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

**2017 INTEGRATED ENERGY POLICY REPORT
Docket No. 17-IEPR-03**

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

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1. Identification of the Information Being Submitted

SDG&E seeks confidential designation for data provided to the California Energy Commission (“Commission”). SDG&E is providing such data to the Commission as part of the 2017 Integrated Energy Policy Report (“IEPR”) (Docket No. 17-IEPR-03) process and pursuant Title 20, Section 1345 of the California Code of Regulations (“CCR”), including demand forecast data. Generally, the information for which confidential designation is requested pertains to historical and forecast electricity demand data related to 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 below. As shown below, depending on the specific Form, the data for which confidentiality is being sought ranges over the years 2013-2028. The data is being provided in Excel spreadsheets covering many pages and in total is approximately 123 megabytes in size.

2. Description of the Data or Information for which Confidentiality Is Being Sought

IEPR Form 1.1b: Retail Sales of Electricity by Class or Sector – Bundled Customers (GWh) Col C-F, Rows 27-29, and Col I, Rows 27-29

IEPR Form 1.2: Distribution Area Net Electricity For Generation Load (GWh), Col C-D, Rows 27-29

IEPR Form 1.3: Coincident Peak Demand by Sector (Bundled Customers) (MW), Col K, Rows 27-29 and Col M-N, Rows 27-29

IEPR Form 1.4: Distribution Area Peak Demand (MW) Col C-F, Rows 27-29

IEPR Form 1.5: Peak Demand Weather Scenarios, Distribution Area Coincident Peak Demand (MW), Col D-G, Rows 10 and 28-39

IEPR Form 1.6a 2015: Recorded Hourly Loads for 2015, Col C-F, All Rows

IEPR Form 1.6a 2016: Recorded Hourly Loads for 2016, Col C-F, All Rows

IEPR Form 1.6a 2017: Forecasted Hourly Loads for 2017, Col C-F, All Rows

IEPR Form 1.6d: Non-Residential Load Shape Summary Information, Col F-I, Rows 8-117

IEPR Form 1.6d: Non-Residential Load Shape Information Files: All Data in Each of the Following Files:

- Form 1.6d NonRes Confidential 2013.csv
- Form 1.6d NonRes Confidential 2014.csv
- Form 1.6d NonRes Confidential 2015.csv

IEPR Form 2.2: Electricity Rate Forecast (cents/kWh), Col D-I, Rows 27-38

3. Description of the period for which confidentiality is being sought

SDG&E requests that the data indicated be kept confidential for a period of three years, or through December 31, 2019. 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 relevant markets, and SDG&E has no objection to the data being made public after that time.

4. Justification for Each Confidential Data Category Request

(a) Information Substantially Similar to Information Previously Deemed Confidential by the Commission Continues to Warrant Confidential Treatment

Some of the information for which confidentiality is being sought is substantially similar to information that was previously deemed confidential by the Commission. Accordingly, attached as Attachment A to this Application is a certification, executed under penalty of perjury, stating that the submitted information is substantially similar to the previously submitted information. This certification applies to the following categories of information:

- IEPR Form 1.1b: Retail Sales of Electricity by Class or Sector – Bundled Customers (GWh) Col C-F, Rows 27-29, and Col I, Rows 27-29
- IEPR Form 1.2: Distribution Area Net Electricity For Generation Load (GWh), Col C-D, Rows 27-29
- IEPR Form 1.5: Peak Demand Weather Scenarios, Distribution Area Coincident Peak Demand (MW), Col D-G, Rows 10 and 28-39
- IEPR Form 1.6a 2015: Recorded Hourly Loads for 2015, Col C-F, All Rows
- IEPR Form 1.6a 2016: Recorded Hourly Loads for 2016, Col C-F, All Rows
- IEPR Form 1.6a 2017: Forecasted Hourly Loads for 2017, Col C-F, All Rows
- IEPR Form 2.2: Electricity Rate Forecast (2013 cents/kWh), Col D-I, Rows 27-38

Pursuant to CCR, Title 20, Section 2505(a)(4), the foregoing information should be deemed confidential.

(b) Confidential Treatment for Other Categories (not previously deemed confidential by the Commission) is Also Warranted

i. Government Code, Other Laws and Precedent Supporting Confidential Treatment

The information identified above and discussed in more detail below constitutes competitively and commercially sensitive business and resource planning data 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. 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. *See also* Govt. Code Section 6254.7(d). It is well established that the Courts protect trade secret information from disclosure where disclosure would be harmful. *See, e.g., Klamath-Orleans Lumber v. Miller* (2d Dist. 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. *Morlife, Inc. v. Perry* (1st Dist. 1997) 56 Cal. App. 4th 1514.

