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July 18, 2022

Via Email

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**Joint Application for Confidential Designation:
SoCal Gas Daily Gas Demand Data, 2017-2021
SDG&E Daily Gas Demand Data, 2017-2021
Docket No. 22-IEPR-03**

Dear Jennifer Walker and Scott Crider:

The California Energy Commission (CEC) has received the Southern California Gas Company (SoCal Gas) and San Diego Gas & Electric's (SDG&E) joint application for confidential designation, dated April 22, 2022, for the SoCal Gas Daily Gas Demand Data, 2017-2021, and SDG&E Daily Gas Demand Data, 2017-2021 (collectively, Daily Gas Demand Data), which CEC staff requested of SoCal Gas and SDG&E. Specifically, the following categories in the Daily Gas Demand Data are requested to be maintained as confidential:

- Core Industrial
- Core Natural Gas Vehicle
- Core Commercial
- Noncore Commercial
- Noncore Industrial
- Noncore Electric Generation
- Noncore Enhanced Oil Recovery
- Noncore Wholesale and International
- Deliveries to SDG&E System
- Sum Before Shrinkage and Company Use
- Total

An application for confidential designation 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 [California] Public Records Act or other provision of law authorizes the [California Energy] Commission to keep the record confidential.” The executive director’s determination made in response to an application for confidential designation is subject to a reasonableness standard. It is the applicant’s burden to make a reasonable claim for confidentiality based on the California Public Records Act (PRA) and other applicable laws.

The application states that the Daily Gas Demand Data should be kept confidential indefinitely. The application identifies the following bases for nondisclosure:

1. Government Code section 6254(k)
2. Civil Code section 1798.80 et seq.
3. Public Utilities Code section 8380(d)
4. California Public Utilities Commission (CPUC) Decisions

Government Code section 6254(k)

Government Code section 6254(k) exempts records from public disclosure if the disclosure of those records is exempt or prohibited from public disclosure pursuant to federal or other state law.

The application claims that other state laws provide the basis for exempting the Daily Gas Demand Data from public disclosure under the PRA, as discussed below.

Civil Code section 1798.80 et seq.

Civil Code section 1798.80 et seq. governs the retention and disposal of customer records involving personal information maintained by a business. Civil Code section 1798.80(e) defines personal information and specifically excludes “publicly available information that is lawfully made available to the general public from federal, state, or local government records.” The definition of personal information in Civil Code section 1798.80 does include any information that identifies, relates to, describes or is capable of being associated with a particular individual.

The application states that the Daily Gas Demand Data comprises aggregated customer data related to energy usage and its implications and savings, and that the public disclosure of this information could compromise privacy to the potential harm of customers. The application additionally states that customer equipment,

processes, and operations provide competitive advantages in certain industries and can be considered trade secrets and allowing information detailing that information could cause financial harm to customers.

The CEC finds that Civil Code section 1798.80 et seq. does not apply because there is a sufficient level of aggregation that no one individual utility user's usage can be discerned from the data in the Daily Gas Demand Data. Thus, the information is subject to disclosure.

Public Utilities Code section 8380(d)

Public Utilities Code section 8380(d) requires a gas corporation to "use reasonable security procedures and practices to protect a customer's unencrypted electrical or gas consumption data from unauthorized access, destruction, use, modification, or disclosure."

The application states that the Daily Gas Demand Data comprises aggregated customer data related to energy usage and its implications and savings, and that the public disclosure of this information could compromise privacy to the potential harm of customers. The application additionally states that customer equipment, processes, and operations provide competitive advantages in certain industries and can be considered trade secrets and allowing information detailing that information could cause financial harm to customers.

The CEC finds that Public Utilities Code section 8380(d) does not apply because there is a sufficient level of aggregation that no one individual utility user's usage can be discerned from the data in the Daily Gas Demand Data. Thus, the information is subject to disclosure.

CPUC Decisions

The privacy rules adopted by the CPUC in D.11-07-056, 12-08-045, D.14-05-016, and D.97-10-031 are not relevant in the current matter because a CPUC decision does not apply to the CEC, and those decisions do not prohibit the disclosure of information that cannot be linked to a particular customer as is the case with the aggregated Daily Gas Demand Data.

Executive Director's Determination

Based on the applicant's claims and a review of the Daily Gas Demand Data, the applicant has not made reasonable claims under the law that authorizes the granting of confidentiality status. The Daily Gas Demand Data is aggregated and cannot be linked to a particular customer and thus can be publicly disclosed.

Jennifer Walker, Scott Crider

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You may request that the CEC determine the confidentiality of records that the executive director denied confidential designation. You have 14 days to request that the CEC determine the confidentiality of the record. If you make such a request, the CEC will conduct a proceeding pursuant to the provisions in the California Code of Regulations, title 20, section 2508.

Be advised that under the California Code of Regulations, title 20, section 2506, one may petition to inspect or copy records that the CEC has designated as confidential. A decision on a petition to inspect or copy records is issued by the CEC's chief counsel. Under the California Code of Regulations, title 20, section 2507, the executive director may disclose, or release records previously designated as confidential in certain circumstances. The procedures for acting on a petition and criteria for disclosing or releasing records previously designated as confidential are set in the California Code of Regulations, title 20, sections 2506 to 2507.

If you have any procedural questions regarding this application for confidential designation, please contact Jared Babula, senior attorney, at Jared.Babula@energy.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to be 'Drew Bohan', written in a cursive style.

Drew Bohan
Executive Director