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Description:	San Diego Community Power Application for Confidential Designation and Appendix A 22-IEPR-03
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Organization:	Pacific Energy Advisors Inc
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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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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.

APPENDIX A
Application for Confidential Designation
(Title 20 Cal. Code. Regs., § 2505 et seq.)

September 9, 2022

Drew Bohan, Executive Director
Docket No. 22-IEPR-03
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: Application of San Diego Community Power for Confidential Designation of Information Contained in its 2023 Electricity Resource Plans (Forms S-1, S-2, S-2A, and S-5)

Dear Mr. Bohan:

San Diego Community Power (“SDCP”) requests the California Energy Commission (“Commission”) designate the information included in SDCP’s 2023 Electricity Resource Planning Forms S-1, S-2, S-2A, and S-5 as confidential pursuant to Title 20, Cal. Code. Regs. (“CCR”) Section 2505 et seq. and the justifications set forth below. These forms were submitted to the CEC on September 9, 2022 in the Microsoft Excel document titled **“CONFIDENTIAL_San Diego Community Power_IEPR 2023-Electricity Resource Plan Template_22-IEPR-03”** that contains six Excel sheets. In accordance with the CEC’s *Forms and Instructions for Submitting Electricity Resource Plans*, SDCP provides the following information in support of its application for confidentiality designation.

Contact Information:

Applicant: San Diego Community Power
Address: 815 E Street, Suite 12716
San Diego, CA 92112

Description and Identification of Confidential Information

SDCP seeks confidential treatment of the following information in Electricity Resource Plan Form S-1:

- Capacity Procurement Requirement Peak Load Calculations for years 2022-2031 (sheet S-1_REQUIREMENT, cells 11I-S, 19I-S, 20I-S, 21I-S, 22I-S, and 25I-S)

SDCP seeks confidential treatment of the following information in Electricity Resource Plan Form S-2:

- Total Renewable Contract Supply (sheet “S-2_SUPPLY,” lines 32-62, columns P-Y)
- Other Bilateral Contract Supply (sheet “S-2_SUPPLY,” lines 64-265, columns P-Y and AC-AL)

- Capacity/Energy Balance Summary (sheet “S-2_SUPPLY,” lines 270-275, columns P-Y and AC-AL)
- Notes (sheet “S-2_SUPPLY, cell 179B)

SDCP seeks confidential treatment of the following information in Electricity Resource Plan Form S-2A:

- Forecasted Contracted GWh (sheet “S-2A_Addendum Monthly,” lines 10-43, columns F-DU)

SDCP seeks confidential treatment of the following information in Electricity Resource Plan Form S-5:

- Capacity (MW) Under Contract (sheet “S-5 Table,” cells 9I-195I)

Length of Time the Information Should Be Kept Confidential

SDCP requests that the Commission keep SDCP’s information confidential and protected from public disclosure for a period of 3 years. This length of time is needed to ensure that SDCP’s detailed load forecast data in Form S-1 and market position information in Form S-2, S-2A, and S-5 remains secure from market participants that could make competitive use of this information to the detriment of SDCP, SDCP’s ratepayers, and the electricity market as a whole. Further, this length of time is consistent with how the Commission has treated similar information.¹

Provisions of Law Allowing the Commission to Keep the Documentation Confidential

The California Code of Regulations provides that an application for confidentiality shall be granted where an applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the Commission to keep the records confidential.² The Public Records Act exempts from disclosure records that are exempted pursuant to state law, including provisions of the Evidence Code.³ The Evidence Code provides a privilege for trade secrets and allows the owner of a trade secret to prevent another from disclosing it.⁴ In an analogous context, “trade secrets” has been defined to include “information, including a formula, pattern, compilation, program, device, method, technique, or process, that... [d]erives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use...”⁵ Further, the Commission’s regulations provide for information to be designated as confidential if it “contains a trade secret or its disclosure would otherwise cause a loss of a competitive advantage.”⁶

¹ See 19-IEPR-02, *California Energy Commission Letter to Ms. Natasha Keefer – Clean Power Alliance* (May 28, 2019); 19-IEPR-02 *California Energy Commission Letter to Mr. Gary W. Lawson – Valley Clean Energy* (May 29, 2019).

² Cal. Code Regs., tit. 20, § 2505(a)(3)(A).

³ Cal. Gov’t Code § 6254 (k).

⁴ Cal. Evid. Code § 1060.

⁵ Cal. Civ. Code § 3426.1; see also Govt. Code § 6254.7(d) (utilizing similar definition); see also *id.* at § 6254.15 (protecting corporate proprietary information including trade secrets from disclosure).

⁶ Cal. Code Regs., tit. 20, § 2505 (a)(1)(D).

SDCP requests that the identified portions of Form S-1, S-2, S-2A, and S-5 are kept confidential because they contain trade secret information and information that would otherwise cause a loss of a competitive advantage to SDCP. The forecasted load and supply data in these Forms would reveal SDCP's expected market position for resource adequacy capacity and energy. This information, if publicly known, could be used by competitors to cause competitive harm to SDCP by undermining SDCP's negotiating position, both as a buyer and a seller.

The Public Records Act also permits the Commission to withhold any record where the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.⁷ Thus, even if there were no trade secret exemption, there is still a separate basis for not publicly-releasing SDCP's confidential information, since the disclosure of the information has the potential to undermine SDCP's market position and disrupt energy markets more generally.

Data Aggregation

The data in question can be disclosed if it is aggregated with other LSEs' forecast and supply information at a level that does not permit SDCP's confidential information to be derived from the aggregated data.

The Submitted Information Is Presently Confidential

SDCP does not publicly disclose forecasted energy and capacity positions. SDCP considers such information market sensitive, as public disclosure of this information could compromise SDCP's competitive position in the electricity market. Further, to the extent similar information is disclosed to other regulatory agencies (e.g., the California Public Utilities Commission), SDCP seeks protection of this information from public disclosure in those forums. SDCP's confidential information can be disclosed if it is aggregated with other load serving entities' information at a level that does not permit SDCP's confidential information to be derived from the aggregated data.

I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge. I also certify that I am authorized to make the application and certification on behalf of San Diego Community Power.

/s/ Byron Vosburg
Byron Vosburg
Managing Director of Power Services
San Diego Community Power
815 E Street, Suite 12716
San Diego, CA 92112
bvosburg@sdcommunitypower.org

⁷ Cal. Gov't Code § 6255.