



Control Number: 34738



Item Number: 256

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**DOCKET NO. 34738
SOAH DOCKET NO. 473-08-1153**

**NOTICE OF VIOLATION OF
INTERNATIONAL POWER
AMERICA, INC., HAYS ENERGY
LIMITED PARTNERSHIP,
MIDLOTHIAN ENERGY LIMITED
PARTNERSHIP, AND ANP
FUNDING I, LLC OF PURA
§36.151(j) AND PUC SUBST. R.
§25.503(f) AND (g), RELATING TO
FAILURE TO ADHERE TO ERCOT
PROTOCOLS §5.8.1.1, AND
6.5.1.1(1)(e) CONCERNING
GOVERNOR IN SERVICE
REQUIREMENTS AND
FREQUENCY BIAS
REQUIREMENTS AND OF PUC
SUBST. R. 25.503(f)(10), RELATING
TO FAILURE TO COMPLY WITH
REQUESTS FOR INFORMATION
BY ERCOT WITHIN THE TIME
SPECIFIED BY ERCOT
INSTRUCTIONS**

PUBLIC UTILITY COMMISSION

OF TEXAS

2008 DEC 23 PM 2:49
FILED
CLERK

**STATEMENT CONCERNING COMPLIANCE WITH
PARAGRAPH 4 OF THE PROTECTIVE ORDER**

International Power America, Inc., Hays Energy Limited Partnership, Midlothian Energy Limited Partnership, and ANP Funding I, LLC (collectively "IPA Companies") filed under seal several pages of the response to Commission Staff RFIs DJ-8-8, DJ-8-9 and DJ-8-10. Under Paragraph 4 of the Protective Order entered on December 13, 2007, the producing party must file a written statement indicating support for the Highly Sensitive Protected Materials Classification. This pleading complies with Paragraph 4.

The response contains information which is Confidential by law, or Confidential and Highly Sensitive Protected Materials by virtue of it consisting of a third-party vendor's proprietary trade secret information. This material includes market-sensitive company specific information and material that contains information of a highly commercially sensitive nature involving company business operations. The materials filed confidentially concern competitively sensitive commercial and/or financial

information and/or information designated confidential by law. Furthermore, this information is exempt from discovery under §§ 552.101, 552.104 and 552.110(b) of the Public Information Act, TEX. GOV'T CODE ANN., Chapter 552.

The responsive information consists of: (1) "Frequency response operation of ANP GT24 units in Texas" (RFI DJ-8-8); (2) the response to RFI DJ-8-9; (3) documents obtained from IPA Companies' vendor Alstom Power, Inc (RFI DJ-8-10).

The first document concerns the operation of the IPA Companies' generating units and contains highly sensitive cost and operating information. This information is commercially and competitively sensitive and if disclosed to competitors and/or buyers or potential buyers could, either on its own or in combination with other information that IPA Companies must disclose publicly by law, damage the IPA Companies' competitive position in the wholesale market by, among other things, disclosing IPA Companies' competitive position and its operations under specific conditions.

The response to DJ-8-9 concerns IPA Companies' employee Nikolay Moutaftchiev's activities with respect to the ERCOT Performance Disturbance Control Working Group. Dr. Moutaftchiev executed a confidentiality agreement with ERCOT requiring him to keep confidential all matters concerning his participation in that group, so the information is confidential by virtue of that agreement.

The Alstom Power, Inc. documents not only address the operating requirements and specifications of the IPA Companies' generating units, but they are proprietary intellectual property of Alstom Power, Inc. and were provided to IPA Companies only by virtue of agreements that require IPA Companies to maintain the confidentiality of such documents. The information is commercially and competitively sensitive and if disclosed to competitors and/or buyers or potential buyers could, either on its own or in combination with other information that IPA Companies must disclose publicly by law, damage the IPA Companies' competitive position in the wholesale market by, among other things, disclosing IPA Companies' competitive position and its operations under specific conditions. The information is also the trade secret of Alstom Power, Inc.

The undersigned has reviewed the materials in question and states in good faith that the materials are exempt from disclosure under the Public Information Act and merits the Protected Materials designation.

Respectfully Submitted,

By: 

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Certificate of Service

I certify that a copy of this document was served on all parties of record in this proceeding on December 23, 2008, by regular mail, facsimile transmission or hand-delivery.


Chris Reeder