

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

Order Instituting Rulemaking to Promote
Consistency in Methodology and Input
Assumptions in Commission Applications of
Short-run and Long-run Avoided Costs,
Including Pricing for Qualifying Facilities.

Rulemaking 04-04-025
(Filed April 22, 2004)

**PRE-WORKSHOP OPENING COMMENTS OF
THE COGENERATION ASSOCIATION OF CALIFORNIA AND
THE ENERGY PRODUCERS AND USERS COALITION**

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June 4, 2004

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Pursuant to the Ruling issued on April 22, 2004, the Cogeneration Association of California¹ and the Energy Producers and Users Coalition,² (CAC/EPUC) submit pre-workshop opening comments. These comments address the critical threshold issue concerning Short Run Avoided Cost (SRAC) payments to Qualifying Facilities (QFs): the need for access to utility cost data.

I. INTRODUCTION AND SUMMARY

The absolute need for all parties to have access to relevant utility cost data cannot be understated. Without full access to this information, parties will be unable to meaningfully participate in the determination of an appropriate

¹ CAC represents the power generation, power marketing and cogeneration operation interests of the following entities: Coalinga Cogeneration Company, Mid-Set Cogeneration Company, Kern River Cogeneration Company, Sycamore Cogeneration Company, Sargent Canyon Cogeneration Company, Salinas River Cogeneration Company, Midway Sunset Cogeneration Company and Watson Cogeneration Company.

² EPUC is an ad hoc group representing the electric end use and customer generation interests of the following companies: Aera Energy LLC, BP America Inc. (including Atlantic Richfield Company), Chevron U.S.A. Inc., ConocoPhillips Company, Exxon Mobil Corporation, Shell Oil Products US, THUMS Long Beach Company, Occidental Elk Hills, Inc., and Valero Refining Company - California.

methodology for calculating the avoided cost, particularly SRAC for QF pricing. All parties must be able to formulate positions, evaluate respondents' and other parties' proposals and contribute meaningfully and beneficially to the avoided cost determination. Moreover, the respondents and this California Public Utilities Commission (Commission) must comply with applicable federal law.

The workshop notice provides, "*all efforts in this workshop and in the proceeding, as discussed in the April 24, 2004 OIR, will have to be consistent with the appropriate laws.*"³ Federal regulations, with the force of law, mandate disclosure of utility data necessary to determine avoided costs.⁴ Moreover, the Commission has recognized the need to increase the transparency of its proceedings.⁵ This Commission must therefore ensure parties' ability to meaningfully participate in the instant workshop and more broadly in this proceeding. To fully enable parties' participation, the Commission should:

- First, adopt the attached protective order, thereby giving all parties the opportunity to execute appropriate confidentiality agreements granting access to respondent and consultant data subject to suitable safeguards;
- Second, order respondents to provide all parties, prior to the workshop, with a summary document identifying their proposed methods for determining avoided cost if they differ from the methodology proposed in the draft report; and
- Third, provide parties the opportunity to conduct discovery on the respondents and the consultant, with responses due prior to the workshop.

³ Notice at 2.

⁴ See 18 CFR § 292.302; see also *Fidelity Fed. Sav. & Loan Ass'n. v. De La Cuesta*, 458 U.S. 141, 153 (1982)(Federal regulations have the force and effect of law).

⁵ See Decision 04-01-050 in R.01-10-024 at 160.

II. Commission Adoption of The Attached Protective Order and Nondisclosure Certificate Will Provide Parties Necessary Access to Respondents' Cost Data, Enabling Parties to Fully Participate.

The need of all parties for access to utility claimed confidential cost data remains a contentious issue before this Commission. It has been raised in the procurement proceeding, the SCE Mountainview proceeding, and the respondents' ERRA proceedings. Widespread discord has developed from the prevention of full and effective participation by all parties in Commission proceedings through adoption of overly restrictive protective orders and confidentiality agreements. The flaws in their implementation have since been recognized by this Commission, its ALJs and the California Legislature.⁶

If this Commission continues to prevent access by all parties to respondents' historical and projected procurement cost data, the ability of parties to fully and fairly participate in this important proceeding will again be frustrated. This Commission has, however, committed to greater openness and transparency.⁷ Regarding QF SRAC pricing in particular, this Commission has affirmed that QF power providers will **"have accurate information on what the avoided cost prices that they will receive are likely to be."**⁸ Indeed, the Commission reasoned, **"With this information, potential new QF power**

