

## DOCKETED

<b>Docket Number:</b>	12-AFC-03
<b>Project Title:</b>	Redondo Beach Energy Project
<b>TN #:</b>	205884
<b>Document Title:</b>	City of Redondo Beach's Motion for Issuance of Subpoena
<b>Description:</b>	Motion
<b>Filer:</b>	Kimberly A. Huangfu
<b>Organization:</b>	Jeffer Mangels Butler & Mitchell LLP
<b>Submitter Role:</b>	Intervenor Representative
<b>Submission Date:</b>	8/27/2015 4:41:15 PM
<b>Docketed Date:</b>	8/27/2015

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3 **STATE OF CALIFORNIA**  
4 **California Energy Commission**

5 **In the Matter of:**

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7 **REDONDO BEACH ENERGY PROJECT**  
8 **APPLICATION FOR CERTIFICATION**

**Docket No. 12-AFC-03**

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11 **INTERVENOR CITY OF REDONDO BEACH'S MOTION FOR ISSUANCE OF**  
12 **SUBPOENA DUCES TECUM TO SOUTHERN CALIFORNIA EDISON AND THE**  
13 **CALIFORNIA PUBLIC UTILITIES COMMISSION**

14  
15 August 27, 2015

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18  
19 JEFFER MANGELS BUTLER & MITCHELL LLP  
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21 KIMBERLY A. HUANGFU (Bar No. 242251), [khuangfu@jmbm.com](mailto:khuangfu@jmbm.com)  
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27 Attorneys for Intervenor CITY OF REDONDO BEACH  
28

1 STATE OF CALIFORNIA  
2 California Energy Commission

3  
4 In the Matter of:

5 REDONDO BEACH ENERGY PROJECT  
6 APPLICATION FOR CERTIFICATION  
7

Docket No. 12-AFC-03

8 INTERVENOR CITY OF REDONDO BEACH'S  
9 MOTION FOR ISSUANCE OF SUBPOENA DUCES TECUM TO SOUTHERN  
10 CALIFORNIA EDISON AND THE CALIFORNIA PUBLIC UTILITIES COMMISSION

11 I. INTRODUCTION

12 Intervenor City of Redondo Beach ("City") hereby submits to the Committee  
13 assigned to this proceeding ("Committee") this Motion for Issuance of Subpoena Duces Tecum to  
14 Southern California Edison ("SCE") and the California Public Utilities Commission ("CPUC"). As  
15 part of the CPUC's Long Term Procurement Plan ("LTTP") process, SCE issued a Request for  
16 Offers ("RFO") and received 198 proposals for new gas-fired power plants in the Los Angeles  
17 Basin. It ultimately awarded power purchase agreements ("PPAs") to only three plants: AES  
18 Alamitos Energy, LLC, AES Huntington Beach Energy, LLC, and Stanton Energy Reliability  
19 Center, LLC. The remaining 195 proposals are potential alternative sites for the RBEP proposal,  
20 which should be evaluated as part of the Energy Commission's alternatives analysis. Unfortunately,  
21 SCE redacted the names and locations of these 195 proposals, without legal basis. This motion asks  
22 the Committee to require SCE or CPUC to provide the names and locations of these proposed  
23 facilities.

24 II. COMMITTEE HAS THE AUTHORITY TO ISSUE SUBPOENAS AND SUBPOENAS  
25 DUCES TECUM AND REQUEST INFORMATION THAT IS RELEVANT AND  
26 NECESSARY TO THE PROCEEDINGS

27 The Committee has the authority to hear motions and issue subpoenas. Pursuant to  
28 Section 1203 of the California Code of Regulations, the chairman or presiding member designated  
pursuant to Section 1204 has the power to:

1           "(a) Request and secure such information as is relevant and necessary in carrying  
2           out the purposes of the proceeding. (b) Issue subpoenas and subpoenas duces  
3           tecum at the direction of the commission, on his motion or upon application of  
4           any party. The application of a party shall be supported by a declaration of good  
5           cause."

