

DOCKETED

Docket Number:	24-IEPR-02
Project Title:	Electricity Resource Plans
TN #:	260745
Document Title:	2024 Repeated App for Confidential Designation Supply Forms
Description:	N/A
Filer:	Southern California Edison Company
Organization:	Southern California Edison
Submitter Role:	Applicant
Submission Date:	12/19/2024 11:45:53 AM
Docketed Date:	12/19/2024

REPEAT APPLICATION FOR CONFIDENTIAL DESIGNATION (20 CCR SECTION 2505)

ELECTRICITY FORECAST PLAN SUPPLY
FORMS DOCKET NUMBER 24-IEPR-02

Applicant: Southern California Edison Company

Attorney for Applicant:	Rebecca Meiers-De Pastino
Address of Attorney:	2244 Walnut Grove Ave. Rosemead, California 91770 Rebecca.Meiers.DePastino@SCE.com (626) 302-6016

Southern California Edison Company (SCE) submits its 2024 Electricity Resource Planning Supply Forms S-1, S-2, and S-5. Each form is conspicuously labeled "Confidential." In 2013, 2015, 2017 and 2021 the Energy Commission granted SCE's Application for Confidential Designation for the same types of data for which SCE now requests such treatment, but for different years.

As the Energy Commission's instructions in this docket state, under California Code of Regulation, Title 20, Sections 2505(a)(1)(G) and 2505(a)(4), SCE is not required to submit a new lengthy justification for treating information the Energy Commission previously deemed confidential, provided SCE certifies under penalty of perjury the new information is substantially similar to the previously granted confidentiality.

SCE certifies under penalty of perjury the information and data on the forms listed above is substantially similar to the previously submitted information and that all the facts and circumstances relevant to confidentiality remain unchanged. The reasons for the confidentiality are the same as those previously presented in SCE's prior applications for confidential designation. SCE therefore request the Energy Commission also treat these forms as confidential.

In an abundance of caution, however, SCE also reiterates the basis for the

confidential treatment, with an elaboration on the Title 20, section 2505(a)(1)(D), requirement that if an applicant believes that the record should not be disclosed because it contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, the application shall state: (1) the specific nature of the advantage; (2) how the advantage would be lost; (3) the value of the information to the applicant; and (4) the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

1. Identification of the information being submitted, including title, date, size (for example, pages, sheets, megabytes), and docket number

The excel file SCE submitted is titled TN258178_20240730T110917_Supply Forms-workfile_CONFIDENTIAL. The file size is 1,576 KB. SCE used the forms provided by the Energy Commission for this year's submission. The data being submitted was previously granted confidential designation because it reveals SCE and its bundled customers' open position. As such, if its confidentiality is not maintained, SCE's bundled position will be revealed, allowing third party market participants to engage in market manipulation that would drive up prices for SCE's customers. The data the CEC previously designated as confidential was submitted at the annual level. This year, SCE is submitting even more granular data at the monthly level. If the annual data was entitled to the confidential designation, so too is the more granular data housed within it. SCE therefore submits this a repeated, not new, application for confidential designation of the data highlighted yellow.

1. Description of the data for which confidentiality is being requested (for example, particular contract categories, specific narratives, and time periods).

SCE requests that the Energy Commission again designate all the rows and columns highlighted in yellow in the forms as confidential for the same reasons it deemed that information confidential in the past.

2. A clear description of the length of time for which confidentiality is being sought, with an appropriate justification, for each confidential data category request.

SCE requests that the specified information above be restricted from public disclosure based on a window of confidentiality looking three years forward and one year back, or the entire forecast for a three-year period. As data becomes one year old, the 1-year window of confidentiality for historical data becomes applicable. This methodology is consistent with the California Public Utilities Commission's (CPUC's) Decision (D.) 06-06-066, as modified by D.07-05-032, and its attached Confidentiality Matrix. Specifically, the data highlighted in yellow in the supply forms, if made public, would reveal SCE's bundled net open long or short position for capacity and total bundled customer energy forecast, which the CPUC has designated three years of forecast data as confidential. The CEC and the CPUC are often charged with overlapping responsibilities. As a result, both commissions undertake endeavors that require them to review similar types of data. Accordingly, the CEC has endeavored to work collaboratively with the CPUC to assure regulatory consistency and should continue to employ that practice with respect to its disposition of this application.

3. Applicable provisions of the California Public Records Act (Government Code Section 6250 *et seq.*) and/or other laws, for each confidential data category request.

