

## DOCKETED

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<b>Project Title:</b>	Electricity and Natural Gas Demand Forecast
<b>TN #:</b>	204402
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April 24, 2015

Mr. Robert Oglesby  
Executive Director  
California Energy Commission  
1516 Ninth Street, MS-4  
Sacramento, CA 95814

**RE: Docket No. 15-IEPR-03**

Dear Mr. Oglesby:

Enclosed please find the Demand Forecast of San Diego Gas and Electric Company (SDG&E) in the above-referenced docket, along with SDG&E's *Application for Confidential Designation and Penalty of Perjury Certification*. The requested information contains confidential information. The material highlighted in yellow is **confidential and privileged**; review and access restricted; and subject to PUC Code Sections 454(g), 583, GO-66-C and D. 06-06-006.

Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Tamara Rasberry". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

# Confidentiality Application

**APPLICATION FOR CONFIDENTIAL DESIGNATION  
(20 CCR SECTION 2505)**

**2015 INTEGRATED ENERGY POLICY REPORT  
Docket #15-IEPR-03**

**Applicant:** San Diego Gas & Electric Company (SDG&E)

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**1. (a) Title, date, and description of the record.**

SDG&E seeks confidential designation for data provided to the California Energy Commission (Commission) as part of the 2015 Integrated Energy Policy Report (IEPR). The information for which confidential designation is requested pertains to SDG&E's forecast of total energy sales and energy demand, coincident peak demand, peak demand under certain weather scenarios, hourly loads, monthly photovoltaic interconnections, rate forecasts, and energy sales to both bundled and direct access, as set forth in Part I(b), below.

**(b) Specify the part(s) of the record for which you request confidential designation.**

IEPR Form 1.1b: Retail Sales of Electricity by Class or Sector – Bundled Customers (GWh) Col C-F, Rows 25-27, and Col K, Rows 25-27

IEPR Form 1.2: Distribution Area Net Electricity For Generation Load (GWh), Col C-D, Rows 25-27

IEPR Form 1.3: LSE Coincident Peak Demand by Sector (Bundled Customers) (MW), Col C-K, Rows 25-27, Col M-N, Rows 25-27 and Col P, Rows 25-27

IEPR Form 1.4: Distribution Area Coincident Peak Demand (MW) Col C-F, Rows 25-27

IEPR Form 1.5: Peak Demand Weather Scenarios, Distribution Area Coincident Peak Demand (MW), Col D-G, Rows 10 and 26-37

IEPR Form 1.6a 2014: Recorded Hourly Loads for 2014, Col C-F, all rows and Col H, all rows

IEPR Form 1.6a 2015: Forecasted Hourly Loads for 2015, Col C-F, all rows and Col H, all rows

IEPR Form 1.8: Monthly Photovoltaic Interconnection (MW), Col D-E, Rows 28-29, Col F-G, Rows 24 and 30, Col H-I, Rows 13, 14, 16, 17, 27, and 32, Col J-K, Rows 7, 9, 11, 15, 20-23, 25 and 31, Col L-M, Rows 8, 10, 12, 18, 19 and 26..

IEPR Form 2.2: Electricity Rate Forecast (2013 cents/kWh), Col E-I, Rows 25-36

**2. State and justify the length of time the Commission should keep the record confidential.**

SDG&E requests that the forecast data indicated be kept confidential for a period of three years, or through December 31, 2017. This length of protection is required to ensure that SDG&E's detailed demand forecast data remains secure from market participants who could otherwise make competitive use of this information to the detriment of utility ratepayers. The three-year confidential period requested by SDG&E is consistent with the protection given to this same data by the California Public Utilities Commission (CPUC). Three years is adequate time for the demand forecast data to become "stale" in terms of price movement in the electricity and gas markets, and SDG&E has no objection to the data being made public after that time.

