the case of the RPS Plan, “[a] party files a pleading in a formal proceeding, including data of the type addressed in the Matrices to D.06-06-066, and seeks confidential treatment of that data,” the party is required to file a motion that complies with the requirements of Rule 11.4 and meets the five required showings specified in Ordering Paragraph 2 of D.06-06-066:

1. That the material constitutes a particular type of data listed in the Matrix;
2. The category or categories in the Matrix to which the data correspond;
3. That the submitting party is complying with the limitations on confidentiality specified in the Matrix for that type of data;
4. That the information is not already public; and
5. That the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.

On June 18, 2013, ESP filed and served a redacted public version of the RPS Plan. To the extent data submitted to the Commission in the unredacted RPS Plan falls within one or more of the categories of data set forth in the ESP Matrix, the data are eligible for the confidential treatment specified in the ESP Matrix.² In addition, the Commission has previously determined that data that does not fall within a matrix category but which “consists of information from which (Matrix) information may be easily derived” is eligible for the corresponding confidential treatment specified in the matrix.³

¹ See D.08-04-023, *mimeo*, pp. 11-19 and Appendix B.

² See D.06-06-066, *mimeo*, p. 23 and Conclusion of Law 6.

³ See, e.g., R.06-05-027, *Administrative Law Judge’s Ruling on San Diego Gas & Electric Company’s April 3, 2007 Motion to File Data Under Seal* (May 4, 2007), *mimeo.*, p. 2.

In accordance with the aforesaid requirements, ESP hereby affirms that the following data in Appendix A to the RPS Plan, for which it seeks confidential treatment, is either Matrix data or consists of information from which Matrix data may be easily derived, as described in the following table:

TABLE OF CONFIDENTIAL DATA

Description of Data	Spreadsheet Location	Matrix Category	Explanation
Annual Retail Sales (MWh)	Cells C6-F6 and I6	I.A and I.B	Because ESP procures nearly if not all of its energy requirements for a given year through short-term transactions made shortly before and during that year ESP's "net short" for any given year is nearly if not identical with its annual retail sales in that year.

Description of Data	Spreadsheet Location	Matrix Category	Explanation
Procurement Targets (MWh)	Cells C7-F7 and I7, and C9-F9 and I9	I.A and I.B	Because the ESP's Procurement Quantity Targets ("PQTs") and Procurement Quantity Requirements ("PQRs") for a given compliance period are derived from its annual retail sales during that compliance period using a published formula, disclosure of its PQT and PQR data (MWh) would reveal its annual retail sales.
RPS-Eligible Procurement Data (MWh)	Cells C11-F11 and I11, and B11-F11 and C12-F12 and I12	I.A and I.B	Disclosure of ESP's procurement/supply data (MWh) would reveal its PQT and PQR data (MWh), which in turn would reveal ESP's annual retail sales.

ESP further affirms that the data for which it is seeking confidentiality treatment is not already public, and that the redacted data could be made public without the risk of harm to ESP and its customers if and only if the data were aggregated with that of all electric service providers. ESP therefore requests, in accordance with the confidentiality treatment specified in D.06 -06-066, D.08 -04-023, and the ESP Matrix, that the Commission grant confidential treatment to the first three years of forecast data and the

prior year's historical data specified in the above Table of Confidential Data. As required by Rule 11.4, a Proposed Order is attached to this motion.

Respectfully submitted,



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June 18, 2013

VERIFICATION

I, Gregory S. G. Klatt, counsel for Direct Energy Business, LLC, am authorized to make this Verification on its behalf. I declare under penalty of perjury that the statements in the foregoing 2013 Renewables Portfolio Standard Procurement Plan filed in Rulemaking 11-05-005 on June 18, 2013, are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

Executed on June 18, 2013, at Woodland Hills, California.



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PROPOSED ORDER

Pursuant to Rule 11.4 of the Commission’s Rules of Practice and Procedure, and in accordance with Decision (D.) 06 -06-006 and D.08 -04-023, Direct Energy Business, LLC (“Direct Energy”), a registered electric service provider (“ESP”), filed a Motion on June 18, 2013, for leave to file under seal and confidential treatment of the unredacted version of its 2013 Renewables Portfolio Standard Procurement Plan (“RPS Plan”) filed concurrently with the motion. The Motion requests confidential treatment of specified data in the RPS Plan.

The data for which Direct Energy requests confidential treatment are protected under the ESP Matrix adopted in D.06 -06-066, as modified in D.08 -04-023. In addition, the Motion complies with the limitations on confidentiality specified in the ESP Matrix, and the data in question are not already public. Direct Energy further claims that the data can be made public without risking material harm to it and its customers only if the data are aggregated with that of all electric service providers.

Therefore, it is ordered that:

1. The confidential data contained in Direct Energy’s RPS Plan shall remain sealed and is not to be disclosed to anyone other than Commission staff, the Assigned

Commissioner, the assigned Administrative Law Judge (“ALJ”) or an ALJ designated to decide this motion.

2. Further proceedings, if any, held with respect to matters contained in the confidential data shall be conducted in a manner the assigned ALJ deems reasonably necessary to protect the confidentiality of the data described herein;

3. Non -market participants may request access to the confidential information pursuant to applicable rules; and

4. All additional documentary evidence in this proceeding that addresses or relates to the confidential data must be treated in the confidential manner described in paragraphs 1 and 2, above.

Administrative Law Judge

Dated: _____