MSW/avs 7/29/2005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Promote Policy and Program Coordination and Integration in Electric Utility Resource Planning.	Rulemaking 04-04-003 (Filed April 1, 2004)

ADMINISTRATIVE LAW JUDGE'S RULING MODIFYING INTERIM PROTECTIVE ORDER

As I announced in an e-mail notice to parties on July 26, 2005, I am adopting minor revisions to the interagency confidentiality agreement between this Commission and the California Energy Commission that was attached to, and by reference made a part of, the Interim Protective Order adopted by my ruling of June 24, 2005.

The confidentiality agreement is Attachment B to the Interim Protective Order. The revisions are in Paragraphs B.1., B.3., B.5., B.6., and in the signature block. In summary, the revisions (1) specify the records that are the subject of the agreement by reference to Appendix B of the ruling, (2) provide that the CEC Executive Director's authorization for persons to obtain confidential records need not be in writing, (3) make editorial changes, and (4) add names to the signature block.

IT IS RULED that Interagency Confidentiality Agreement included as Attachment B to the Interim Protective Order (IPO) adopted by my ruling dated June 24, 2005 is modified as set forth in Appendix A hereto. This revised

Attachment B superseded the original Attachment B. In all other respects the IPO remains in full force and effect.

Dated July 29, 2005, at San Francisco, California.

/s/ Mark S. Wetzell
Mark S. Wetzell
Administrative Law Judge

Appendix A

ATTACHMENT B TO INTERIM PROTECTIVE ORDER AS REVISED BY RULING DATED JULY 29, 2005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Promote Policy and Program Coordination and Integration in Electric Utility Resource Planning.	Rulemaking 04-04-003 (Filed April 1, 2004)

CONFIDENTIALITY AGREEMENT BETWEEN THE CALIFORNIA PUBLIC UTILITIES COMMISSION AND THE CALIFORNIA ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

A. PURPOSE

In connection with the development, establishment, and implementation of a program of Resource Adequacy Requirements in this proceeding, The California Energy Resources Conservation and Development Commission ("CEC") will review, analyze, compile, and adjust load forecasts and data submitted to the California Public Utilities Commission ("Commission") by load-serving entities pursuant to order of the Assigned Administrative Law Judge, the Assigned Commissioner, or the Commission. The CEC agrees to keep this information confidential in its entirety, disclosing it only to its employees and contractors whose work requires them to review and analyze such data.

B. CONFIDENTIALITY AGREEMENT

1. This agreement is limited to records that are not open to public inspection, that are in the possession and control of the Commission, and that are identified in Appendix B (Specification of Load Forecast Data to be Submitted) of the Administrative Law Judge's Ruling dated June 24, 2005 in R.04-04-003.

2. The Commission shall permit the CEC to review and copy the records identified above that are not open to public inspection ("protected

materials," or, hereinafter, "confidential records"), upon the representation of the Executive Director of the CEC that the confidentiality of such records will be maintained and that they will not be made available for inspection by any other governmental agency, or by the public, except as provided for herein.

3. The CEC agrees that the confidential records identified above shall be released only to persons who are authorized by the Executive Director of the CEC to obtain the confidential records and who have executed a nondisclosure certificate in accordance with the Protective Order making reference hereto, and that the CEC will ensure that each of its employees and contractors who have access to the confidential records is informed that they are subject to the requirements of this confidentiality agreement.

4. The CEC shall take reasonable security precautions to keep confidential the records provided to the CEC pursuant to this agreement. The CEC shall notify the Commission immediately upon the discovery of any unauthorized use or disclosure of the confidential records or of any other breach of this agreement, and will cooperate in every reasonable way to help the Commission prevent further unauthorized disclosure or use of the confidential records covered by this agreement.

5. The Commission reserves its authority under Section 583 of the California Public Utilities Code and General Order 66-C to consider and determine whether the records identified above should be made available for public inspection. The CEC agrees that its Executive Director will not exercise his authority under California Code of Regulations, title 20, section 2507(e), and will not release any confidential records or other documents designated as confidential by the Commission in R.04-04-003 unless explicitly authorized by the Commission or ordered by a court of competent jurisdiction.

6. In the event the CEC determines for any reason that it is required, or that it would be desirable, to disclose or make available the contents of the confidential records identified above to other governmental agencies or to the public, the CEC agrees not to do so without first notifying the Commission of its intent and the reason for the requested disclosure. The CEC further agrees that such notice shall be given no less than 20 days prior to the planned disclosure in order that the Commission, the Assigned Commissioner for R.04-04-003, the Assigned Administrative Law Judge

(ALJ) for that proceeding or the Law and Motion ALJ, as the case may be, can be given adequate consideration, in accordance with Section 583 of the Public Utilities Code and the Commission's General order 66-C, to the issue of whether it is in the public interest to make such records available to other governmental agencies or to the public. The CEC agrees to abide by the determination of the Commission, the Assigned Commissioner or the applicable ALJ on this issue, but may appeal such determination pursuant to the Commission's Rules of Practice and Procedure.

7. With respect to the use of data by the CEC contained in the confidential records subject to this agreement ("confidential data"), it shall be a rebuttable presumption that (i) any study that incorporates, describes or otherwise employs such confidential data in a manner that could reveal all or part of the confidential data, or (ii) any model that relies upon such confidential data for algorithms or other computation(s) critical to the functioning of the model, shall also be considered a confidential record subject to Section 583 of the Public Utilities Code, the Commission's General Order 66-C, and this agreement. However, models that merely use confidential data as inputs will not themselves be considered such confidential records. It shall also be a rebuttable presumption that where the inputs to studies or models include confidential data, or where the outputs of such studies or models reveal the inputs or can be processed to reveal the confidential data, such inputs and/or outputs shall be considered confidential records subject to this agreement, unless such inputs and/or outputs have been redacted or aggregated to the satisfaction of the party producing the confidential records. Any disputes concerning the appropriate scope of redaction or aggregation that the CEC and the party producing the confidential records cannot resolve shall be presented for resolution to the Assigned ALJ for R.04-04-003 or to the Law and Motion ALJ.

8. This Agreement shall continue in effect unless or until either of the undersigned parties determines that the agreement should be terminated. Unless otherwise provided for by the written agreement of both the CEC and the Commission, unilateral termination of this agreement shall be effected no sooner than 30 days from the date that either party provides notice, in writing, of its intent to terminate this agreement. All obligations created by this agreement during its term shall survive termination of the agreement.

9. This agreement shall not be modified except by a written agreement dated subsequent to the date of this agreement and signed by authorized representatives of both parties. None of the provisions of this agreement shall be deemed to have been waived by any act or acquiescence on the part of either party, its agents, or employees, but only by an instrument in writing signed by an authorized representative of the party. No waiver of any provisions of this agreement shall constitute a waiver of any other provision(s) or of the same provision on another occasion.

10. If any provision of this agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

_____	_____
B.B. Blevins Executive Director, California Energy Commission	Randolph Wu General Counsel, California Public Utilities Commission
Dated:_____	Dated:_____

(End of Appendix C to Ruling Dated June 24, 2005)

(End of Appendix A to Ruling Dated July 29, 2005)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of Administrative Law Judge's Ruling Modifying Interim Protective Order by using the following service:

☒ E-Mail Service: sending the entire document as an attachment to all known parties of record who have provided electronic mail addresses.

☒ U.S. Mail Service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Dated July 29, 2005, at San Francisco, California.

/S/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your