

DOCKETED

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CALIFORNIA ENERGY COMMISSION1516 NINTH STREET
SACRAMENTO, CA 95814-5512

May 3, 2017

Marcie A. Milner
Vice President, Regulatory Affairs
Shell Energy North America (US), L.P.
4445 Eastgate Mall, Suite 100
San Diego, CA 92122

RE: **Application for Confidential Designation for 2017 IEPR Electricity
Resource Plans
Docket No. 17-IEPR-02**

Dear Ms. Milner:

The California Energy Commission is in receipt of an Application for Confidentiality submitted on behalf of Shell Energy North America (US) L.P. (Applicant). The application seeks confidential designation for the following data submitted as part of the 2017 Integrated Energy Policy Report (IEPR) Electricity Resource Plan (Confidential Records):

1. Form S-1:
 - a. Actual historical peak load calculations (MW) for each year (Columns C and D, Lines 1-11, 27-33);
 - b. Forecast peak demand (MW) for each year 2017-2019 (Columns E-G, Lines 1-11);
 - c. Actual capacity supply resources (MW) for the historical period 2015-2016 (Column B, Lines 12a-20; Columns C and D, Lines 12a-26); and
 - d. Forecast capacity supply resources (MW) for each year 2017-2019 (Column B, Lines 12a-20; Columns E-G, Lines 12a-26).

2. Form S-2:
 - a. Actual historical energy demand/consumption for its retail customer load for each year 2015-2016 (Columns C and D, Lines 1-11);
 - b. Forecast energy demand/consumption for retail customer load for each year 2017-2019 (Columns E-G, Lines 1-11);
 - c. Actual historical and forecast energy supply resources for its retail sales load for each year 2015-2016 (historical) and 2017-2019 (forecast) (Columns C-G, Lines 12a-17h; Columns B-G, Lines 18a-20); and
 - d. Energy Balance Summary for each year 2015-2016 (historical) and 2017-2019 (forecast) (Columns C-G, Lines 21-25).

3. Form S-5: Terms and conditions of bilateral contracts (Columns B-V, Lines 9-31).

The application states that confidentiality is sought for proprietary trade secret information. Applicant states that it is feasible to aggregate and mask the data with other load-serving entities. The Confidential Records for the years listed have not been previously 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 Records reflect Applicant's total historical and forecast retail load in the service territories of the California investor-owned electric utilities and the supply quantities acquired by Applicant to serve the retail load; 2) public disclosure of the information would reveal Applicant's net short position, thereby placing Applicant at a competitive disadvantage in the wholesale and retail electricity markets; 3) the Confidential Records constitute proprietary information that provide Applicant to remain competitive in wholesale and retail electricity markets; and 4) the Confidential Records have not been disclosed publicly and is treated as confidential.

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The application is clear that confidentiality is being sought for trade secret information. Therefore, Applicant has made a reasonable claim that the law allows the California Energy Commission to keep the specified portions of the Confidential Records from public disclosure.

Applicant requests that the historical data for 2015-2016 in Forms S-1 and S-2 be kept confidential for one year (through December 31, 2018) and the forecast data for 2017-2019 in Forms S-1 and S-2 and 2020 to be kept confidential for three years (through December 31, 2020). The trade secret information has market value for the identified periods; therefore, it is appropriate to grant confidentiality for one year for 2015-2016 data in Forms S-1 and S-2 and three years 2017-2019 data in Forms S-1 and S-2.

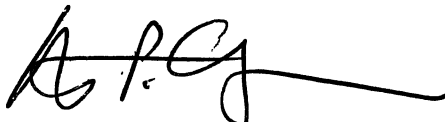
For the reasons stated above, the request for confidential designation for the Confidential Record is granted. The information will remain confidential for the term stated above.

This grant of confidentiality is only for those years and columns of the Confidential Records specified above. Please file a public version of the forms to the docket. This public document should be redacted only to the point necessary to protect confidentiality.

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,



Robert P. Oglesby
Executive Director

cc: Docket Unit, California Energy Commission
John Hingtgen, California Energy Commission