6           A declaration of good cause is attached to this motion as **Exhibit A**.

7           **III. THE REQUESTED INFORMATION IS ESSENTIAL TO RBEP'S ALTERNATIVES**  
8           **ANALYSIS**

9           In 2013 and 2014, the CPUC authorized SCE to procure 1,900 to 2,500 Megawatts  
10          of electrical capacity in the Western Los Angeles sub-area of the Los Angeles Basin. (See CPUC  
11          D.13-02-015 and D.14-03-004.) As a result, SCE issued a request for offers (RFO) and filed  
12          Application 14-11- 012 on November 21, 2014, asking the CPUC to approve those contracts. In  
13          response to the RFO, SCE received 198 "indicative offers" for gas-fired plants in the Los Angeles  
14          Western Basin, all of which were redacted in the table labeled "Western LA Basin Final Offers".  
15          (See excerpt of Testimony of SCE, Nov. 21, 2014, attached as Exhibit 2)]. Of the 198 gas-fired  
16          plants, only three gas-fired facilities were selected.

17          A critical portion of the Commission's alternatives analysis is the investigation of  
18          alternative potential sites. (CEC Preliminary Staff Assessment ("PSA") at p. 4.2-2.) Unfortunately,  
19          due to the absence of information and lack of cooperation by AES, CEC staff was not able to  
20          identify any viable alternative sites. (*Id.* at p. 4.2-1). However, in light of the 198 offers for power  
21          plant sites in the Los Angeles Basin received by SCE in response to its RFO, it is apparent that  
22          many viable sites do, in fact, exist.<sup>1</sup> Thus, to fulfill its obligation to consider "a reasonable range of  
23          project alternatives for examination" under CEQA, the Commission can now consider alternative

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24          <sup>1</sup> Recognizing the incomplete scope of AES' alternatives analysis, the California Coastal  
25          Commission's 30413(d) Report recommended that "the CEC revise and supplement this AFC proceeding's  
26          alternatives analysis . . . [to] include reviews and determinations by the . . . CPUC and [SCE] regarding the  
27          lack of need for electricity generated from the proposed RBEP." (Cover letter to Coastal Commission Report  
28          to the CEC on App. for Cert. 12-AFC-03 dated Jul. 9, 2015 ("Coastal Commission Report"), CEC Docket  
29          TN#205306, at p. 2.)

30          Moreover, "[t]hese determinations suggest that other existing power plant locations within  
31          the same Local Reliability Area may be suitable for the electricity generation now being proposed from the  
32          RBEP and could result in fewer adverse environmental impacts." (Cover Letter to Coastal Commission  
33          Report at p. 2.)

1 sites that can be reasonably ascertained by soliciting the redacted information from the CPUC or  
2 SCE.

3 **IV. THE CPUC DENIED THE CITY'S FORMAL REQUEST FOR THIS INFORMATION**

4 The City has made repeated efforts to obtain the requested information directly from  
5 the CPUC. On July 15, 2015, the City submitted a Public Records Act request to the CPUC,  
6 requesting "public records maintained by the CPUC related to the results of the Southern California  
7 Edison (SCE) 2013 Local Capacity Requirements Request for Offers . . . for the Western Los  
8 Angeles Basin." (Ltr. from City to CPUC, dated Jul. 15, 2015, attached hereto as **Exhibit 3.**)

9 In response, the CPUC refused to provide the information, alleging that "while the  
10 Commission possesses the information that you have requested, the information cannot be provided  
11 to you at this time because Southern California Edison's Testimony . . . has been admitted into  
12 evidence in the proceeding as . . . a confidential exhibit." (Ltrs. from CPUC to City, dated Jul. 27  
13 and Aug. 12, 2015, attached hereto as **Exhibit 4.**)

14 **V. THERE IS NO BASIS FOR CLASSIFYING THE REQUESTED INFORMATION AS**  
15 **CONFIDENTIAL OR MARKET SENSITIVE DATA**

16 The CPUC has asserted confidentiality or privilege under Public Utilities Code  
17 Section 583 to justify the non-disclosure of the alternative gas-fired plant locations. This narrow  
18 interpretation of Section 583 of the Public Utilities Codes is misplaced. Section 583 provides in  
19 pertinent part that: "No information furnished to the commission [i.e., the CPUC] by a public utility  
20 ... shall be open to public inspection or made public except on order of the commission, or by the  
21 commission or a commissioner in the course of a hearing or proceeding." (Cal. Pub. Util. §583.)