⁶ The Commission has stated its intent to *"broaden the scope of information embedded in utility resource plans that can be made public."* D.04-01-050, at 178; an ALJ noted that the Commission must *"ensure that the public and interested parties can meaningfully participate ... and that the public can understand the basis for our decision."* *Id.*, at 177; *"the Legislature, particularly the Senate Energy, Utilities and Communications Committee ... has pressed this Commission to expand the amount of utility resource planning and procurement data that is made publicly available"* *Id.* at 178.

⁷ See Decision 04-01-050 in R.01-10-024 at 160-161, 178-180.

⁸ D.04-01-050, in R.01-10-024 at 160-161 (emphasis added).

providers will be able to accurately assess the value and benefit to them of providing new or additional power to the IOUs. This approach provides fairness both to the QF community and to the IOUs and their ratepayers.

Id. This language indicates the Commission’s recognition that parties need the utility cost information to determine for themselves the utilities’ avoided costs, and, that disclosure of the information is fair and necessary. Importantly, federal law also requires utility disclosure of information leading to utility avoided costs.

A. PURPA and Federal Regulations Require Disclosure of Utility Cost Data to QFs to Enable QFs to Determine the Utility’s Avoided Cost.

The Commission must enable full participation by interested parties and all parties must have access to that utility information required to be disclosed by relevant federal regulations. Title 18 Code of Federal Regulations § 292.302 compels both electric utilities and state jurisdictions to make publicly available specific electric utility system cost data. It mandates disclosure of *“the electric utility’s plan for the addition of capacity by amount and type, for purchases of firm energy and capacity ... planned capacity firm purchases, on the basis of dollars per kilowatt, and the associated energy costs of each unit, expressed in cents per kilowatt hour.”* 18 CFR § 292.302. Further, the regulations provide, *“These costs shall be expressed in terms of individual generating units and of individual planned firm purchases.”*⁹

⁹ 18 CFR § 292.302. This federal regulation affects all electric utilities whose total yearly sales are greater than 500 million kilowatt hours. *Id.* These federal regulations clearly apply both to this Commission and to the respondents.

These federal regulations provide QFs with access to utility cost data to enable the QFs to ascertain the utility's true avoided cost. The QFs are not forced to blindly accept utility assertions regarding costs. QFs, under federal law, are entitled to the utility cost data, the key information necessary to calculate the utilities' avoided cost. In the past, before this Commission, utility cost data was publicly available, as required by federal statute. Presently, the utilities uniformly claim that this information may not be made publicly available, lest their market position be harmed.¹⁰ If this data is not now publicly disclosed and the Commission does not enforce the federal regulations requiring its disclosure, parties must be granted alternate access to the information.

This issue may be resolved here as it has been before the Federal Energy Regulatory Commission (FERC), by the use of reasonable safeguards for claimed confidential data. Attached hereto, is a Model FERC Order currently used by FERC to guarantee parties access to the necessary information and to maintain confidentiality of that information. Adoption of the attached protective order and nondisclosure certificate would enable parties and this Commission to ascertain fitting methodologies to determine utility avoided costs. The attached Model FERC Order permits all parties' representatives necessary access to utility cost data while protecting the utility information.

¹⁰ See PG&E Comments on Confidentiality Issues, SDG&E Comments Regarding Confidentiality Of Information And Effective Public Participation, and SCE Comments On The Consequences Of Public Disclosure Of Confidential Information, filed March 1, 2004 in R.01-10-024.

B. The Model FERC Order Provides Sufficient Safeguards for Utility Data and Enables All Parties to Fully Participate by Giving Them the Necessary Access to Utility Cost Data.

The Commission should adopt the Model FERC Order, presented in Attachment A, which provides the needed access to utility cost data. The attached Model FERC Order achieves an appropriate balance between the need for meaningful participation by all parties and the need to protect sensitive information. Importantly, the Model FERC Order permits review by all parties' representatives, thereby allowing full and meaningful participation.