SCE purchases and sells large quantities of electrical energy on behalf of its customers. The marketplace for such purchases and sales is highly competitive. Accordingly, information about the timing and quantity of energy SCE must sell or needs to purchase to serve its customers is extremely valuable and, if revealed, could place SCE at a competitive disadvantage when purchasing or selling energy. For this reason, CPUC decisions protect such information from public disclosure and dissemination by prohibiting SCE from sharing such data with third parties. As noted above, SCE encourages the CEC to adopt a methodology that is consistent with the one utilized by the CPUC for maintaining the confidentiality of such information so that SCE is not violating the CPUC's regulations in order to comply with the CEC's regulations.

The data identified as confidential in this application requires confidential treatment because this information could allow a market participant to calculate SCE's forecasted

energy supply needs and discern SCE’s bundled net open position – the amount of energy SCE must procure in the market after meeting its forecasted load with “must take” and utility-retained generation – and potential suppliers could calculate whether SCE had sufficient resources to meet that demand. With such information, a supplier could charge SCE a higher price for power or depress the price SCE could obtain for selling power when it had an excess that it desired to sell. Either outcome would ultimately harm SCE’s customers.

The California Legislature has enacted statutes to protect confidential information, including the information for which SCE seeks protection here, from public disclosure. Specifically, the Public Records Act, found at Government Code Section 6254(k), establishes that public records subject to privileges established in the California Evidence Code are not required to be disclosed.

Evidence Code §1060 shields “trade secrets” from public disclosure. “Trade secrets” include any “information, including a formula, pattern, compilation, program, device, method, technique, or process, that: (1) [d]erives independent economic value, actual or potential, from not being generally known to the public or to other persons who could obtain economic value from its disclosure or use; and (2) [i]s the subject of efforts that are reasonable under the circumstances to maintain its secrecy.”¹

The Section 25322 of the California Public Resources Code governing the confidentiality of information gathered by the CEC follows the same standard.² Specifically, if the information is exempt from disclosure under the California Public Records Act, “[t]he commission shall grant the [confidentiality] request.”³

The data for which SCE seeks confidential protection here are trade secrets

¹ Civil Code §3426.1(d).

² Cal. Pub. Resources Code 25322 § 25322(a)(1)(A) (“The data collection system managed pursuant to Section 25320 shall include the following requirements regarding the confidentiality of the information collected by the commission: (1) Any person required to present information to the commission pursuant to this section may request that specific information be held in confidence. *The commission shall grant the request in any of the following circumstances: (A) The information is exempt from disclosure under the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.*”) (emphasis added.)

³ *Id.*

because they derive value from not being known to the public. In fact, public disclosure of this information would cause electricity prices to materially increase, which would harm customers. Accordingly, SCE engages in considerable efforts to maintain its secrecy, including restricted access internally to only those with a need to know the information, storage in password protected systems, such as Sharepoint, and refusals to supply such information to any third parties absent legal compulsion.

The specific advantage that an entity would obtain if the data were publicly disclosed, revealing SCE's position in the market, is that sellers and purchasers of power would be able to manipulate the highly competitive marketplace for the purchase and sale of electricity, essentially having the power to set any price, driving up the costs of power for customers, and placing SCE at a competitive disadvantage. By providing a critical factor in the calculation of SCE's position, market participants could calculate whether SCE has sufficient resources to meet that demand. With such information, a supplier could charge SCE a higher price for power or depress the price SCE could obtain for selling power when it had too much on hand. Either outcome would ultimately harm SCE's customers, who will bear the burden of the higher costs. Thus, the loss of secrecy would result in SCE losing its ability to compete in the market.

The value of the information is priceless and the harm to customers could range from millions of dollars to hundreds of millions, if not billions. Because of how SCE and the California Public Utilities Commission (CPUC) safeguard this information, it would be extremely difficult, if not impossible, for third parties to obtain or duplicate the information, absent theft.

Although the CPUC's decisions and the statutes applicable to the CPUC may not bind the CEC, as a matter of comity and consistency, SCE requests that the CEC apply the same level of confidential protection to information as provided by the CPUC. In D.06-06-066, as modified by D.07-05-032, the CPUC adopted procedures to afford confidentiality to investor-owned utilities' (IOUs) procurement data, which also fulfills the "trade secret" requirement for

maintaining the secrecy of information.

These procedures comply with Public Utilities Code §454.5(g), which provides that “the [CPUC] shall adopt appropriate procedures to ensure the confidentiality of any market sensitive information . . .” The CEC, and numerous other stakeholders, participated in the proceeding leading up to D.06-06-066. The CPUC held a week of evidentiary hearings that included experts in the field of economics. Based on this information, D.06-06-066, as modified by D.07-05-032, and the associated Confidentiality Matrix adopted in those decisions, identify information as market sensitive when releasing the information would materially increase the price of electricity, thereby harming customers.⁴

SCE seeks protection of information identified by the CPUC as market sensitive in the Confidentiality Matrix. As a regulated utility, SCE is subject to the jurisdiction of both the CEC and the CPUC. SCE is required to provide similar information to both agencies. The information for which SCE is seeking confidential treatment in the IEPR can either be used to calculate or is nearly identical to the information for which SCE receives confidential treatment in the Confidentiality Matrix.

