

DOCKETED

Docket Number:	17-IEPR-03
Project Title:	Electricity and Natural Gas Demand Forecast
TN #:	216388
Document Title:	Reponse to Application for Confidentiality - Southern California Edison
Description:	N/A
Filer:	Sabrina Savala
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	3/6/2017 10:49:38 AM
Docketed Date:	3/6/2017

CALIFORNIA ENERGY COMMISSION1516 NINTH STREET
SACRAMENTO. CA 95814-5512

March 03, 2017

Rebecca Meiers-De Pastino
Attorney for Southern California Edison Company
2244 Walnut Grove Ave.
Rosemead, California 91770

RE: **Application for Confidential Designation for 2017 Integrated Energy
Policy Report
Docket No. 17-IEPR-03**

Dear Ms. Meiers-De Pastino:

The California Energy Commission is in receipt of an Application for Confidentiality submitted on behalf of Southern California Edison Company (Applicant). The application seeks confidential designation for the migrating load portion of *2017 Electricity Demand Forecast Form 1.1a, Retail Sales of Electricity by Class or Section (GWh) Bundled, Direct Access, and CCA* (Confidential Document).

The application states that confidentiality is sought for migrating load retail sales forecast data. Applicant states that the information contained in the "Migrating Load Included in Forecast (GWh)" portion of the Confidential Record may not be successfully aggregated or masked; however, Applicant has identified that other information in the Confidential Record can be aggregated for public disclosure. Neither the Confidential Record nor an aggregation of the information contained in the Confidential Record has been disclosed to the public.

A properly filed Application for Confidentiality shall be granted under the California Code of Regulations, title 20, section 2505(a)(3)(A), "If the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the [Energy] Commission to keep the record confidential." The California Public Records Act allows for the non-disclosure of trade secrets. (Gov. Code, § 6254(k); Evid. Code, § 1060.) California courts have traditionally used the following definition of trade secret:

A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. . . .

(*Uribe v. Howe* (1971) 19 Cal.App.3d 194, 207, citing the Restatement of Torts, vol. 4, § 757, comment b, p.5.)

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

The application addresses these four elements: 1) the Confidential Record contains sensitive information about the quantity of energy Applicant must buy for and sell to its customers in a highly competitive market; 2) the disclosure of migrating load retail sales forecast data would put Applicant at a competitive disadvantage when purchasing or selling energy, because the data could be used to back calculate confidential sales information; 3) the Confidential Records derive their value from not being known to the public; disclosure of the information would cause electricity prices to materially increase, harming customers the migrating load retail sales data; and 4) the information cannot be legitimately acquired or duplicated by others; the same information receives confidential treatment by the California Public Utilities Commission.

The application is clear that confidentiality is being sought for trade secret information related to proprietary retail sales information. Therefore, Applicant has made a reasonable claim that the law allows the California Energy Commission to keep the Confidential Record from public disclosure.

Applicant requests that the information be kept confidential based on a window of confidentiality looking three years forward. The Confidential Record contains information for 2018, 2019, and 2020; therefore, Applicant requests that the data for 2018 be publicly released in 2019, the data for 2019 be publicly released in 2020, and the data for 2020 be publicly released in 2021. The trade secret information has value until the one year window of relevancy for historical retail sales data passes; therefore, it is appropriate to grant confidentiality for one year after each of the three years of data.

For the reasons stated above, the request for confidential designation for the Confidential Record is granted. The migrating load retail sales information contained in the Confidential Record information will remain confidential for one year after each of the three years of data.

Ms. Meijers-De Pastino
March 3, 2017
Page 3

Be advised that persons may petition to inspect or copy records that I have designated as confidential. The procedures and criteria for filing, reviewing, and acting upon such petitions are set forth in the California Code of Regulations, title 20, section 2506.

If you have any questions concerning this matter, please contact Michelle Chester, Staff Counsel, at (916) 651-2935.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. P. Oglesby', with a long horizontal flourish extending to the right.

Robert P. Oglesby
Executive Director

cc: Docket Unit, California Energy Commission
Heather Raitt, California Energy Commission
Cynthia Rogers, California Energy Commission
Chris Kavalec, California Energy Commission