The specific restrictions on permitted uses of the information provided by the model FERC Order safeguards the disclosed information. See Model FERC Order, Paragraphs 20, 21 and 36. The Model FERC Order also mandates execution of non-disclosure certificates by all Reviewing Representatives; these certificates further protect the confidential information. See Model FERC Order, Paragraph 23 and Nondisclosure Certificate. The Model FERC Order simultaneously advances meaningful participation and offers full protection for confidential information.

All parties should have access to the respondents' historical and projected procurement cost data that may form the basis of various proposals for avoided cost pricing methodologies. Adoption of the Model FERC Order would provide such access. Further, if the respondents are to propose methodologies that differ from that in the consultants' draft report, parties should be provided with these alternatives prior to the workshop.

III. Respondents' Alternative Avoided Cost Methodologies Should be Provided to Parties Prior to the Workshop.

The April 22, 2004 Rulemaking states that this proceeding is to serve as a forum for developing common methods, input assumptions, and updating procedures for avoided cost calculations to be used in various Commission proceedings. Furthermore, this proceeding is also the forum for updating QF avoided cost pricing. The scheduled workshop will, therefore, encompass a wide range of avoided cost pricing issues including, but not limited to, the avoided cost methodology presented in the consultant's draft report.

The Rulemaking encourages parties to review existing avoided cost pricing methodologies including the SRAC energy payment and the as-delivered Capacity Prices. The Rulemaking also suggests that parties evaluate the differences between short-run and long-run methodologies, as well as appropriate methodological differences between firm and as-available power. Accordingly, it is highly likely the respondents may have alternative proposals for determining avoided costs, which are the subject of the upcoming workshop.

The Commission should require the respondents to provide a description of any alternative avoided cost methodology on the same day that the pre-workshop reply comments are due. This would permit parties to perform substantive evaluations of the potential methodologies and data inputs associated with avoided cost pricing; such substantive evaluations would lead to more meaningful workshop discussions. Parties should also have the opportunity to propound discovery on the specifics of the respondents' alternative avoided cost methodologies and receive responses in advance of the workshop.

IV. Parties Should Have the Opportunity to Conduct Discovery Prior to the Workshop.

Pre-workshop discovery would further enable parties to prepare to address respondents' alternative avoided cost methodologies at the workshop. The discovery process is the most efficient way to obtain the historical and projected procurement cost data necessary to prepare for the workshop. Pre-workshop discovery would result in more meaningful discussions of the consultant's and any alternate proposed methodologies at the workshop. The following table presents CAC/EPUC's proposed discovery schedule:

Table 1: Pre-Workshop Discovery Schedule

Description	Date
Pre-Workshop Reply Comments and Respondents' Alternative Avoided Cost Proposals	June 18, 2004
Discovery Requests Due by Close of Business	June 21, 2004
Responses to Discovery Due by Close of Business	June 28, 2004
Energy Division Workshop Begins	June 30, 2004

V. CONCLUSION

The Protective Order and Non-Disclosure Certificate presented in Attachment A to these comments should be adopted by the Commission. Parties would then be able to execute the Non-Disclosure Certificate and thereby gain access to the necessary information to enable full participation in the workshop. The respondents should provide a description of any alternative avoided cost methodologies that they will present during the workshop to all parties on the

same day as pre-workshop reply comments are due. Finally, discovery prior to the workshop should also occur, in accordance with the schedule in Table 1.

Dated: June 4, 2004

Respectfully submitted,

Michael Alcantar
Rod Aoki

Counsel to the Cogeneration
Association of California

Evelyn Kahl
Nora Sheriff

Counsel to the Energy Producers
and Users Coalition

ATTACHMENT A

MODEL PROTECTIVE ORDER

UNITED STATES OF AMERICA FEDERAL ENERGY REGULATORY COMMISSION

Name of Proceeding

)

Docket No.