**3. (a) State the provision(s) of the Public Records Act or other law that allows the Commission to keep the record confidential, and explain why the provision(s) applies to the record.**

These forms provide competitively and commercially sensitive business and resource planning information and trade secrets. Under the Public Records Act, Govt. Code Section 6254(k), records subject to the privileges established in the Evidence Code are not required to be disclosed. See also Govt. Code Section 6254.7(d). Evidence Code Section 1060 provides a privilege for trade secrets, which is defined in Civil Code Section 3426.1 as information, including a formula, technique, and process, that derives independent economic value from not being generally known to the public or to other persons who could obtain value from its disclosure. It is well established that the Courts protect trade secret information from disclosure where disclosure would be harmful. See, e.g., *Klatnath-Orleans Lumber v. Miller* (1978), 87 Cal. App. 3d 458. Among the harm that disclosure causes is the ability of competitors to gain knowledge at the expense of the privilege holder. *Pepsico v. Raymond* (9<sup>th</sup> Cir. 1995) 54 F. 3d 1262.

In addition to the Courts regularly protecting trade secret information, the CPUC also recognizes that utility trade secret information may be kept confidential under appropriate circumstances. See generally, e.g., R.97-04-010, 71 CPUC 2d

485; D.02-12-074, 2002 Cal. PUC LEXIS 905; D.98-02-041, 78 CPUC 2d 486). Of particular relevance here, the CPUC has adopted a “materiality” standard that affords confidential status to procurement-related information that, if revealed, “[a]ffects the market price [that] an energy buyer pays for electricity.” D.06-06-066, at p. 42. The CPUC materiality standard was adopted in response to the legislative directive given to the CPUC to re-examine its practices with regard to protection of confidential, procurement-related data and to revise, where appropriate, its practices in this regard.<sup>1</sup> The CPUC issued two decisions in 2006 regarding what information is deemed to be confidential, commercially sensitive, or trade secrets and for what period of time such information is to be kept confidential. See D.06-06-066 and D.06-12-030.

Section 454.5 of the Public Utilities Code is also pertinent. That section requires the CPUC to maintain as confidential certain market sensitive information related to a distribution utility’s procurement plan. Significantly, that code section does not even require any demonstration of “ratepayer” harm, even though that risk is clearly present here. It is important as a matter of public policy that this Commission not publicly disclose information that the CPUC has deemed to be confidential for the sake of protecting ratepayers from potentially higher costs. Attachment A provides a copy of the CPUC’s “Matrix” to D.06-06-066 outlining the various classes of information protected by the CPUC and the period for which such information will be protected. Attachment A also includes an index cross-referencing each of the specific items of information for which SDG&E seeks confidential protection in this proceeding with the appropriate Matrix category.

The Commission has already articulated a similar standard of ratepayer protection when it discussed the definition of a “trade secret” in the 2005 IEPR proceeding.<sup>2</sup> The Commission determined there that, in order to qualify as a trade secret, it must be demonstrated that there will be harm to the utility’s ratepayers if the information for which confidential designation is sought is publicly released.<sup>3</sup> Again, there is a demonstrable risk of harm to ratepayers if the information were to be released. Each category of data and the resultant harm is discussed in the following paragraphs.

IEPR Form 1.1b: Retail Sales Of Electricity By Class or Sector – Bundled Customers (GWh) Col C-F, Rows 25-27, and Col K, Rows 25-27: In the 2007 IEPR proceeding, docket 06-IEP-1I, the 2009 IEPR, docket 09-IEP-1C, the 2011 IEPR, docket 11-IEP-1C, and the 2013 IEPR, docket 13-IEP-1C, the Commission designated this same information (with the exception of the information on Col K) as confidential for a period of three years. In this proceeding, SDG&E is

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<sup>1</sup> SB 1488, 2004 Cal. Stat., ch 690.

<sup>2</sup> *Commission Order Denying Appeals of San Diego Gas and [sic] Electric Company, Southern California Edison Company and Pacific Gas and Electric Company of the Executive Director’s Notice of Intent to Release Aggregated Data*, dated September 7, 2005 in Docket No. 04-IEP-1D, at pp. 14-15.

<sup>3</sup> *Id.*, at p. 15.

requesting identical treatment for the years 2015-2017 for substantially the same information that the Commission has already deemed confidential. Thus, in accordance with 20 CCR §2505(a)(4), SDG&E has submitted a declaration in conformance with 20 CCR §2505(a)(1)(G), as Attachment B.

