

## DOCKETED

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

**2015 INTEGRATED ENERGY POLICY REPORT  
DOCKET NUMBER 17-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**

In accordance with the 2017 California Energy Commission’s (CEC’s) Integrated Energy Policy Report (IEPR) instructions, SCE submits its 2017 Electricity Demand Forecast Forms 1.1b, 1.2, 1.3, 1.4, 1.5 and 1.6a. The forms are approximately 17 MB. SCE requests confidential treatment of data on certain forms. SCE has conspicuously labeled all forms containing data SCE believes should be afforded confidential treatment by the CEC. SCE has highlighted all confidential data on those forms.

In 2013 and 2015, the CEC granted SCE confidential treatment of Form 1.1b Retail Sales of Electricity by Class or Sector, Sales to Bundled Customers, Direct Access, CCA, and other Departing Load on Form 1.2 Distribution Area Net Electricity for Generation Load, Form 1.5 Peak Demand Weather Scenarios Distribution Area Coincident Peak Demand, and Bundled Load and Direct Access Load on Form 1.6a Hourly loads by Transmission Planning Sub Area or Climate Zone. The instant application seeks confidential treatment for the same type of data, but for a later set of years. Under California Code of Regulation, Title 20, Sections 2505(a)(1)(G) and 2505(a)(4), SCE is not required to submit a lengthy justification for treating information the CEC previously deemed confidential if SCE certifies under penalty of perjury that the new

information is substantiality similar to the previously granted confidentiality. SCE certifies the new data on the forms listed above is substantially similar to the data the CEC previously found confidential for the same reasons discussed in SCEs' 2015 application, and SCE signs this application under penalty of perjury below. SCE will not rehash the arguments as to why such confidential treatment is appropriate.

Conversely, in 2013 and 2015, the CEC denied SCE confidential treatment of Losses, Total Distribution System Requirements, Forecast of Net Uncommitted Impacts on Form 1.2 Distribution Area Net Electricity for Generation Load, Form 1.3 LSE Coincident Peak Demand by Sector (Bundled), Form 1.4 Distribution Area Coincident Peak Demand, and Total System Load on Form 1.6a – Hourly loads by Transmission Planning Sub Area or Climate Zone. For the reasons discussed below, the CEC should afford confidential designation to such data. SCE therefore revives its request for confidential treatment of that data.

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

In addition to maintaining the previous grant of confidential treatment the appropriate data and years indicated on SCE's Electricity Demand Forecast Forms 1.1b, 1.2, 1.5, and 1.6a, SCE requests the CEC reconsider its prior denials and designate the following parts of Forms 1.2, 1.3, 1.4, and 1.6a confidential and exempt from public disclosure.

- **Form 1.2 – Distribution Area Net Electricity Generation Load (GWh) –** SCE requests confidential treatment of the information contained in the following columns for 2017-2019:
  - Losses;
  - Total Distribution System Energy Requirements; and
  - Forecast Net Uncommitted Impacts
- **Form 1.3 – LSE Coincident Peak Demand by Sector (Bundled Customers) (MW) –** SCE requests confidential treatment of the information contained in the Total Peak column for the four year period of 2016-2019.

- **Form 1.4 Distribution Area Coincident Peak Demand (MW)** – SCE requests the CEC treat the information contained in the following columns confidential for the four year period of 2016-2019.
  - Bundled Customer Peak;
  - Direct Access (End User Peak Demand and Losses);
  - Community Choice Aggregators (End User Peak Demand and Losses);
  - Other Publicly Owned (End User Peak Demand and Losses);
  - Other (Define); and
  - Total Peak Demand
  
- **Form 1.6a – Hourly Loads** – SCE requires confidential treatment of the information contained in the following columns for the years 2016-2019:
  - Total System Load
  - Distribution Service Area Net Internal Load: The CEC should treat this information as confidential because making it public allows others to discern SCE’s total system load by subtracting the Metropolitan Water District Load.
  - Community Choice Aggregators (End User Peak Demand and Losses)<sup>1</sup>;
  - Other Publicly Owned (End User Peak Demand and Losses)<sup>2</sup>;
  
- **Form 1.6b – Hourly Loads by Transmission Planning Sub Area** -- SCE requires confidential treatment of the information in this form because making it public allows others to discern SCE’s total system load.

**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 the majority of information described above, SCE requests the CEC restrict public disclosure for a period of three years forward, one year back, or the entire three year forecast

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<sup>1</sup> Unlike Total System Load, this is new data for which SCE has not previously sought confidential treatment. The CEC should grant this data confidential treatment for the reasons explained in the application.

<sup>2</sup> See fn. 1 above.

period. As data becomes one year old, the 1-year window of confidentiality for historical data becomes applicable. Thus, in a 2017 forecast for 2018, 2019, and 2020, the data for 2017 should be released in 2018, when it is one year old. With respect to Form 1.6a, SCE requests that the specified information be restricted for 2016-2019.

SCE's request is consistent with the California Public Utilities Commission's (CPUC's) Decision (D.) 06-06-066, as modified by D.07-05-032, and accompanying Confidentiality Matrix.<sup>3</sup> 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 endeavors to work collaboratively with the CPUC to assure regulatory consistency in areas such as the CEC'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.**

The data described above for which SCE requests confidential treatment is confidential, proprietary, market sensitive information about the timing in which and the quantity of energy SCE has to sell or purchase for its customers. 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, such information is extremely valuable and, if revealed, could place SCE at a competitive disadvantage when purchasing or selling energy. For this reason, the Public Utilities Code and CPUC decisions protect such information from public disclosure and dissemination. As noted above, SCE encourages the CEC to act in conformance with the CPUC's treatment of such data.