PROTECTIVE ORDER

(Issued)

1. This Protective Order shall govern the use of all Protected Materials produced by, or on behalf of, any Participant. Notwithstanding any order terminating this proceeding, this Protective Order shall remain in effect until specifically modified or terminated by the Presiding Administrative Law Judge (“Presiding Judge”) or the Federal Energy Regulatory Commission (“Commission”).
2. This Protective Order applies to the following two categories of materials: (A) A Participant may designate as protected those materials which customarily are treated by that Participant as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that Participant or its customers to risk of competitive disadvantage or other business injury; and (B) A Participant shall designate as protected those materials which contain critical energy infrastructure information, as defined in 18 CFR § 388.113(c)(1) (“Critical Energy Infrastructure Information”).
3. Definitions -- For purposes of this Order:
4. The term “Participant” shall mean a Participant as defined in 18 CFR § 385.102(b).
5. The term “Protected Materials” means (A) materials (including depositions) provided by a Participant in response to discovery requests and designated by such Participant as protected; (B) any information contained in or obtained from such designated materials; (C) any other materials which are made subject to

this Protective Order by the Presiding Judge, by the Commission, by any court or other body having appropriate authority, or by agreement of the Participants; (D) notes of Protected Materials; and (E) copies of Protected Materials. The Participant producing the Protected Materials shall physically mark them on each page as “PROTECTED MATERIALS” or with words of similar import as long as the term “Protected Materials” is included in that designation to indicate that they are Protected Materials. If the Protected Materials contain Critical Energy Infrastructure Information, the Participant producing such information shall additionally mark on each page containing such information the words “Contains Critical Energy Infrastructure Information – Do Not Release”.

6. The term “Notes of Protected Materials” means memoranda, handwritten notes, or any other form of information (including electronic form) which copies or discloses materials described in Paragraph 5. Notes of Protected Materials are subject to the same restrictions provided in this order for Protected Materials except as specifically provided in this order.

7. Protected Materials shall not include (A) any information or document contained in the files of the Commission, or any other federal or state agency, or any federal or state court, unless the information or document has been determined to be protected by such agency or court, or (B) information that is public knowledge, or which becomes public knowledge, other than through disclosure in violation of this Protective Order, or (C) any information or document labeled as “Non-Internet Public” by a Participant, in accordance with Paragraph 30 of FERC Order No. 630, FERC Stat. & Reg. ¶ 31,140. Protected Materials do include any information or document contained in the files of the Commission that has been designated as Critical Energy Infrastructure Information.

8. The term “Non-Disclosure Certificate” shall mean the certificate annexed hereto by which Participants who have been granted access to Protected Materials shall certify their understanding that such access to Protected Materials is provided pursuant to the terms and restrictions of this Protective Order, and that such Participants have read the Protective Order and agree to be bound by it. All Non-Disclosure Certificates shall be served on all parties on the official service list maintained by the Secretary in this proceeding.

9. The term “Reviewing Representative” shall mean a person who has signed a Non-Disclosure Certificate and who is:

10. Commission Litigation Staff;

CAC/EPUC Attachment A

11. an attorney who has made an appearance in this proceeding for a Participant;
12. attorneys, paralegals, and other employees associated for purposes of this case with an attorney described in Paragraph 11;
13. an expert or an employee of an expert retained by a Participant for the purpose of advising, preparing for or testifying in this proceeding;
14. a person designated as a Reviewing Representative by order of the Presiding Judge or the Commission; or
15. employees or other representatives of Participants appearing in this proceeding with significant responsibility for this docket.
16. Protected Materials shall be made available under the terms of this Protective Order only to Participants and only through their Reviewing Representatives as provided in Paragraphs 20-24.
17. Protected Materials shall remain available to Participants until the later of the date that an order terminating this proceeding becomes no longer subject to judicial review, or the date that any other Commission proceeding relating to the Protected Material is concluded and no longer subject to judicial review. If requested to do so in writing after that date, the Participants shall, within fifteen days of such request, return the Protected Materials (excluding Notes of Protected Materials) to the Participant that produced them, or shall destroy the materials, except that copies of filings, official transcripts and exhibits in this proceeding that contain Protected Materials, and Notes of Protected Material may be retained, if they are maintained in accordance with Paragraph 18, below. Within such time period each Participant, if requested to do so, shall also submit to the producing Participant an affidavit stating that, to the best of its knowledge, all Protected Materials and all Notes of Protected Materials have been returned or have been destroyed or will be maintained in accordance with Paragraphs 18 and 19. To the extent Protected Materials are not returned or destroyed, they shall remain subject to the Protective Order.
18. All Protected Materials shall be maintained by the Participant in a secure place. Access to those materials shall be limited to those Reviewing Representatives specifically authorized pursuant to Paragraphs 21-24. The

Secretary shall place any Protected Materials filed with the Commission in a non-public file. By placing such documents in a non-public file, the Commission is not making a determination of any claim of privilege. The Commission retains the right to make determinations regarding any claim of privilege and the discretion to release information necessary to carry out its jurisdictional responsibilities.