To maintain consistency between the CEC and CPUC and to avoid nullifying the CPUC’s lawful determination that the release of market sensitive information would result in a material increase in electricity prices, SCE requests that the CEC protect SCE’s market sensitive information just as the CPUC does. Allowing persons or entities to circumvent the CPUC’s confidentiality rules by “agency shopping” and thus obtain access to data that would otherwise be deemed confidential can have the unintended consequence of undermining the public’s confidence in the regulatory environment and both agencies.

In summary, public disclosure of the information for which SCE seeks confidential treatment would harm SCE and its customers by revealing its energy needs. Public knowledge of this trade secret information will ultimately lead to SCE’s customers being put at a competitive disadvantage when SCE procures or sells energy on their behalf.

Accordingly, the CEC should grant this trade secret information confidential treatment.

SCE respectfully requests that the Energy Commission again grant SCE the confidential treatment sought.

4. **A statement attesting a) that the specific records to be withheld from public disclosure are exempt under provisions of the Government Code, or b) that the public interest in non-disclosure of these particular facts clearly outweighs the public interest in disclosure.**

The data for which SCE seeks confidential treatment contains information that could allow market participants to calculate SCE's forecasted supply needs to the detriment of customers. By providing a critical factor in the calculation of SCE's position, market participants would potentially be able to calculate whether SCE has sufficient resources to meet that demand. With such information, a supplier could charge SCE a higher price for power or depress the price SCE could obtain for selling power when it had too much on hand. Either outcome would ultimately harm SCE's customers, who will bear the burden of the higher costs.

As discussed in greater detail in the bolded section above, this information is protected as a trade secret under the Public Records Act, the Public Resources Code, and Public Utilities Code. Accordingly, the CPUC has determined that the benefit of maintaining the confidentiality of this "market sensitive" information outweighs any benefit to be gained from publicly releasing it. All the data for which SCE seeks protection is "market sensitive" and protected under the CPUC-approved Confidentiality Matrix.

SCE cannot assign a specific value to the information it seeks to protect because it contends the value is priceless. The harm could range from the millions to hundreds of millions, if not billions increased costs for SCE and its customers. The information for which SCE seeks confidential treatment cannot be easily acquired or duplicated by others absent theft. In addition, it would be very costly to SCE's customers (and therefore commercially valuable to its suppliers) if it were publicly disclosed. The harm to customers, who are experiencing affordability challenges, would be significant (many, if not hundreds, of millions of dollars or

more) if market participants were able to manipulate the market as described above.

5. A statement that describes how each category of confidential data may be aggregated with other data for public disclosure.

SCE has worked to identify information that can be aggregated with other data for public disclosure. Nonetheless, for the reasons stated in response to questions 3 and 4, the information required in the forms cannot be aggregated or masked to allow for its public disclosure.

6. State how the record is kept confidential by the Applicant and whether it has ever been disclosed to a person other than an employee of the Applicant. If it has, explain the circumstances under which disclosure occurred.

SCE has not previously publicly released the information for which it seeks confidentiality here. SCE engages in considerable efforts to maintain the secrecy of the data, including restricted access internally to only those with a need to know the information, storage in password protected systems, such as Sharepoint, and refusals to supply such information to any third parties absent legal compulsion. Pursuant to such legal compulsion, some of the information contained in the referenced forms may have previously been submitted to regulators, like the CPUC pursuant to its statutory and Constitutional authority and under the CPUC procedural safeguards to maintain its confidentiality, as well as the Energy Commission through prior submissions in the IEPR docket, but always identified as confidential and accompanied by Applications for Confidential Designation, which the Energy Commission has repeatedly and consistently granted. SCE may have also previously released the information to non-market participants of the Procurement Review Group (PRG), which is a procedure mandated by the CPUC. In that forum, SCE has only made such information available to non-market participants under strict protective orders and non-disclosure agreements approved by the CPUC and signed by parties receiving the information. Outside of these examples of legal compulsion with attendant procedures to protect the confidentiality, SCE has never publicly made this data available in the form

required by the Energy Commission.

I certify under penalty of perjury that the information contained in the submission is substantially similar to the information previously granted confidential designation by the Energy Commission.

I also certify that the information is true, correct, and complete to the best of my knowledge. Finally, I also certify that I am authorized to make the application and certification on behalf of Southern California Edison.

Dated: December 19, 2024
Signed: *Eric Lavik*
Print Name: Erik Lavik
Title: Manager, Portfolio Reporting