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 for the peak of the year, or on an hourly basis. By providing a critical factor used

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<sup>3</sup> D.06-06-066, as modified by D.07-05-032, Confidentiality Matrix, p. 2, fn. 6.

to calculate SCE’s “residual net short” position – the amount of energy SCE must procure in the market after meeting its forecasted load with “must take” and utility-retained generation – potential suppliers could calculate whether SCE had sufficient resources to meet that demand for the year, or on any particular hour or day. 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.”<sup>4</sup> Section 25322 of the California Public Resources Code governing the confidentiality of information gathered by the CEC follows the same standard.<sup>5</sup> Specifically, if the information is exempt from disclosure under the California Public Records Act, “[t]he commission shall grant the [confidentiality] request.”<sup>6</sup> The data compilations for which SCE seeks confidential protection here are trade secrets because they derive independent value from not being known to the public. In fact, public disclosure of this

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<sup>4</sup> Civil Code §3426.1(d).

<sup>5</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>6</sup> *Id.*

information could electricity prices to materially increase, which would harm customers. Accordingly, SCE engages in reasonable efforts to maintain the data's secrecy, including making repeated requests for the CEC to maintain the confidentiality of such data.

In addition, Section 454.5(g) of the California Public Utilities Code provides that: "The [CPUC] shall adopt appropriate procedures to ensure the confidentiality of any market sensitive information submitted in an electrical corporation's proposed procurement plan or resulting from or related to its approved procurement plan, including, but not limited to, proposed or executed power purchase agreements, data request responses, or consultant reports, or any combination, provided that the Office of Ratepayer Advocates and other consumer groups that are nonmarket participants shall be provided access to this information under confidentiality procedures authorized by the commission."

Similarly, Section 2.2(b) of the CPUC's General Order (GO) 66-C requires the Commission to protect confidential information that would place a utility at an "unfair business disadvantage" if it were publicly disclosed. It categorizes as information that is "not open to public inspection," those "[r]eports, records, and information requested or required by the Commission which, if revealed, would place the regulated company at an unfair business disadvantage."

Consistent with those authorities, the CPUC initiated Rulemaking (R.) 05-06-040 and issued Decision (D.) 06-06-066 in which the CPUC acknowledged the importance of protecting market sensitive information that could allow market participants to manipulate the market.<sup>7</sup> To strike the appropriate balance between public participation and protecting market sensitive procurement information, the CPUC adopted the utilities' proposal, which is set forth in the Confidentiality Matrix attached to D.06-06-066, for the treatment of market sensitive information, which made a distinction between the treatment of such information with respect to market and non-market participants.<sup>8</sup> Specifically, D.06-06-066, as modified by D.07-05-032,

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<sup>7</sup> D.06-06-006 at p. 15

<sup>8</sup> Id. at pp. 40-46, CL 10, 13, CL 22.

adopts 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)'s mandate that "the [CPUC] shall adopt appropriate procedures to ensure the confidentiality of any market sensitive information."

Although the CPUC's decisions and the statutes applicable to the CPUC may not be binding on the CEC, they are binding on SCE. SCE must therefore comply with the CPUC's decisions by engaging in efforts to maintain the confidentiality of market sensitive data. As a matter of comity and consistency, the CEC should apply the same level of confidential protection to information provided to it as the CPUC would provide under D.06-06-066 and the Confidentiality Matrix. 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.<sup>9</sup>

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. Indeed, 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 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 CEC should protect SCE's market sensitive information 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

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<sup>9</sup> See D.06-06-066 at 40-43 and Finding of Fact No. 2, at p. 76.



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.

**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 market participants to calculate SCE's forecasted supply needs, either on an annual peak and energy basis or on an hourly basis. By providing a critical factor in the calculation of SCE's "residual net short" position – the amount of energy SCE needs to procure in the market after meeting its forecasted load with "must take" and utility retained generation – market participants would potentially be able to calculate whether SCE has sufficient resources to meet that demand for the year, or on any particular hour or day. 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. 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.

The data for which SCE seeks protection is "market sensitive" and protected under the CPUC-approved Confidentiality Matrix. Specifically:

- The Form 1.2 data can be used to calculate LSE Total Energy Forecast is confidential under the Confidentiality Matrix, Sections V.C. and V.E.

- The Form 1.3 data is LSE Total Peak Load Forecast – Bundled Customer, which is confidential under the Confidentiality Matrix, Section V.B and X.A.
- The Form 1.4 data can be used to calculate LSE Total Peak Load Forecast – Bundled Customer and LSE Peak Load Forecast by Service Area, which is confidential under the Confidentiality Matrix, Sections V.B. and V.D.
- The Form 1.6a historical demand data is confidential under Confidentiality Matrix, Sections V.C.

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 the 2017 Electricity Demand Forecast Form 1.2, 1.3, 1.4, and 1.6a 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>10</sup> and other CPUC procedural safeguards to

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<sup>10</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

maintain its confidentiality. With respect to the CEC staff, SCE has identified the information as confidential and has followed all CEC procedures to protect the confidentiality of the information. 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. SCE has not, to the best of its knowledge, publicly made this data available in the form required by the CEC.

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: April 17, 2017

Signed: /s/ Hongyan Sheng

Name: Hongyan Sheng

Title: Manager, Demand Distributed Energy Resources Forecasting