19. For documents submitted to Commission Litigation Staff (“Staff”), Staff shall follow the notification procedures of 18 CFR § 388.112 before making public any Protected Materials.

20. Protected Materials shall be treated as confidential by each Participant and by the Reviewing Representative in accordance with the certificate executed pursuant to Paragraphs 23-24. Protected Materials shall not be used except as necessary for the conduct of this proceeding, nor shall they be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person’s responsibilities in this proceeding. Reviewing Representatives may make copies of Protected Materials, but such copies become Protected Materials. Reviewing Representatives may make notes of Protected Materials, which shall be treated as Notes of Protected Materials if they disclose the contents of Protected Materials.

21. If a Reviewing Representative’s scope of employment includes the marketing of energy, the direct supervision of any employee or employees whose duties include the marketing of energy, the provision of consulting services to any person whose duties include the marketing of energy, or the direct supervision of any employee or employees whose duties include the marketing of energy, such Reviewing Representative may not use information contained in any Protected Materials obtained through this proceeding to give any Participant or any competitor of any Participant a commercial advantage.

22. In the event that a Participant wishes to designate as a Reviewing Representative a person not described in Paragraphs 9-15 above, the Participant shall seek agreement from the Participant providing the Protected Materials. If an agreement is reached that person shall be a Reviewing Representative pursuant to Paragraphs 9-15 above with respect to those materials. If no agreement is reached, the Participant shall submit the disputed designation to the Presiding Judge for resolution.

23. A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Protected Materials

pursuant to this Protective Order unless that Reviewing Representative has first executed a Non-Disclosure Certificate provided that if an attorney qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial and clerical personnel under the attorney's instruction, supervision or control need not do so. A copy of each Non-Disclosure Certificate shall be provided to counsel for the Participant asserting confidentiality prior to disclosure of any Protected Material to that Reviewing Representative.

24. Attorneys qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with this order.

25. Any Reviewing Representative may disclose Protected Materials to any other Reviewing Representative as long as the disclosing Reviewing Representative and the receiving Reviewing Representative both have executed a Non-Disclosure Certificate. In the event that any Reviewing Representative to whom the Protected Materials are disclosed ceases to be engaged in these proceedings, or is employed or retained for a position whose occupant is not qualified to be a Reviewing Representative under Paragraphs 9-15, access to Protected Materials by that person shall be terminated. Even if no longer engaged in this proceeding, every person who has executed a Non-Disclosure Certificate shall continue to be bound by the provisions of this Protective Order and the certification.

26. Subject to Paragraph 33, the Presiding Administrative Law Judge shall resolve any disputes arising under this Protective Order. Prior to presenting any dispute under this Protective Order to the Presiding Administrative Law Judge, the parties to the dispute shall use their best efforts to resolve it. Any participant that contests the designation of materials as protected shall notify the party that provided the protected materials by specifying in writing the materials whose designation is contested. This Protective Order shall automatically cease to apply to such materials five (5) business days after the notification is made unless the designator, within said 5-day period, files a motion with the Presiding Administrative Law Judge, with supporting affidavits, demonstrating that the materials should continue to be protected. In any challenge to the designation of materials as protected, the burden of proof shall be on the participant seeking protection. If the Presiding Administrative Law Judge finds that the materials at issue are not entitled to protection, the procedures of Paragraph 33 shall apply. The procedures described above shall not apply to protected materials designated by a Participant as Critical Energy Infrastructure Information. Materials so designated shall remain protected and subject to the provisions of this Protective Order, unless a Participant requests and obtains a determination

from the Commission's Critical Energy Infrastructure Information Coordinator that such materials need not remain protected.

