

DOCKETED

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APPLICATION FOR CONFIDENTIAL DESIGNATION (Title 20 Cal. Code. Regs., § 2505 et seq.)

CEC-13 (Revised 11/2021)

CALIFORNIA ENERGY COMMISSION

All confidential filings: Individual documents may not exceed 30 MB¹ or be password protected.² The application must be a separate document from the confidential materials. The application itself is not confidential and is a public record. The application will be reviewed and acted upon by the Executive Director in consultation with the Chief Counsel of the Energy Commission. (§ 2505, subd. (a))

If you have questions, contact the Docket Unit at (916) 654-5076 or email: docket@energy.ca.gov.

Existing proceedings: Applications for confidentiality and the confidential documents must be uploaded directly to the Docket Unit through the e-filing system. Paper copies or CDs do not need to be submitted. Links to the e-filing system are provided on most proceeding webpages labeled “**Submit e-filing.**” Alternatively, go to: https://efiling.energy.ca.gov/Login.aspx?perms_1&returnurl=http%3A//efiling.energy.ca.gov/EFiling/EfileSelect/Proceeding.aspx. Registration is necessary the first time documents are uploaded. Once registration is complete, to submit a confidential filing click on **Quick Actions** from the **DASHBOARD** and select **Submit Confidential e-filing** from the dropdown list. The application must be uploaded first followed by one or more confidential files.

Filings not associated with any proceeding: Applications for confidentiality and the confidential materials must be submitted directly to the **Docket Unit** in paper form or on a CD, but not by email. Two copies must be submitted, on separate media if electronic, each marked with a descriptive title and “Confidential.” (§ 1208.1)

TO: Energy Commission Docket Unit

Applicant: Shell Energy North America (US), L.P. D/B/A Shell Energy Solutions

Address: 4445 Eastgate Mall, Suite 100, San Diego CA 92121

Phone and E-mail: (858) 526 - 2106

Proceeding or Project Name: Power Source Disclosure Annual Report

Docket Number: 22-PSDP-01

- 1(a). Title, date, and description (including number of pages) of the information or data for which you request confidential designation. **Information or data seeking a designation of confidentiality must be included with this application.**

2021 Power Source Disclosure Annual Report of Shell Energy North America (US), L.P. D/B/A Shell Energy Solutions (Version May 2022). The data to be maintained confidentially is detailed in 1(b) below.

- 1(b). Specify the part(s) of the information or data for which you request confidential designation.

See Attachment 1(b).

¹ Contact the Docket Unit if you cannot reduce the size of your file.

² If you wish to protect the files while in transit, you may combine them in a password-protected .zip file..



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CEC-13 (Revised 03/17)

CALIFORNIA ENERGY COMMISSION

2. State and justify the length of time the Energy Commission should keep the information or data confidential.

See Attachment 2.

3(a). State the provision(s) of the Public Records Act (Gov. Code, § 6250 et seq.) or other law that allows the Energy Commission to keep the information or data confidential, and explain why the provision(s) apply to that material.

See Attachment 3.

3(b). Discuss the public interest in nondisclosure of the material submitted for a confidential designation. If the material contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please state how it would be lost, the value of the information to the applicant and the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

See Attachment 3(b).

4. State whether the information or data can be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identity of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why.

See Attachment 4.

5. State how the material is kept confidential by the applicant and whether it has even been disclosed to a person other than an employee of the applicant. If it has, explain the circumstances under which disclosure occurred.

See Attachment 5.

I certify under penalty of perjury under the laws of the State of California that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge and that I am authorized to make the application and certification on behalf of the applicant.

Dated: May 31, 2022

Signed: *M. Miller*



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CEC-13 (Revised 03/17)

CALIFORNIA ENERGY COMMISSION

Name (print or type): Marcie Milner

Title: (print or type) Vice President, Regulatory Affairs

Representing: Shell Energy North America (US), L.P. DBA Shell Energy Solutions

Include additional signature blocks if there are multiple partners in the project with shared responsibilities for making the request.

ATTACHMENT 1(b)

The information for which Shell Energy seeks confidential treatment is as follows:

A. Schedule 1: Procurements and Retail Sales

Applicant's Schedule 1 contains the following confidential information:

1. Lines 7-15, Column N (Retail sales; Net Specified Procurement; Unspecified Power; Procurement to be Adjusted; Net Specified Natural Gas; Net Specified Coal & Other Fossil Fuels; Net Specified Nuclear, Large Hydro, Renewables and ACS Power; GHG Emissions; and GHG Emissions Intensity).
2. Lines 18-89, 92-128, and 131-169, Columns H-N (Gross MWh Procured; MWh Resold; Net MWh Procured; Adjusted Net MWh Procured; GHG Emissions Factor; GHG Emissions; Eligible for Grandfathered Emissions).