IEPR Form 1.2: Distribution Area Net Electricity For Generation Load (GWh), Col C-D, Rows 25-27: In the 2007 IEPR proceeding, docket 06-IEP-1I, the 2009 IEPR, docket 09-IEP-1C, the 2011 IEPR proceeding, docket 11-IEP-1C, and the 2013 IEPR, docket 13-IEP-1C, the Commission designated this same information as confidential for a period of three years. In this proceeding, SDG&E is requesting identical treatment for the years 2015-2017 for substantially the same information that the Commission has already deemed confidential. Thus, in accordance with 20 CCR §2505(a)(4), SDG&E has submitted a declaration in conformance with 20 CCR §2505(a)(1)(G), as Attachment B.

IEPR Form 1.3: LSE Coincident Peak Demand by Sector – Bundled Customers (MW), Col C-K, Rows 25-27, Col M-N, Rows 25-27 and Col P, Rows 25-27: Disclosure of this peak demand information for the years 2015-2017 would allow market participants to use this data, in conjunction with other publicly available data, to calculate SDG&E's "Net Open Position," including monthly and hourly net short. The Net Open Position is among the most protected categories of utility data because its disclosure could give buyers or sellers an unfair advantage over the utility in transacting for purchases and sales of power. If a prospective counterparty knows the magnitude of the utility's long or short position, that knowledge could in turn drive the counterparty's bargaining and pricing strategy. The result is that utility customers could end up paying higher prices for purchases, or receiving a lower price for sales, than would otherwise be the case if the net short position were not known. The CPUC's D.06-06-066 decision grants confidential treatment for a period of three years to both the Net Open Position, as well as to the Bundled Customer Coincident Peak Demand for which SDG&E seeks confidential designation here. SDG&E requests the same treatment from this Commission.

IEPR Form 1.4: Distribution Area Coincident Peak Demand (MW), Col C-F, Rows 25-27: This distribution area coincident peak demand information should be kept confidential for years 2015-2017 for the same reasons set forth above for Form 1.3. SDG&E seeks to protect the bundled customer data found in Column C. In addition, SDG&E is seeking confidential designation for the Direct Access data in Columns D-F because one could obtain the bundled customer data by simply subtracting those numbers from the total peak demand in Column K. Also, the confidential treatment requested by SDG&E is identical to the treatment given by the CPUC.

IEPR Form 1.5: Peak Demand Weather Scenarios, Distribution Area Coincident Peak Demand (MW), Col D-G, Rows 10 and 26-37: In the 2007 IEPR proceeding, docket 06-IEP-1I, the 2009 IEPR, docket 09-IEP-1C, the 2011 IEPR proceeding,

docket 11-IEP-1C, and the 2013 IEPR, docket 13-IEP-1C, the Commission designated this same information as confidential for a period of three years. In this proceeding, SDG&E is requesting identical treatment for the years 2015-2017 for substantially the same information that the Commission has already deemed confidential. Thus, in accordance with 20 CCR §2505(a)(4), SDG&E has submitted a declaration in conformance with 20 CCR §2505(a)(1)(G), as Attachment B.

IEPR Form 1.6a 2014: Recorded Hourly Loads for 2014, Col C-F, all rows and Col H, all rows and IEPR Form 1.6a 2015: Forecast Loads for 2015, Col C-F, all rows and Col H, all rows; In the 2007 IEPR proceeding, docket 06-IEP-1I, the 2009 IEPR, docket 09-IEP-1C, the 2011 IEPR proceeding, docket 11-IEP-1C, and the 2013 IEPR, docket 13-IEP-1C, the Commission designated this same information as confidential for a period of three years. In this proceeding, SDG&E is requesting identical treatment for the years 2015-2017 for substantially the same information that the Commission has already deemed confidential. Thus, in accordance with 20 CCR §2505(a)(4), SDG&E has submitted a declaration in conformance with 20 CCR §2505(a)(1)(G), as Attachment B.

IEPR Form 1.8: Monthly Photovoltaic Interconnection (MW): Col D-E, Rows 28-29, Col F-G, Rows 24 and 30, Col H-I, Rows 13, 14, 16, 17, 27, and 32, Col J-K, Rows 7, 9, 11, 15, 20-23, 25 and 31, Col L-M, Rows 8, 10, 12, 18, 19 and 26. This information is not fit for public disclosure and should be granted confidential treatment because it reflects private customer information regarding PV system capacity. Although the data does not reveal individual customer names, it is possible that given the nature of the data and how it is limited to just a few customers within particular zip codes, someone (e.g., a PV marketer) could ascertain which customers are associated with particular portions of the PV capacity information. In light of these facts, and pursuant to customers' right to privacy and statutes reflecting such rights, SDG&E believes that confidential treatment is warranted.

