

## DOCKETED

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<b>Project Title:</b>	Electricity and Natural Gas Demand Forecast
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**CALIFORNIA ENERGY COMMISSION**1516 NINTH STREET  
SACRAMENTO, CA 95814-5512

May 3, 2017

Mukhlesur Bhuiyan  
Assistant Director of Power Planning and Power  
Los Angeles Department of Water and Power  
11 N. Hope Street  
Los Angeles, California 900012-2607

RE: **Application for Confidential Designation for Data Included in the  
Electricity and Natural Gas Demand Forecast for the 2017 IEPR  
Docket No. 17-IEPR-03**

Dear Mr. Bhuiyan:

The California Energy Commission is in receipt of an Application for Confidentiality submitted on behalf of the Los Angeles Department of Water and Power (Applicant). The application seeks confidential designation for certain data in the Electric and Natural Gas Demand Forecast Forms 1.6a, 1.6c, and 1.6d (Confidential Records).

The application states that confidentiality is sought for specified portions of the Excel Spreadsheet electronic file which contain hourly load data. Applicant states that it is feasible to summarize the data contained in the Confidential Records on a statewide basis, which would sufficiently aggregate and mask the information for public disclosure. The Confidential Records have not been previously disclosed to the public.

A properly filed Application for Confidentiality shall be granted under the California Code of Regulations, title 20, section 2505(a)(3)(A), "If the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the [Energy] Commission to keep the record confidential." The California Public Records Act allows for the non-disclosure of trade secrets. (Gov. Code, § 6254(k); Evid. Code, § 1060.)

California courts have traditionally used the following definition of trade secret:

A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. . . .

(*Uribe v. Howe* (1971) 19 Cal.App.3d 194, 207, citing the Restatement of Torts, vol. 4, § 757, comment b, p.5.)

California Code of Regulations, title 20, section 2505(a)(1)(D), states that if an applicant for confidential designation believes that the record should not be disclosed because it contains trade secrets, or its disclosure would otherwise cause loss of a competitive advantage, an application shall state: 1) the specific nature of the advantage; 2) how the advantage would be lost; 3) the value of the information to an applicant; and 4) the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

The application addresses these four elements: 1) the Confidential Records contain historical and forecasted hourly data which provide key information on how to calculate the Applicant utility's load curve characteristics; 2) the data could be used by Applicant's competitors to model future load and discern how and when Applicant needs energy to meet ratepayer demand, causing Applicant to lose an advantage in keeping electric rates competitive in Applicant's territory; 3) the data has commercial value to Applicant, who invested substantial time and resources in developing load forecasts and load research data; and 4) the Confidential Records are not available to the public or readily available in the marketplace.

Additionally, under California Code of Regulations, title 20, section 2505, subsection (b), Applicant, as a government entity, may submit information designated by that government entity as confidential under the Public Records Act without an application for confidential designation, and the California Energy Commission will designate this information as confidential. The application, although not required, clearly demonstrates Applicant's treatment of the Confidential Records as confidential under the Public Records Act, and so the Confidential Records are entitled to such designation by the California Energy Commission.

The application is clear that confidentiality is being sought for trade secret information related to utility hourly load data. Therefore, Applicant has made a reasonable claim that the law allows the California Energy Commission to keep the specified portions of the Confidential Records from public disclosure.

Applicant requests that the information be kept confidential for five years from the date the data was collected: 2015 data could be publicly disclosed on February 1, 2021; 2016 data could be publicly disclosed on February 1, 2022; and 2017 data could be publicly disclosed on February 1, 2023. The trade secret information has market value for approximately three years after its production to the California Energy Commission; therefore, it is appropriate to grant confidentiality for five years from the date the data was collected.

For the reasons stated above, the request for confidential designation for the Confidential Record is granted. The information will remain confidential for five years

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after the data was collected (the equivalent of three years after the data was given to the California Energy Commission).

This grant of confidentiality is only for those specified portions marked by yellow highlighting in the Confidential Records. Please file a public version of the forms to the docket. This public document should be redacted only to the point necessary to protect confidentiality.

The data submitted with this application is substantially similar information previously designated as confidential during the development of prior Integrated Energy Policy Reports. For future Integrated Energy Policy Reports, if the Applicant files data with a certification under penalty of perjury that the new information is substantially similar to the information previously granted confidentiality, there is no need for a new application under California Code of Regulations, title 20, sections 2505(a)(1)(G) and 2505(a)(4).

Be advised that persons may petition to inspect or copy records that I have designated as confidential. The procedures and criteria for filing, reviewing, and acting upon such petitions are set forth in the California Code of Regulations, title 20, section 2506.

If you have any questions concerning this matter, please contact Michelle Chester, Staff Counsel, at (916) 651-2935.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. P. Oglesby', with a long horizontal flourish extending to the right.

Robert P. Oglesby  
Executive Director

cc: Docket Unit, California Energy Commission  
Cynthia Rogers, California Energy Commission