B. Schedule 2: Retired Unbundled RECs

Applicant's Schedule 2 contains the following confidential information:

1. Line 9, Column E (Total Retired Unbundled RECs).
2. Lines 12-47, Column E (Total Retired (in MWh)).

C. Schedule 3: Annual Power Content Label Data

Applicant's Schedule 3 contains the following confidential information:

1. Lines 13-25, Columns B-C (Adjusted Net Procured (MWh); Percent of Total Retail Sales).
2. Line 27, Column C (Total Retail Sales).
3. Line 29, Column C (GHG Emissions Intensity).
4. Line 31, Column C (Percentage of Retail Sales Covered by Retired Unbundled RECs).

ATTACHMENT 2

Shell Energy requests a confidentiality period through the year of filing, December 31, 2022, which prevents the disclosure of Shell Energy's most recent annual procurement, retail sales, Net Specified Procurement, Unspecified Power, GHG emissions and GHG emissions intensity information. This confidentiality period for "historical" information is consistent with the California Public Utility Commission's (CPUC) confidentiality rules under Decision (D.) 06-06-066, as modified through D.08-04-023 and D.21-11-029, and is also consistent with prior confidentiality designations by the California Energy Commission (CEC).

This information should be kept confidential because Shell Energy operates in the competitive and dynamic retail energy markets and is a net purchaser in the competitive wholesale markets, so the confidentiality of data regarding its retail and wholesale market positions is a competitive advantage. Disclosure of the information identified in Attachment 1(b) can be used to directly or indirectly determine Shell Energy's market position and would result in a loss of competitive advantage in the wholesale and retail marketplaces relative to its ability to negotiate future contracts for the purchase or resale of energy, or with respect to negotiation of contracts with retail customers.

Maintaining the confidentiality of data until December 31, 2022 is appropriate because the data is expected to retain validity and market value through that period, and because any lesser period would undermine existing protection of the same or substantially similar data by other California regulators or market entities. Shell Energy requests the CEC afford the same confidentiality protection to its 2021 retail sales, procurement and GHG emissions data that could be used to derive its retail sales.

ATTACHMENT 3(a)

Shell Energy requests a confidential designation for the information identified in Attachment 1(b) because this information constitutes proprietary trade secret information under Government Code section 6254.15. If disclosed publicly, this information would reveal confidential market share, specified procurement sources, and RPS and GHG emission reduction compliance strategy. The California Public Records Act exempts “trade secrets” from public disclosure, including “any formula, plan, . . . production data, or compilation of information . . . , which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service . . . and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.” (Cal. Gov. Code § 6254.7(d).) Under the California Evidence Code, information that is commercially sensitive is also considered a “trade secret.” (Cal. Evid. Code § 1060; Cal. Civ. Code § 3426.1(d).) CEC regulations provide for information to be designated as confidential if such information “contains a trade secret or its disclosure would otherwise cause a loss of a competitive advantage.” (Tit. 20, Cal. Code Regs., § 2505(a)(1)(D).)

Accordingly, Shell Energy requests that all of the information described in Attachment 1(b), together with any related, supporting information that may be provided by Applicant upon subsequent request by the CEC, be designated as confidential.

ATTACHMENT 3(b)

Public disclosure of this information could competitively harm Shell Energy because the information reflects its total historical retail load in the service territories of the California investor-owned electric utilities for the year 2021. Public disclosure of this information would reveal Shell Energy's net short position in the immediate past annual period, including its RPS net short position, thereby placing Shell Energy at a competitive disadvantage in the wholesale and retail electricity markets. A confidentiality period of one (1) year, *i.e.*, through the year of filing, prevents the disclosure of Shell Energy's most recent annual procurement, retail sales, GHG emissions and GHG emissions intensity information. This confidentiality period for "historical" information is consistent with the CPUC's confidentiality rules under D.06-06-066, as modified through D.08-04-023 and D.21-11-029.

ATTACHMENT 4

The confidential information submitted by Shell Energy in the attached Power Source Disclosure Annual Report may be released to the public if first aggregated with the data and information submitted by other load-serving entities (LSEs), as follows: information about historical retail load, purchases, GHG emissions, and GHG emissions intensity should be aggregated with the historical retail load, purchases, GHG emissions, and GHG emissions intensity information of all ESPs.

ATTACHMENT 5

Shell Energy maintains its historical retail load, procurement quantities, GHG emissions, and GHG emissions intensity information on a confidential basis by restricting access to this information to Shell Energy employees and agents who agree to maintain the information on a confidential basis. The confidential information has not been revealed to any individuals other than Shell Energy employees, attorneys for Shell Energy, and applicable regulatory agencies (such as the CPUC) that have required disclosure, subject to confidentiality protections.