

DOCKETED	
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21-IEPR-02 Application for Confidentiality - Response

Dixit, Raj@Energy <Raj.Dixit@energy.ca.gov>

Wed 9/22/2021 1:13 PM

To: marissa.oconnor@smud.org <marissa.oconnor@smud.org>

September 22, 2021

Via email

Marissa O'Connor
Attorney
Sacramento Municipal Utility District (SMUD)
6201 S Street, Mail Stop B406
Sacramento, California 95817
marissa.oconnor@smud.org

Application for Confidential Designation for Data in Integrated Energy Policy Report, Docket 21-IEPR-02

Dear Marissa O'Connor,

The California Energy Commission (CEC) received the confidentiality application submitted by SMUD (applicant) on September 15, 2021, for specified data contained in the 2021 Integrated Energy Policy Report (IEPR). Specifically, confidentiality is sought for:

Form S-2 –

Capacity / Energy Supply Resources, Columns G through AE in Rows 6h, 6l, 6n, and 6o.

Form S-5 –

Bilateral Contracts Table, Columns C through M in Rows 6h, 6l, 6n, and 6o.

Confidential designation of this data is requested pursuant to Title 20, California Code of Regulations, section 2505, on the grounds that the information is not otherwise publicly available or readily discoverable in the form or detail provided at this time, that the information is market sensitive and constitutes trade secrets in terms of disclosing applicant's very recent wholesale and retail activities, that the data is proprietary (belonging to another company, from which applicant purchased it), and that the release of this information will result in loss of competitive advantage in the wholesale and retail marketplaces relative to applicant's ability to negotiate future contracts for the purchase or resale of energy and/or capacity at wholesale, or negotiation of contracts with retail customers. The application also states that confidentiality is appropriate under Government Code section 6255(a) because the public interest in nondisclosure clearly outweighs the public interest in disclosure.

Here, the application states that 1) the confidential records contain commercially sensitive data which could provide insight into the applicant's business strategies; 2) if publicly disclosed, the data could be used to determine historical and forecasted power and capacity needs, which could be used by competitors to cause competitive harm to the applicant, or could be used by

suppliers to the applicant's disadvantage in negotiating price and terms or procurement transactions, or could be used by customers to extract better terms in contract negotiations with the applicant; 3) the data has commercial value to the applicant which provides a competitive advantage; and 4) the confidential records are not available to the public.

The application also states that confidential information contained in the report cannot, by its nature, be aggregated on a statewide basis with the same type of data reported by other energy service providers or load serving entities. The application further requests that the data be kept confidential and not publicly disclosed until two years after the expiration date of each of the four contracts specified above, with the dates given in Column J of Form S-5.

In accordance with the California Code of Regulations, title 20, section 2505(b), SMUD seeks confidentiality as a federal, state, regional, or local agency or state-created private entity, which possesses information pertinent to the responsibilities of the CEC, that has been designated by SMUD as confidential under the Public Records Act, or the Freedom of Information Act. Therefore, the CEC designates the above-described data in Forms S-2 and S-5 as confidential.

This grant of confidentiality is only applicable to the specific columns and rows described above. Please file a public version of those forms to the docket. These public documents should be redacted only to the extent necessary to protect the data for which confidentiality has been granted.

Be advised that persons may petition to inspect or copy records that the CEC has designated as confidential, the executive director may disclose or release records previously designated as confidential in certain circumstances, and the CEC may hold a hearing to determine the confidentiality of its records on its own motion or on a motion by CEC staff. The procedures and criteria for disclosing or releasing, filing, reviewing, and acting upon such petitions or motions are set forth in the Title 20, California Code of Regulations, sections 2506-2508.

You may request confidentiality for similar data in a future annual report without submitting an application by following the procedures set forth in Title 20, California Code of Regulations, section 2505(a)(4).

If you have any questions, please contact me at raj.dixit@energy.ca.gov or (916) 776-3408.

Sincerely,

Raj K. Dixit

Attorney III

California Energy Commission

(916) 776-3055 State Cell