22 The Ninth Circuit Court of Appeals adopted a more expansive interpretation in *In re*  
23 *California Public Utilities Commission* (1989) 892 F.2d 778, 783, stating that:

24 "On its face, [Section] 583 does not forbid the disclosure of any  
25 information furnished to the CPUC by utilities. Rather, the statute  
26 provides that such information will be open to the public if the  
27 commission so orders, and the commission's authority to issue such  
28 orders is unrestricted. Moreover, even in the absence of an order by the  
commission, the information may be made public by an individual  
commissioner during a commission hearing."

1           Moreover, in the CPUC's "Interim Opinion Implementing Senate Bill No. 1488,  
2 Relating to Confidentiality of Electric Procurement Data Submitted to the Commission" ("CPUC  
3 Decision")<sup>2</sup>, the CPUC expressly provides that it "start[s] with a presumption that information  
4 should be publicly disclosed and that any party seeking confidentiality bears a strong burden of  
5 proof." (*Id.* at p. 2.) Similar to the reasoning adopted by the Ninth Circuit, the CPUC recognizes  
6 that:

7           "As both courts and this Commission have stated in the past . . . , [Section]  
8 583 does not require the Commission to afford confidential treatment to  
9 data that does not satisfy substantive requirements for such treatment  
10 created by other statutes and rules. This is important because several of  
11 the parties claim that there is a legal presumption of confidentiality for all  
12 data. *If this were true, the Commission would be legally obligated to*  
*protect whole swaths of information without first considering whether the*  
*information meets relevant legal tests for trade secrets, privilege, or other*  
*established provisions protecting data from disclosure.*"

13           (*Id.* at p. 26, emphasis added.)

14           The requested information does not qualify as "market sensitive" information and  
15 should not be deemed confidential in nature. SCE defines "market sensitive" information as  
16 "information that has not yet been made publicly available, which if made publicly available, would  
17 likely influence the decision of a market participant." (CPUC Decision at p. 34.) Even if the  
18 location of the plants were deemed to be "market sensitive", the protections only apply to  
19 "information that would have a material impact on a procuring party's market price for electricity."  
20 (*Id.*)

21           Materiality is not at issue here because the City is requesting data related to the location, *not*  
22 *the pricing*, of the LTPP bids. Moreover, the bids have subsequently been reviewed and approved  
23 by the CPUC, resulting in the execution of various power purchase agreements that are now final.  
24 Absent evidence to the contrary, the CPUC has not met its burden of proof to justify its unsupported  
25 claim of confidentiality.

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28           <sup>2</sup> CPUC Decision No. 06-06-066, issued June 29, 2006. A true and correct copy of CPUC Decision No. 06-06-066 is available at [http://docs.cpuc.ca.gov/PublishedDocs/WORD\\_PDF/FINAL\\_DECISION/57772.PDF](http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/57772.PDF)

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And finally, Appendix 1 to the CPUC Decision provides that the "total number of projects and megawatts bid by resources type" shall become "public after final contacts submitted to CPUC for approval", which includes "participating bids, counter-party names, prices and quantified offers." (Appendix 1 to CPUC Decision, IOU Matrix at p. 18, VIIIA.) The final contracts have been submitted to the CPUC for approval and, thus, all bid information, including the location of the participating plants that were considered as part of the LTPP process, has become a matter of public and should be disclosed.

**VI. CONCLUSION**

The City respectfully requests that the Committee issue a formal request or subpoena to the SCE and CPUC, requiring that either party produce the unredacted version of pages 35-39 of the TESTIMONY OF SOUTHERN CALIFORNIA EDISON COMPANY ON THE RESULTS OF ITS 2014 LOCAL CAPACITY REQUIRMENTS REQUEST FOR OFFERS FOR THE WESTERN LOS ANGELES BASIN" or, at a minimum, the name and location for each proposed site for gas-fired generation facilities contained in each bid submitted in response to the LCR RFO.