27. All copies of all documents reflecting Protected Materials, including the portion of the hearing testimony, exhibits, transcripts, briefs and other documents which refer to Protected Materials, shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they are sealed pursuant to this Protective Order. Such documents shall be marked "PROTECTED MATERIALS" and shall be filed under seal and served under seal upon the Presiding Judge and all Reviewing Representatives who are on the service list. Such documents containing Critical Energy Infrastructure Information shall be additionally marked "Contains Critical Energy Infrastructure Information - Do Not Release". For anything filed under seal, redacted versions or, where an entire document is protected, a letter indicating such, will also be filed with the Commission and served on all parties on the service list and the Presiding Judge. Counsel for the producing Participant shall provide to all Participants who request the same, a list of Reviewing Representatives who are entitled to receive such material. Counsel shall take all reasonable precautions necessary to assure that Protected Materials are not distributed to unauthorized persons.

28. If any Participant desires to include, utilize or refer to any Protected Materials or information derived therefrom in testimony or exhibits during the hearing in these proceedings in such a manner that might require disclosure of such material to persons other than reviewing representatives, such participant shall first notify both counsel for the disclosing participant and the Presiding Judge of such desire, identifying with particularity each of the Protected Materials. Thereafter, use of such Protected Material will be governed by procedures determined by the Presiding Judge.

29. Nothing in this Protective Order shall be construed as precluding any Participant from objecting to the use of Protected Materials on any legal grounds.

30. Nothing in this Protective Order shall preclude any Participant from requesting the Presiding Judge, the Commission, or any other body having appropriate authority, to find that this Protective Order should not apply to all or any materials previously designated as Protected Materials pursuant to this Protective Order. The Presiding Judge may alter or amend this Protective Order as circumstances warrant at any time during the course of this proceeding.

31. Each party governed by this Protective Order has the right to seek changes in it as appropriate from the Presiding Judge or the Commission.

32. All Protected Materials filed with the Commission, the Presiding Judge, or any other judicial or administrative body, in support of, or as a part of, a motion, other pleading, brief, or other document, shall be filed and served in sealed envelopes or other appropriate containers bearing prominent markings indicating that the contents include Protected Materials subject to this Protective Order. Such documents containing Critical Energy Infrastructure Information shall be additionally marked "Contains Critical Energy Infrastructure Information – Do Not Release."

33. If the Presiding Judge finds at any time in the course of this proceeding that all or part of the Protected Materials need not be protected, those materials shall, nevertheless, be subject to the protection afforded by this Protective Order for three (3) business days from the date of issuance of the Presiding Judge's decision, and if the Participant seeking protection files an interlocutory appeal or requests that the issue be certified to the Commission, for an additional seven (7) business days. None of the Participants waives its rights to seek additional administrative or judicial remedies after the Presiding Judge's decision respecting Protected Materials or Reviewing Representatives, or the Commission's denial of any appeal thereof. The provisions of 18 CFR §§ 388.112 and 388.113 shall apply to any requests for Protected Materials in the files of the Commission under the Freedom of Information Act. (5 U.S.C. § 552).

34. Nothing in this Protective Order shall be deemed to preclude any Participant from independently seeking through discovery in any other administrative or judicial proceeding information or materials produced in this proceeding under this Protective Order.

35. None of the Participants waives the right to pursue any other legal or equitable remedies that may be available in the event of actual or anticipated disclosure of Protected Materials.

36. The contents of Protected Materials or any other form of information that copies or discloses Protected Materials shall not be disclosed to anyone other than in accordance with this Protective Order and shall be used only in connection with this (these) proceeding(s). Any violation of this Protective Order and of any Non-Disclosure Certificate executed hereunder shall constitute a violation of an order of the Commission.

Presiding Administrative Law Judge

**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

Name of case _____) **Docket No.** _____

NON-DISCLOSURE CERTIFICATE

1. I hereby certify my understanding that access to Protected Materials is provided to me pursuant to the terms and restrictions of the Protective Order in this proceeding, that I have been given a copy of and have read the Protective Order, and that I agree to be bound by it. I understand that the contents of the Protected Materials, any notes or other memoranda, or any other form of information that copies or discloses Protected Materials shall not be disclosed to anyone other than in accordance with that Protective Order. I acknowledge that a violation of this certificate constitutes a violation of an order of the Federal Energy Regulatory Commission.

By: _____

Title: _____

Representing: _____

Date: _____