IEPR Form 2.2: Electricity Rate Forecast (2013 cents/kWh), Col E-I, Rows 25-36: In the 2007 IEPR proceeding, docket 06-IEP-1I, the 2009 IEPR, docket 09-IEP-1C, the 2011 IEPR proceeding, docket 11-IEP-1C, and the 2013 IEPR, docket 13-IEP-1C, the Commission designated this same information as confidential for a period of three years. In this proceeding, SDG&E is requesting identical treatment for the years 2015-2017 for substantially the same information that the Commission has already deemed confidential. Thus, in accordance with 20 CCR §2505(a)(4), SDG&E has submitted a declaration in conformance with 20 CCR §2505(a)(1)(G), as Attachment B.

**(b) Discuss the public interest in nondisclosure of the record. If the record contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please also 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.**

SDG&E believes that there is a compelling public interest in protecting its information, as described above. The primary public interest to be protected is that SDG&E will be disadvantaged in procurement such that consumers may well pay higher energy prices than they would if the information was not publicly released. It is apparent that where parties have "unequal information" and where the seller knows that the buyer is in a position where it must procure seller's product, that sellers have an unfair advantage. The CPUC has given protection to this information based on these same reasons. Although sellers have some access to historical sales information and a generalized knowledge of the resources in SDG&E's power supply portfolio, they do not have access to the specific operating characteristics of SDG&E's utility retained generation and least cost dispatch, SDG&E's hedging of fuel price and supply, the specific terms of SDG&E's power supply contracts, or other competitive information that would be necessary in order to more precisely calculate SDG&E's hourly and monthly power needs. This inability to know precisely what SDG&E needs (on either the buy or sell side) prevents both buyers and sellers from gaining an unfair advantage in the marketplace, and keeps competitive pressure on prices for both sales and purchases.

In sum, publicly providing the information in the subject forms that the CPUC deems confidential would harm SDG&E's ratepayers because doing so would put SDG&E at a competitive disadvantage relative to other buyers. As a consequence, ratepayers would face the prospect of higher costs than they otherwise would due to any required disclosures of this confidential information.

- 4. State whether the record may 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 it is aggregated or masked, explain why.**

SDG&E's submittal includes a great deal of aggregated data that the Commission can release immediately. In addition, it may be possible to aggregate certain of the data, e.g., on a statewide basis. SDG&E does not believe that the rate forecast information can be aggregated or masked in a manner that would render it useful. However, SDG&E remains willing to work with Commission and its staff to further aggregate data, where possible, in a manner that could be revealed publicly.

5. **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.**

As explained above, SDG&E maintains access to this information on a confidential basis. It is only available by hard copy and electronically on a limited basis within certain departments that must have access to the information to conduct their procurement and regulatory activities. The information is password protected on computer systems or in hard copy form kept in secure locations. Only certain individuals with key card access are able to enter areas of the Company where the information is available and utilized.

The Commission should also be aware that under Standard of Conduct #2 adopted by the CPUC for the utilities' procurement activities, utility employees are obligated to protect the Company's trade secrets:

2. Each utility must adopt, actively monitor, and enforce compliance with a comprehensive code of conduct for all employees engaged in the procurement process that: 1) identifies trade secrets and other confidential information; 2) specifies procedures for ensuring that such information retains its trade secret and or confidential status [e.g., limiting access to such information to individuals with a need to know, limiting locations at which such information may be accessed, etc .]; . . . (See D.02-12-074, pp. 57-58)

6. **Certification**

SDG&E has not, to the best of its knowledge, previously publicly released this information in precisely this format or projected over this duration of time.

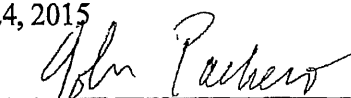
I certify under penalty of perjury that the information contained in this Application for Confidential Designation is true, correct, and complete to the best of my knowledge. Applicant is a California corporation, and I am authorized to make the application and certification on behalf of the Applicant.

Dated: April 24, 2015

Signed:

Name:

Title:

  
\_\_\_\_\_  
John A. Pacheco  
Senior Counsel, SDG&E