

## DOCKETED

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

**2015 INTEGRATED ENERGY POLICY REPORT  
DOCKET NUMBER 15-IEPR-03**

Applicant: Southern California Edison Company (“SCE”)

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

SCE submits its 2015 IOU Revenue Requirement forms 8.1a and 8.1b adopted by the California Energy Commission (“Energy Commission”) in December 2014, and filed in 15-IEPR-03 on May 29, 2015. The forms are approximately 77 KB and are submitted concurrently with this Application for Confidential Designation in an Excel file. SCE requests confidential treatment of certain data on Form 8.1a. This form is conspicuously labeled “Confidential,” and all confidential data is highlighted in yellow.

In 2013, the Energy Commission granted SCE’s Application for Confidential Designation for all of the types of data for which SCE now requests the Energy Commission to designate confidential. This application does not ask the Energy Commission to designate a new type of data confidential.

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

SCE requests that Row 21 – Average Natural Gas Fired Fuel Prices – for the years 2015, 2016, 2017, and 2018 – of SCE’s Form 8.1a be designated as confidential and exempt from public disclosure.

SCE also requests that Row 46 – Residual Market Transactions – for the years 2015-2018—of SCE’s Form 8.1a be designated as confidential and exempt from public disclosure.

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

For reasons discussed in more detail below, SCE requests that the information in Rows 21 and 46 of Form 8.1a be restricted from public disclosure based on a window of confidentiality looking three years forward. 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.<sup>1</sup>

Specifically, Section I.A.2 of the CPUC’s Confidentiality Matrix designates the front three years of utility created gas price forecasts as confidential. In addition to the natural gas price forecast itself, SCE also requests confidentiality for Residual Market Transaction data, as such data can be used to determine pricing information when used in combination with data submitted by SCE in the 2015 IEPR Supply Forms.

As data becomes one year old, the 1-year window of confidentiality for historical data becomes applicable. Thus in a 2015 forecast of confidential information for 2015, 2016, 2017, and 2018 the data for 2015 should be released in 2016 when it is one year old, the data for 2016 should be released in 2017, and so on. The Energy Commission and the CPUC are often charged with overlapping responsibilities. As a result, both Commissions undertake tasks that require them to review similar types of data. Accordingly, the Energy Commission has endeavored to work collaboratively with the CPUC to assure regulatory consistency in areas such as the Energy Commission’s Demand Forecasts and should continue to employ that practice with respect to its disposition of this application.

**4. 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 market place for such purchases and sales is highly competitive. Accordingly, information

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<sup>1</sup> D.06-06-066, as modified by D.07-05-032, Confidentiality Matrix, p. 2, fn. 6.

about the anticipated price of gas, if revealed, could place SCE at a competitive disadvantage when purchasing or selling energy. For this reason, as discussed above, CPUC decisions protect such information from public disclosure and dissemination. SCE encourages the Energy Commission to adopt a methodology that is consistent with the one utilized by the CPUC for maintaining the confidentiality of such information.

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.”<sup>2</sup> The Section 25322 of the California Public Resources Code governing the confidentiality of information gathered by the Energy Commission follows the same standard.<sup>3</sup> Specifically, if the information is exempt from disclosure under the California Public Records Act, “[t]he commission shall grant the [confidentiality] request.”<sup>4</sup> The data for which SCE seeks confidential protection here are trade secrets because they derive value from not being known to the public. In fact, public disclosure

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<sup>2</sup> Civil Code §3426.1(d).

<sup>3</sup> 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.)

<sup>4</sup> *Id.*

of this information would cause electricity prices to materially increase, which would harm customers. Accordingly, SCE makes reasonable efforts to maintain its secrecy.

Although the CPUC's decisions and the statutes applicable to the CPUC may not be binding on the Energy Commission, as a matter of comity and consistency, the Energy Commission should apply the same level of confidential protection to information provided to it 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 Energy Commission, 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.<sup>5</sup>

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 Energy Commission 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 is the same information for which SCE receives confidential treatment in the Confidentiality Matrix.

To maintain consistency between the Energy Commission 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, the Energy Commission should protect SCE's market sensitive information, just as the CPUC does. Allowing persons or entities to

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<sup>5</sup> See D.06-06-066 at 40-43 and Finding of Fact No. 2, at p. 76.

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.

As the primary driver of power prices in California, 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. Additionally, SCE also enters into contracts to purchase or sell natural gas products to hedge against the impact that fluctuations in the spot market for natural gas may have on its fuel and purchase power costs. Public disclosure of the information for which SCE seeks confidential treatment could harm SCE's customers as SCE procures power and natural gas products by making public SCE's forecast of spot natural gas prices. Accordingly, the Energy Commission should grant this trade secret information confidential treatment.

**5. 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 suppliers to manipulate the price SCE must pay for power and/or natural gas. Either outcome would ultimately harm SCE's customers, who will bear the burden of the higher costs. 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 of 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. The information for which SCE seeks confidential treatment cannot be easily acquired or duplicated by others. In addition, it would be very costly to SCE's customers (and therefore commercially valuable to its suppliers) if it were publicly disclosed.

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

Through discussions with Energy Commission staff in previous IEPR proceedings, 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 Form 8.1a that SCE has identified as confidential, cannot be aggregated or masked to allow for its public disclosure.

**7. 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.**

Based on information and belief, SCE has not, to the best of its knowledge, previously publicly released the information for which it seeks confidentiality here. Some of the information contained in the referenced forms may have previously been submitted to the CPUC pursuant to Public Utilities Code Section 583<sup>6</sup> and other CPUC procedural safeguards to maintain its confidentiality. SCE may have also previously released the information to non-market participants of the Procurement Review Group (“PRG”). SCE has only made such information available to non-market participants under strict non-disclosure agreements approved by the CPUC and signed by parties receiving the information. With respect to the Energy Commission staff, SCE has identified the information as confidential and has followed all Energy Commission procedures to protect the confidentiality of the information. SCE has not, to the best of its knowledge, publicly made this data available in the form required by the Energy Commission.

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<sup>6</sup> California Public Utilities Code Section 583 provides: “No information furnished to the commission by a public utility, or any business which is a subsidiary or affiliate of a public utility, or a corporation which holds a controlling interest in a public utility, except those matters specifically required to be open to public inspection by this part, shall be open to public inspection or made public except on order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding. Any present or former officer or employee of the commission who divulges any such information is guilty of a misdemeanor.”

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 and that I am authorized to make the application and certification on behalf of the Applicant.

Dated: May 29, 2015

Signed:           /s/Linda Letizia          

Name: Linda Letizia

Title: Principal Manager, Revenue Requirements and Forecasts