DATED: August 27, 2015

JEFFER MANGELS BUTLER & MITCHELL LLP

By:   
JON WELNER

Attorneys for Intervenor CITY OF REDONDO  
BEACH

# EXHIBIT 1



1 **EXHIBIT 1**

2 **DECLARATION OF GOOD CAUSE IN SUPPORT OF CITY'S MOTION**

3 I, Kimberly A. Huangfu, hereby declare as follows:

4 1. I am an attorney at law duly licensed to practice law in the State of California with  
5 the law firm of Jeffer Mangels Butler & Mitchell ("JMBM"). I am an attorney of record for  
6 Intervenor City of Redondo Beach ("City"). I have personal knowledge of the facts set forth in this  
7 declaration and could competently testify to each of the facts if called upon to do so.

8 2. I compiled the attached exhibits and can attest to their authenticity. I obtained the  
9 redacted version of "TESTIMONY OF SOUTHERN CALIFORNIA EDISON COMPANY ON  
10 THE RESULTS OF ITS 2014 LOCAL CAPACITY REQUIRMENTS REQUEST FOR OFFERS  
11 FOR THE WESTERN LOS ANGELES BASIN" ("SCE Testimony") on the SCE website -  
12 [http://www3.sce.com/sscc/law/dis/dbattach5e.nsf/0/46ABDD2208E5CFC288257D980006196D/\\$FILE/  
13 A.14-11-XXX%20-%20SCE-  
14 1%20PUBLIC%20Testimony%20of%20SCE%20on%20LCR%20RFO%20in%20LA%20Basin.pdf](http://www3.sce.com/sscc/law/dis/dbattach5e.nsf/0/46ABDD2208E5CFC288257D980006196D/$FILE/A.14-11-XXX%20-%20SCE-1%20PUBLIC%20Testimony%20of%20SCE%20on%20LCR%20RFO%20in%20LA%20Basin.pdf).

15 3. I am personally familiar with the facts and conclusions set forth in this motion and if  
16 called as a witness could testify thereto.

17 4. Based on my review of the unredacted portions of SCE's testimony in relation to the  
18 LTPP and LCR RFO process for the Western Los Angeles Basin, the City contends that the  
19 requested information is essential to identifying the location and capacity of alternatives sites that  
20 can serve the region's energy needs.

21 5. The City asserts that good cause exists for the Committee to intervene and issue a  
22 subpoena to require that SCE and/or the CPUC provide the requested portions of SCE's testimony  
23 because the City's attempt to obtain this information, independent of this motion, have been meet  
24 with opposition. The City contends that there is no basis for classifying the requested information as  
25 confidential or market sensitive data.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

Executed August 27, 2015, at San Francisco, California.



Kimberly A. Huangfu

Jeffer Mangels  
Butler & Mitchell LLP  
**JMBM**

# EXHIBIT 2

Application No.:  
Exhibit No.:

A.14-11-xxx

SCE-1

J. Bryson

G. Chinn

C. Cushnie

P. Hunt

E. Little

R. Singh

D. Snow

R. Thomas



SOUTHERN CALIFORNIA  
**EDISON**<sup>®</sup>

An *EDISON INTERNATIONAL*<sup>®</sup> Company

(U 338-E)

***TESTIMONY OF SOUTHERN CALIFORNIA  
EDISON COMPANY ON THE RESULTS OF ITS  
2013 LOCAL CAPACITY REQUIREMENTS  
REQUEST FOR OFFERS (LCR RFO) FOR THE  
WESTERN LOS ANGELES BASIN***

**PUBLIC VERSION**

Before the

**Public Utilities Commission of the State of California**

Rosemead, California  
November 21, 2014

V.

**LCR RFO PARTICIPATION**

**A. Summary of Solicitation Participation**

This Chapter provides an overview of the following steps in the LCR RFO: (1) indicative offers submitted by bidders; (2) shortlist notification; (3) contract negotiations; and (4) final binding offers submitted.

