



**Synapse**  
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Simon ffitc  
Assistant Attorney General, Section Chief  
Public Counsel, Washington Attorney General  
900 Fourth Avenue, Suite 2000  
Seattle, Washington 98164

Dear Simon,

I have reviewed the language in paragraph 12 of the protective order, and find it to be quite burdensome.

The language that I am referring to in particular is in part a of paragraph 12. Specifically:

...each person designated as outside counsel or consultant for review of "Highly Confidential" documents or information must execute an affidavit, under oath, certifying that:

- a. They do not now, and will not for a period of three years, involve themselves in competitive decision making, with respect to which the documents or information may be relevant, by any company or business organization that competes, or potentially competes, with the company or business organization from whom they seek disclosure of highly confidential information.

My Company, Synapse Energy Economics, Inc., works for consumer advocates, public utility commissions, environmental groups, federal agencies (e.g., U.S. Department of Justice, U.S. Environmental Protection Agency), and occasionally for private clients who participate in the market. Most of our work is in litigated proceedings, either before state utility commissions or in court. We typically do sign a protective agreement in each docket in which we participate. With a staff of twelve professionals, we participate in several dozen proceedings each year. I have checked our files, and could not find any protective agreement with language resembling that of paragraph 12 part a.

The problems with that language include:

- The phrase “competitive decision making” is not defined and might (or might not) be interpreted very broadly.
- The phrase “may be relevant” is vague and depends upon speculation as to how someone in the future might interpret a particular set of facts that are presently unknown.
- The phrase “potentially completes” requires us to know what a client might do in the future.
- Three years is a long time. Market data is generally stale long before three years have elapsed. The three ISOs in the Northeast, for example, release detailed bid data (MW blocks and prices for each) after only 6 months have elapsed.

While Synapse works only infrequently for market participants, the language in paragraph 12, part a, would pose a problem for us. We generally do not have a problem signing protective agreements that limit the use of the sensitive information to the particular docket.

Let me know if you have any questions or if there is any way that I can be of assistance.

Sincerely,



Bruce Biewald  
President, Synapse Energy Economics, Inc.