

DOCKETED

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VIA CEC Docket Submittal

November 15, 2024

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

Re: CEC Docket No. 24-IEPR-03 Ava Application for Confidentiality for Electricity Resource Plan

Dear Energy Commission Docket Unit,

Ava Community Energy (Ava) hereby submits its application for confidentiality and requests that data in the spreadsheet entitled “Ava 2024 Electricity Resource Plan_Confidential” (“Ava Resource Plan”) be treated as confidential for the time period stated herein.

1(a). Identification of Confidential Information

Ava requests confidential treatment of the yellow-highlighted data in forms S-1, S-2, S-2A of the attached Ava 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.

Ava requests confidential treatment of the yellow-highlighted data in the Ava 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, G32:R32, G37:R37, G39:R39 3. G44:H44, G50:H50	1. Ava historic (G:H) and forecasted (I:R) peak load, end-use customer load, coincident peak-hour demand, Required PRM, firm LSE procurement requirement 2. Ava 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. J33:K79 2. O32:Z87 3. AB32:AM87	1. Precise Lat-Long location of supply resources 2. Ava historic (N:O) and forecasted (P:Y) portfolio resource generation capacity

	3. Ava historic (AA:AB) and forecasted (AC:AL) portfolio resource generation energy
S-2A_Addendum Monthly 1. G11:DV83	1. Ava historic (F:M) and forecasted (N:DU) monthly portfolio capacity and energy data

Ava 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.

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

Ava requests that information in S-2 and S-2A of the Ava 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 Ava Resource Plan is confidential and market-sensitive information, which, if made public, would place Ava 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. Ava’s need, from time to time, to transact with energy market participants for various types of products is highly dependent on Ava’s recent, current, and expected resource portfolio position. Ava’s ability to engage in these transactions would be materially harmed if Ava’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 Ava 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,

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

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 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 Ava 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 the application of protections at least equivalent if not exceeding those of other California State agencies, otherwise the CPUC’s rules would be rendered ineffectual. Ava’s peak load and energy demand forecast information is protected because it is market sensitive, and its release would place Ava 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 Ava’s recent historical as well as forecasted peak load and energy needs is market sensitive and its disclosure would place Ava at a competitive disadvantage because market participants will have insight into Ava’s capacity and resource adequacy requirements. Disclosing Ava’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 Ava’s market transaction strategies based on recent market transactions. This insight, if disclosed, would undermine Ava’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 Ava Resource Plan can be disclosed if aggregated by IOU planning area or with all other CCAs, but not for Ava 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 Ava 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, November 15, 2024

Signed: /s/ Lillian Carson

Name: Lillian "Izzy" Carson

Title: Power Resource Manager

Representing: Ava Community Energy Authority (Ava)