**1. Indicative Offer Submittal**

SCE received a very robust set of indicative offers. In total, SCE received 1,136 offers from [REDACTED] bidders, spanning all of the technology types SCE solicited.<sup>55</sup> A summary of the indicative offers received is provided in Table V-9 below.<sup>56</sup>

*Table V-9  
Summary of Indicative Offers*

Product Type	Number of Offers
EE	181
DR	113
Renewable	11
CHP	14
DG	40
ES	579
GFG	198
<b>Total</b>	<b>1,136</b>

Many of the counterparties who bid into the LCF RFO were new to SCE's structured procurement programs and required a significant amount of assistance with filling out the bid templates and providing all required information. This was further complicated by SCE soliciting products such as ES and EE aggregation for the first time. Thus, after receiving indicative offers, SCE went through a

<sup>55</sup> The 1,136 indicative offers includes offers for both the Western LA Basin and Moorpark sub-area.

<sup>56</sup> The number of counterparties in the table is greater than [REDACTED] because some counterparties submitted offers for multiple product types.

1 very intensive process of “curing” offers. Nearly every counterparty was contacted, and close to 80  
2 percent of the offers were revised in some manner.

### 3 **2. Shortlist Notification**

4 SCE removed some projects from shortlist consideration because they did not meet the RFO  
5 requirements (*e.g.*, the most common non-conforming issue was proposed projects that were outside of  
6 the LCR region). In the LCR RFO, consistent with other procurement programs, SCE did not shortlist  
7 specific offers, but instead shortlisted entire counterparty/product combinations by comparing the best  
8 valued offer by counterparty/product. The rationale behind this practice is: (1) offers were likely going  
9 to change throughout the negotiation process; and (2) the main measure of workload for the SCE team is  
10 the counterparty/product combination, as each combination requires a separate document negotiation.  
11 Notwithstanding SCE’s screening process, SCE shortlisted many counterparties/product types for the  
12 Western LA Basin.<sup>57</sup> Counterparties were only required to commit to certain offers and offer structures  
13 during the Indicative Offer and Final Offer phase. In between these two phases, counterparties were  
14 continuously refining offers, and even switched between in-front-of-the-meter and behind-the-meter  
15 resources. These changes occurred because counterparties continued to refine their projects as they  
16 became more knowledgeable about the feasibility and risk associated with them, and as a result of  
17 receiving feedback from SCE. As described in Section IV.H, SCE met with the CAM Group multiple  
18 times during the shortlist process.

### 19 **3. Contract Negotiations**

20 Shortlist notification was made on January 30, 2014, and form of contract negotiations  
21 commenced soon after. Per the revised LCR RFO schedule, the negotiation phase was originally

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<sup>57</sup> Counterparties that were shortlisted for a product in one of the LCR areas, Western LA Basin or Moorpark, were usually shortlisted for the other area. This is because historically, a factor in how many projects to shortlist has been the amount of workload that the SCE team could handle. A large part of this workload is negotiations to reach agreement on a form of contract, and the assumption at shortlisting was that regardless of the geographic location of the project, a common form of the agreement could be used for Western LA Basin and Moorpark.

1 scheduled to end on August 29, 2014. However, as described in Section IV.E, a number of the  
2 complexities and challenges specific to the LCR RFO surfaced, which caused schedule delays.

3 During the negotiation phase, various counterparties withdrew or were removed from the  
4 solicitation. Table V-10 below lists those counterparties and the reason(s) why they could not continue  
5 to participate in the LCR RFO.

*Table V-10*  
*Counterparties That Withdrew/Removed From Solicitation During Negotiations*



6 During this phase, SCE added two counterparty-product types not originally on the shortlist  
7 [redacted] in order to increase competition. [redacted]  
8 [redacted]

