

DOCKETED

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Project Title:	Electricity Forecast
TN #:	245942
Document Title:	EBCE Electric Resource Plan Forms Application for Confidentiality
Description:	EBCE Application for Confidentiality for Electricity Resource Plan Forms submittal
Filer:	John Newton
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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:

Address:

Phone and E-mail:

Proceeding or Project Name:

Docket Number:

- 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.**

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

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.

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.

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.

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.

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.

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: _____

Signed: _____



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

CEC-13 (Revised 03/17)

CALIFORNIA ENERGY COMMISSION

Name (print or type): _____

Title: (print or type) _____

Representing: _____

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



VIA CEC Docket Submittal

September 9, 2022

Energy Commission Docket Unit
California Energy Commission
715 P Street
Sacramento, CA 95814

Re: CEC Docket No. 22-IEPR-03 EBCE Application for Confidentiality for Electricity Resource Plan

Dear Energy Commission Docket Unit:

EBCE hereby submits its application for confidentiality and requests that data in the spreadsheet entitled “East Bay Community Energy, IEPR 2022, Electricity Resource Plan_Confidential” (“EBCE Resource Plan”) be treated as confidential for the time period stated herein.

1(a). Identification of Confidential Information

EBCE requests confidential treatment of the yellow-highlighted data in forms S-1, S-2, S-2A of the attached EBCE Resource Plan, as detailed in section 1(b) below.

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

EBCE requests confidential treatment of the yellow-highlighted data in the EBCE Resource Plan, as detailed in the following table.

Workbook Tab Name and Cell Range	Description (Columns)
S-1_Requirement 1. G11:R11, G19:R19, G21:R21, G22:R22, G25:R25 2. G29:R29, G37:R37, G39:R39 3. G44:H44, G50:H50	1. EBCE historic (G:H) and forecasted (I:R) peak load, end-use customer load, coincident peak-hour demand, Required PRM, firm LSE procurement requirement 2. EBCE historic (G:H) and forecasted (I:R) total load, end-use customer load, firm LSE procurement requirement 3. Historic (G:H) Peak load
S-2_Supply 1. I33:J53 2. N32:Y61 3. AA32:AL61	1. Precise Lat-Long location of supply resources 2. EBCE historic (N:O) and forecasted (P:Y) portfolio resource generation capacity 3. EBCE historic (AA:AB) and forecasted (AC:AL) portfolio resource generation energy

S-2A_Addendum Monthly 1. F10:DU39	1. EBCE historic (F:M) and forecasted (N:DU) monthly portfolio capacity and energy data
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EBCE requests that the above information be treated confidentially because the data itself is confidential or confidential data can be derived (i.e., calculated) from the disclosure of portions of the above information.

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

EBCE requests the information in S-1 of the EBCE Resource Plan described above be maintained confidential for a period of at least three years from its submission in the 22-IEPR-03 Docket.

EBCE requests that information in S-2 and S-2A of the EBCE Resource Plan described above be maintained confidential until two years after the expiration of supply resource contracts as detailed in form S-5, column H.

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.

The Public Records Act exempts records subject to the privileges established in the Evidence Code from being disclosed (Gov't Code § 6254(k)). Evidence Code § 1060 et seq. provides a privilege for trade secrets, which includes information that derives independent economic value from not being generally known to the public or to other persons who could obtain value from its disclosure.¹ The information, identified in section 1(b) above, in the EBCE Resource Plan is confidential and market-sensitive information, which, if made public, would place EBCE at a competitive disadvantage to other LSEs and market participants. Therefore, confidential protection should be provided for this data.

Gov't Code § 6255(a) affords confidentiality where the public interest served by nondisclosure outweighs the public interest served by disclosure. EBCE's need, from time to time, to transact with energy market participants for various types of products is highly dependent on EBCE's recent, current, and expected resource portfolio position. EBCE's ability to engage in these transactions would be materially harmed if EBCE's detailed load needs and portfolio position were known to market participants. The public interest in nondisclosure of such economic, commercially sensitive information outweighs the public interest in disclosure.

Additionally federal and state law provide confidential protections for sensitive information provided in the EBCE Resource Plan, including but not limited to: Cal. Gov. Code § 6254(k) (Public Records Act ("CPRA") does not require disclosure of records protected by state or federal law), 18 C.F.R. 388.113 (critical energy infrastructure information, including "specific engineering, vulnerability, or detailed design information," exempt from public disclosure, including *precise* electric generation plant location information), 16 U.S.C. 131 (defining "critical infrastructure information"), Cal. Gov. Code § 6255 (public interest in not disclosing outweighs

¹ See Evidence Code § 1061(a)(1) (citing to Cal. Civil Code §3426.1); See also Cal. Civ. Code § 3426.1.

interest in disclosing), Cal. Gov. Code § 6254(e) (CRPA does not require disclosure of information relating to utility systems development obtained in confidence), Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 *et seq.* (protection of trade secrets), *see also* Cal. Pub. Util. Code § 583 (information furnished by public utility cannot be disclosed to the public unless ordered by the Commission); Cal. Const., art. I, § 1 (constitutional right to privacy); *c.f.* CPUC General Order 66-D, CPUC General Order 167, CPUC Decision (D.) 16-08-024, D.17-09-023; D.06-06-066, as modified by D.07-05-032, D.08-04-023, and D.20-07-005 (collectively, “Confidentiality Decisions”), and accompanying Confidentiality Matrices. In the CPUC’s Confidentiality Decisions referenced above, the CPUC adopted rules governing the submission of confidential energy procurement and market sensitive information to the CPUC by CCAs.² The EBCE Resource Plan contains LSE-specific peak and energy demand information that reveals LSE Total Peak Load Forecast, which is confidential under the CPUC’s ESP and CCA Confidentiality Matrix, Section III.B, for the front three years of the forecast data. Public policy weighs in favor of application of protections at least equivalent if not exceeding those of other California State agencies, otherwise the CPUC’s rules would be rendered ineffectual. EBCE’s peak load and energy demand forecast information is protected because it is market sensitive, and its release would place EBCE at an unfair competitive disadvantage.

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.

As discussed above, information on EBCE’s recent historical as well as forecasted peak load and energy needs is market sensitive and its disclosure would place EBCE at a competitive disadvantage because market participants will have insight into EBCE’s capacity and resource adequacy requirements. Disclosing EBCE’s historical peak load and energy demand volumes, as well as current and planned resource portfolio position, would provide market participants with sufficient information to determine EBCE’s market transaction strategies based on recent market transactions. This insight, if disclosed, would undermine EBCE’s ability to obtain the most competitive costs for our customers.

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.

The data in the EBCE Resource Plan can be disclosed if aggregated by IOU planning area or with all other CCAs, but not for EBCE individually. Masking or redacting all of the highlighted cells referenced in section 1(b) above would be appropriate.

² D.20-07-005 modified Appendix 2 of D.06-06-066, to apply the Electric Service Provider (“ESP”) Matrix to CCAs.

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.

The data described above is kept confidential by EBCE and has not been disclosed publicly.

Certification

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: Friday, September 9, 2022

Signed: /s/ Izzy Carson

Name: Izzy Carson

Title: Power Resource Manager

Representing: East Bay Community Energy Authority (EBCE)