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April 1, 2024

Drew Bohan
Executive Director
Docket No. 23-LMS-01, Load Management Standards Compliance Plan
California Energy Commission
715 P Street
Sacramento, CA 95814

Re: Application of Silicon Valley Clean Energy Authority for Confidential Designation of Information Contained in its 2024 Load Management Standards Compliance Plan

Dear Mr. Bohan,

Silicon Valley Clean Energy Authority (“SVCE”) requests the California Energy Commission (“Commission”) designate information included in 2024 Load Management Standards Compliance Plan (“LMS Plan”) as confidential pursuant to Title 20, Cal. Code. Regs. (“CCR”), Section 2505 et seq. and the justifications set forth below. In accordance with the Commission’s *Load Management Standards Compliance Timeline*, SVCE provides the following information in support of its application for confidentiality designation.

Contact Information

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Proceeding Name: Load Management Standards Implementation
Docket Number: 23-LMS-01

All correspondence regarding this filing should be directed by electronic mail to the attention of:

Maren Wenzel
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Description and Identification of Confidential Information

For docket number 23-LMS-01, SVCE seeks confidential treatment for specific information related to current contracted load supply, estimated load impacts, actual costs, projected costs, and projected revenues provided in the LMS Plan. Specifically, SVCE seeks confidential treatment for the following information:

- Section III. Rates and Programs to Support Load Management Goals, A. Existing Rates: Section III.A. includes a table that provides SVCE’s monthly total load across all TOU rate classes.
- Section III. Rates and Programs to Support Load Management Goals, B. Existing Programs: Section III.B. describes the results of a specific program.
- Section VII. Results, A. Cost Effectiveness: Section VII.A. provides the projected implementation costs, cost savings, and reduction in load associated transitioning to real time pricing.
- Section VII. Results, C. Technological Feasibility Evaluation: Section VII.C. provides the cost of utilizing Pacific Gas and Electric Company’s Price Machine.
- Section VIII. Marginal Cost Rates Implementation: Section VIII includes SVCE’s costs to implement real time pricing.

Length of Time the Information Should Be Kept Confidential

SVCE requests that the Commission keep SVCE’s information confidential and protected from public disclosure for a period of three (3) years, until April 1, 2027. This length of time is needed to ensure that SVCE’s current contracted load supply, estimated load impacts, actual costs, projected costs, and projected revenues in its LMS Plan remains secure from market participants that could make competitive use of this information to the detriment of SVCE, SVCE’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

SVCE seeks confidentiality for the LMS Plan on the following bases:

1. Trade Secret. The 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.” (Govt. Code § 7924.510; see also, §§ 7927.705, and 7927.605). The Public Records Act also exempts records from public disclosure if the public interest in nondisclosure clearly outweighs the public interest in disclosure (Govt. Code § Section 7922.000). The CEC’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.” (20 CRR § 2505(a)(1)(D).) Section III.A., Section VII.A,

¹ See 21-IEPR-03, *CEC's Response Letter to Silicon Valley Clean Energy Authority - Application June 30, 2023, Docket 23-IEPR-02* (Jul. 27, 2023) (TN#: 251201).

Section VII.C., and Section VIII include SVCE's customer load and program cost information, that other market participants could use to estimate the cost of individual project contracts and open portfolio position. This information would give suppliers and competitors an advantage that could result in direct financial harm to SVCE and its customers. SVCE considers this information to be market sensitive and trade secrets, as public disclosure of this information could compromise SVCE's competitive position in the electricity market and would likely result in higher costs for SVCE's customers.

2. Public Entity Designation. SVCE asserts confidentiality under Section 2505(b) as a local agency which possesses information pertinent to the responsibilities of the Commission that has been designated by SVCE as confidential under the Public Records Act. The Commission has previously recognized SVCE's claim of confidentiality under Section 2505(b), and should do so here.²
3. Balancing Tests. Even if the above justification was not available, the information should be protected under California Government Code, Section 7922.000, which permits protection of information where the public interest in nondisclosure clearly outweighs the public interest in disclosure. The confidential information in Section III.A., Section VII.A, Section VII.C., and Section VIII is highly commercially sensitive, not publicly known, and if revealed could cause significant harm to load serving entities, like SVCE. Such information, if disclosed, would reveal projected customer load, actual program costs, projected program costs, and projected revenues. The disclosure of this information could impact the energy and capacity markets in California and could increase the costs of implementing the programs described in the LMS Plan. The public does not have a meaningful interest in reviewing this information in a disaggregated form, and disclosure may impact the energy and capacity market causing public harm.

Disclosure in an Aggregated Form

The data in question can be disclosed if it is aggregated with load and cost information at a level that does not permit SVCE's confidential information to be derived from the aggregated data.

The Submitted Information Is Presently Confidential

SVCE does not publicly disclose its current contracted load supply, estimated load impacts, actual costs, projected costs, or projected revenues, which is information provided in the LMS Plan. SVCE considers such information market sensitive, as public disclosure of this information could compromise SVCE's competitive position in the electricity market.

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 as a community choice aggregator, SVCE is a local government agency, and I am authorized to make the application and certification on behalf of SVCE.

² See 22-IEPR-03, *CEC Response Letter to Silicon Valley Clean Energy's Application for Confidentiality* – 9-9-22 (December 2, 2022) (TN#:247895).

Dated: April 1, 2024

/s/ Maren Wenzel

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