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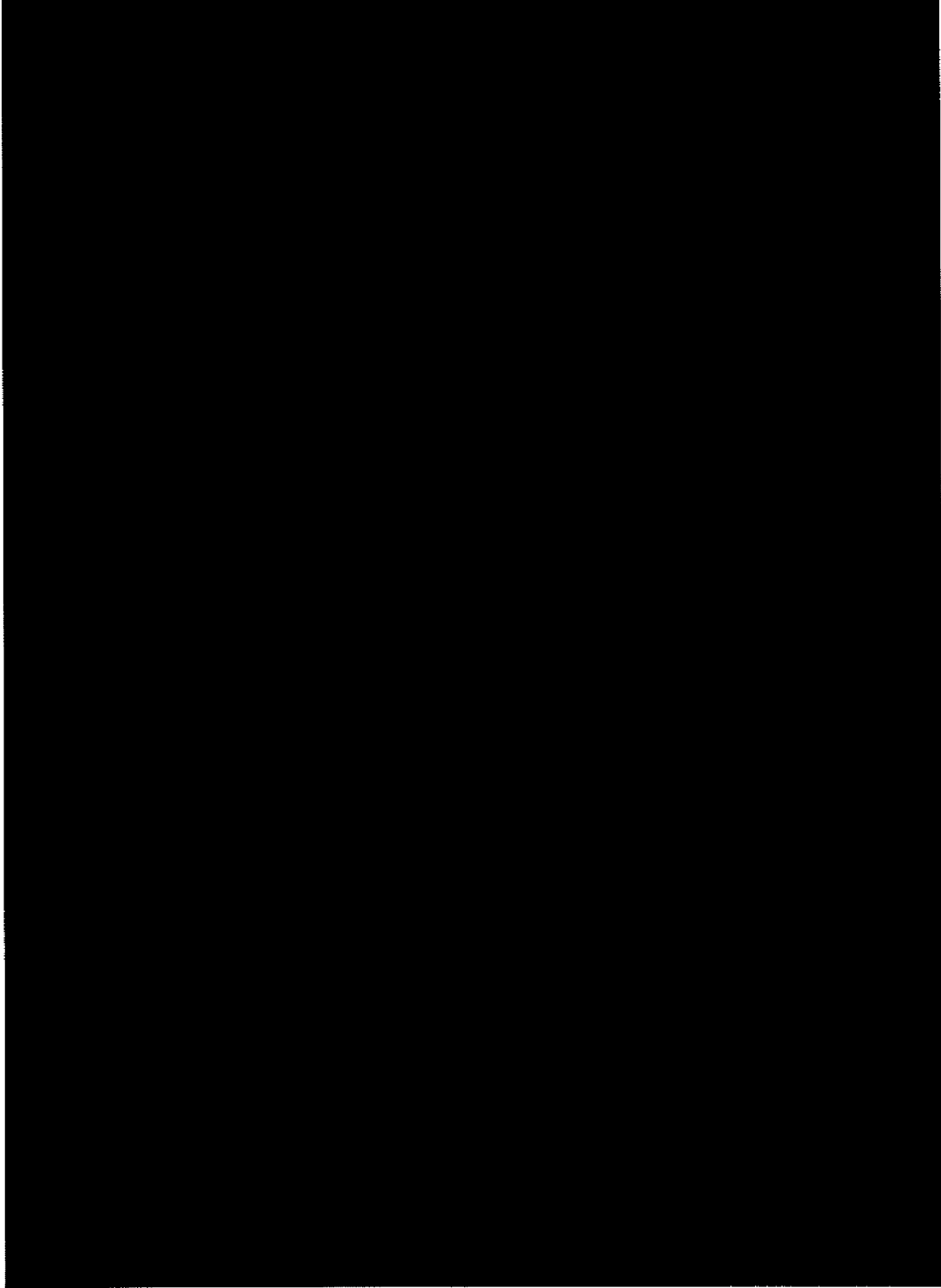


4. **Final Binding Offer Submission**

SCE received final offers on September 4, 2014. Table V-11 below summarizes the Western LA Basin offers.



