

DOCKETED

Docket Number:	17-IEPR-03
Project Title:	Electricity and Natural Gas Demand Forecast
TN #:	219928
Document Title:	Response to SDG&E Company's Application for Confidential Designation for Data Included in Electricity Demand Forecast
Description:	San Diego Gas and Electricity Company/John Pacheco
Filer:	Liza Lopez
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CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

June 20, 2017

John A. Pacheco
Attorney for San Diego Gas & Electric Company
8330 Century Park Court, CP 32
San Diego, CA 92123

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

Dear Mr. Pacheco:

The California Energy Commission is in receipt of an Application for Confidentiality submitted on behalf of San Diego Gas & Electric (Applicant). The application seeks confidential designation for information contained in 2017 Integrated Energy Policy Report Electricity Demand Forecast Forms, including information contained in Form 1.6d (Confidential Records):

1. *Non-Residential Load Shape Summary Information, Col F-I, Rows 8-117; and*
2. *Non-Residential Load Shape Information Files 2013, 2014, 2015.*

The application states that confidentiality is sought for data concerning customer accounts. A confidentiality response letter signed on May 24, 2017 denied confidential designation for Form 1.6d. Upon further review, such denial was unwarranted. 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

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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 data concerning customer accounts; 2) given the small size of these sets of accounts, disclosure of the information may allow competitors to determine the identity of individual account holders and their usage; 3) the data have commercial value to Applicant; and 4) the Confidential Records are not available to the public or readily available in the marketplace.

The application is clear that confidentiality is being sought for trade secret information related to customer account 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.

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.

Applicant requests that the information be kept confidential for a period of three years, or through December 31, 2019. The Confidential Records have value until the data becomes "stale" in the relevant markets, which is consistent with the three years requested. Therefore it is appropriate to grant confidentiality until December 31, 2019.

For the reasons stated above, the request for confidential designation for the Confidential Record is granted. The information will remain confidential until December 31, 2019.

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

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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. 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