

May 17, 2011

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VIA ELECTRONIC MAIL

Leonard Tao
Director
Office of External Affairs
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

*Re: Objection of PPL Montana LLC and PPL EnergyPlus LLC to
Freedom of Information Act Request*

Dear Mr. Tao:

Your letter of May 10, 2011 informed numerous parties, including PPL Montana LLC and PPL EnergyPlus LLC (“the PPL Parties”) that the Commission has received a request pursuant to the Freedom of Information Act (“FOIA”) for copies of certain transactional data submitted to the Presiding Administrative Law Judge and Commission Trial Staff in Docket No. EL01-10. The request is made on behalf of the California Attorney General (CAG).

The request seeks the same transactional data that the CAG and others have previously requested in FOIA Request Nos. FY10-98 and FY11-25. As the Commission found to be the case with those previous FOIA requests, the transactional data sought in this latest FOIA request is exempt from disclosure pursuant to exemption 4 of FOIA, 5 U.S.C. § 552(b)(4); 18 C.F.R. § 388.107(d). The PPL Parties refer you to these prior Commission rulings, which have been provided in full by other parties receiving this request.

As other respondents have noted, FOIA exemption 4 protects from disclosure “trade secrets and commercial or financial information obtained from a person and privileged or confidential.” 5 U.S.C. § 552(b)(4). The data sought is subject to a protective order prohibiting disclosure to third parties, as the data is commercially sensitive and its release would likely cause substantial harm to the PPL parties and other submitters’ competitive positions. In response to requests for the same transactional data that is sought here, the Commission has held that the information is exempt from disclosure pursuant to FOIA exemption 4”.

As stated in *National Parks & Conservation Ass’n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974), commercial or financial information may be protected from release if it is “likely to have either of the

Leonard Tao
May 17, 2011
Page 2

following effects: (1) impair the Government's ability to obtain necessary information in the future; or (2) cause substantial harm to the competitive position of the person from whom the information was obtained."

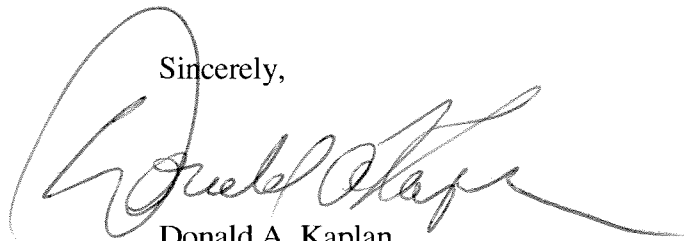
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[R]elease of this material to the public would likely impair the Commission's ability to obtain similar information in the future. In addition, the data contain commercially sensitive information regarding, among other things, volume of transactions, price and terms or conditions of the sales contract, the release of which would likely cause harm to some of the submitters' competitive positions. Specifically, disclosure of the data templates could possibly place some of the submitters at a competitive disadvantage by revealing their business practices to competitors. Based on these facts, release of the requested information could cause the harms envisioned by the court in *National Parks* that FOIA Exemption 4 was intended to prevent. *See* 498 F.2d at 770.

October 18, 2010 Commission letter at 2; February 9, 2011 Commission letter at 2-3.

The PPL parties respectfully submit that there is no sound reason to reach a different result with respect to the present FOIA requests, and respectfully ask that the FOIA request be denied.

Sincerely,



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cc: EL01-10 listserv