*Table V-11  
Summary of Western LA Basin Final Offers*



# EXHIBIT 3

**IRW RICHARDS | WATSON | GERSHON**  
**SCE** ATTORNEYS AT LAW – A PROFESSIONAL CORPORATION

355 South Grand Avenue, 40th Floor, Los Angeles, California 90071-3101  
Telephone 213.626.8484 Facsimile 213.626.0078

lbond@rwglaw.com

July 15, 2015

**VIA EMAIL AND U.S. MAIL**

Legal Division Public Records Office  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94012  
**Email: public.records@cpuc.ca.gov**

Re: Public Records Act Request Regarding Information Regarding Results of Southern California Edison's 2013 Local Capacity Requirements Request for Offer

Dear Public Records Office:

This letter requests public records maintained by the California Public Utilities Commission (CPUC) related to the results of the Southern California Edison (SCE) 2013 Local Capacity Requirements Request for Offers (LCR RFO) for the Western Los Angeles Basin.

In 2013 and 2014, in two separate tracks of the 2012 Long Term Procurement Plan (LTPP) proceeding, the CPUC authorized SCE to procure 1,900 to 2,500 Megawatts of electrical capacity in the Western Los Angeles sub-area of the Los Angeles Basin. (See D.13-02-015 and D.14-03-004.) As a result, SCE conducted an LCR RFO and has entered into 63 contracts. On November 21, 2014, SCE filed Application 14-11-012 requesting that the CPUC approve those contracts.

We request any and all documents, communication and writings (as defined in California Evidence Code section 250)<sup>1</sup> regarding:

1) An unredacted version of the November 21, 2014 “TESTIMONY OF SOUTHERN CALIFORNIA EDISON COMPANY ON THE RESULTS OF ITS 2013 LOCAL CAPACITY REQUIREMENTS REQUEST FOR OFFERS (LCR RFO) FOR THE

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<sup>1</sup> “Writing” means handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.” (Evid. Code §250.)

July 15, 2015  
Page 2

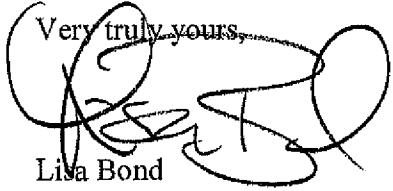
WESTERN LOS ANGELES BASIN,” submitted in support of A.14-11-012, at a minimum, unredacted pages 35-39 of that testimony.<sup>2</sup>

2) The name and location for each proposed site for a gas-fired generation facility contained in each bid submitted in response to the Southern California Edison 2013 Local Capacity Requirements Request for Offers for the Western Los Angeles Basin.

Please respond within ten (10) days of receipt of this letter regarding the date and time that the requested records will be available. (Gov. Code §6253(c).) Please also indicate the number of pages responsive to the request and the total costs associated with obtaining copies of these records.

If any records responsive to this request are withheld, please provide a written justification and the names and titles or positions of each person responsible for the denial. (Gov. Code §§6253(d) & 6255.) We would appreciate any assistance you can provide in identifying records and information responsive to this request.

Very truly yours,



Lisa Bond

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<sup>2</sup> To our knowledge, SCE has not filed a motion in accordance with Law and Motion Resolution ALJ-164, therefore, there is no reason this information should have been redacted. (See D.06-06-066, p. 80.) Additionally, the material redacted on pages 35-39 has been identified as being consistent with Matrix Category VIII.A, which becomes public when final contracts are submitted to the CPUC for approval. (See Declaration of Jesse Bryson Regarding the Confidentiality of Certain Data, Appendix A to Testimony of Southern California Edison Company on the Results of its LCR RFO for the Western Los Angeles Basin, filed November 21, 2014, p. A-3 through A-4.)

# EXHIBIT 4

**PUBLIC UTILITIES COMMISSION  
LEGAL DIVISION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3288  
ID 94-3031353



July 27, 2015

**VIA ELECTRONIC MAIL**

Lisa Bond  
Richards, Watson & Gershon  
355 South Grand Ave, 40<sup>th</sup> Floor  
Los Angeles, CA 90071-3101  
[lbond@rwglaw.com](mailto:lbond@rwglaw.com)  
[ctobaben@rwglaw.com](mailto:ctobaben@rwglaw.com)

**Re: Public Records Request re Results of SCE's 2013 Local Capacity  
Requirements  
CPUC Reference No.: PRA #1591**

Dear Ms. Bond:

You ask the California Public Utilities Commission (Commission) to provide you a copy of the following:

- 1) An unredacted version of the November 21, 2014 "TESTIMONY OF SOUTHERN CALIFORNIA EDISON COMPANY ON THE RESULTS OF ITS 2013 LOCAL CAPACITY REQUIREMENTS REQUEST FOR OFFERS (LCR RFO) FOR THE WESTERN LOS ANGELES BASIN," submitted in support of A.14-11-012, at a minimum, unredacted pages 35-39 of that testimony.
- 2) The name and location for each proposed site for a gas-fired generation facility contained in each bid submitted in response to the Southern California Edison 2013 Local Capacity Requirements Request for Offers for the Western Los Angeles Basin.

Please be advised that while the Commission possesses the information that you have requested, the information cannot be provided to you at this time because Southern California Edison's ("SCE") Testimony in A.14-11-012 has been admitted into evidence in the proceeding as "Exhibit SCE IC" as a confidential exhibit. Under Public Utilities Code Section 583, "[n]o information furnished to the commission by a public utility, or any business which is a subsidiary or affiliate of a public utility, or a corporation which holds a controlling interest in a public utility, except those matters specifically required to be open to public inspection by this part, shall be open to public inspection or made public except on order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding." Therefore, since items one and two of your request are both information that are sub-parts of SCE's confidential testimony, the information you requested cannot be disclosed at this time.

Lisa Bond  
July 27, 2015  
Page 2

Please refer to PRA 1591 in all of your communications with the Commission regarding the above-referenced matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "K Sheppard". The signature is fluid and cursive, with a large initial "K" and a long, sweeping tail.

Kerriann Sheppard  
Staff Counsel

**PUBLIC UTILITIES COMMISSION  
LEGAL DIVISION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298  
ID 94-3031353



August 12, 2015

**VIA ELECTRONIC MAIL**

Lisa Bond  
Richards, Watson & Gershon  
355 South Grand Ave, 40<sup>th</sup> Floor  
Los Angeles, CA 90071-3101  
[lbond@rwglaw.com](mailto:lbond@rwglaw.com)  
[ctobaben@rwglaw.com](mailto:ctobaben@rwglaw.com)

**Re: Public Records Request re Results of SCE's 2013 Local Capacity  
Requirements  
CPUC Reference No.: PRA #1591**

Dear Ms. Bond:

In response to your letter dated August 6, 2015, your challenge to the confidentiality of SCE's exhibit and procedural challenge regarding the method in which SCE's exhibit was submitted to the Commission cannot be considered through the Public Records Act while the proceeding remains open. Pub. Util. Code § 583 provides that SCE's confidential exhibit remain confidential and are not subject to public inspection absent "an order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding." (*see also* General Order 66C Section 2). Therefore, while proceeding A.14-11-012 remains open the challenges you presented should be submitted in a formal motion to the assigned Administrative Law Judge ("ALJ") and the assigned Commissioner. Absent a Commission decision stating otherwise, the documents you requested remains confidential and cannot be provided at this time.

Also, the Public Records Act is not the proper forum for presenting your challenges to the confidentiality and procedural deficiencies of SCE's confidential exhibit according to Decision ("D.") 08-04-023 which you cited in your August 6, 2015 letter. D.08-04-023 holds that when the submitting person and requesting person cannot resolve the dispute informally, "...the submitting person and the requesting person shall present the dispute to the director of the Energy Division." (*see* D.08-04-023 at p. 24). Therefore, your request to review confidential data was improperly submitted under the Public Records Act.

Therefore, since SCE's exhibit in proceeding A.14-11-012 was submitted as confidential, the information you requested in PRA #1591 cannot be provided at this time under Pub. Util. Code § 583 and Cal. Gov't Code § 6254(k). Again, while proceeding A.14-11-012 remains open the challenges you presented should be submitted in a formal motion to the assigned ALJ and the assigned Commissioner. This is due to the statutory limitations placed upon Commission staff by Pub. Util. Code § 583.



Lisa Bond  
August 12, 2015  
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Please refer to PRA 1591 in all of your communications with the Commission regarding the above-referenced matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'K Sheppard', written in a cursive style.

Kerriann Sheppard  
Staff Counsel