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, e.g.,* D.97-06-110, 1997 Cal. PUC LEXIS 537; D.02-12-074, 2002 Cal. PUC LEXIS 905; D.98-02-041, 78 CPUC 2d 486. In addition, the CPUC’s General Order 66-C, Section 2.2(b) provides protection for “[r]eports, records, and information requested by the Commission which, if

revealed, would place the regulated company at an unfair business advantage.” Moreover, 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 42.

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.¹ 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.² 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 below.

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. Cal. Pub. Util. Code § 454.5(g). Significantly, that code section does not 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.

Finally, regarding confidential consumer information, statutes have been enacted to protect such data (e.g., usage data or the identity of individual customers). Specifically, Civil Code §§1798.98-1798.99 (relating to privacy of customer energy usage data made available to utility as part of an advanced metering infrastructure); Civil Code §1798.80, *et seq.* (process for protecting customer records); Pub. Util. Code § 8380(d) (a utility “shall use reasonable security procedures and practices to protect a customer's unencrypted electrical or gas consumption data from unauthorized access, destruction, use, modification, or disclosure”); and associated CPUC Decisions (D.11-07-056 and D.11-08-045) were designed to protect confidential consumer data. Similarly, CCR, Title 20, Section 2505(a)(5)(1) may provide automatic protection for this type of data, since it constitutes “[i]nformation that is derived from energy consumption metering.”

ii. Public Interest in Non-Disclosure Outweighs Public Interest in Disclosure

In addition to the laws and legal precedent discussed above, SDG&E believes that the public interest in non-disclosure outweighs the public interest in disclosure. 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

¹ *Commission Order Denying Appeals of the Executive Directors [sic] Notice of Intent To Release Aggregated Data* at 14-15, Docket No. 04-IEP-1D (September 16, 2005).

² *Id.* at 15.

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 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 addition to risks associated with pricing, public disclosure may also result in the discovery of individual customer identity and usage information. As explained below regarding non-residential load shape data, some of the data sets are so small this risk constitutes a valid concern.

Below, SDG&E discusses relevant facts associated with each category of information for which confidential treatment is sought.

- IEPR Form 1.3: Coincident Peak Demand by Sector (Bundled Customers) (MW), Col C-K, Rows 27-29 and Col M-N, Rows 27-29: Disclosure of this peak demand information for the years 2017-2019 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 Peak Demand (MW) Col C-F, Rows 27-29: This distribution area coincident peak demand information should be kept confidential for years 2017-2019 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 1.6d: Non-Residential Load Shape Summary Information, Col F-I, Rows 8-117: This load shape data is organized in a manner that produces sets of between 1 and 15 customer accounts. This is due to the fact that the sets are broken up by categories tied to specific tariffs. Given the small size of these sets of accounts, using the category information, it may be possible to determine the identity of individual account holders and their usage. In CPUC proceedings, SDG&E uses the “15/15 Rule”³ as a guideline to protect customer confidential information like this. The 15/15 Rule was designed to protect data that could be revealed in data sets that are too small to generate the protection normally offered by aggregated data involving larger sets of customers. Civil Code §§1798.98-1798.99 (relating to privacy of customer energy usage data made available to utility as part of an advanced metering infrastructure); Civil Code §1798.80, *et seq.* (process for protecting customer records); Pub. Util. Code § 8380(d) (a utility “shall use reasonable security procedures and practices to protect a customer's unencrypted electrical or gas consumption data from unauthorized access, destruction, use, modification, or disclosure”); and associated CPUC Decisions (D.11-07-056 and D.11-08-045) were similarly designed to protect consumer data. Finally, CCR, Title 20, Section 2505(a)(5)(1) may provide automatic protection for this type of data, since it constitutes “[i]nformation that is derived from energy consumption metering” and pertains to non-residential customers.

- IEPR Form 1.6d: Non-Residential Load Shape Information Files: All Data in Each of the Following Files:
 - Form 1.6d NonRes Confidential 2013.csv
 - Form 1.6d NonRes Confidential 2014.csv
 - Form 1.6d NonRes Confidential 2015.csv

Similar to the load data information described above, the information provided in this form is sensitive because it is organized in a manner that could lead to the identity of individual customers and their usage. Accordingly, for the same reasons listed above, these data sets should also be kept confidential.

³ The “15/15 Rule” is a screen that requires that any aggregated customer-confidential information provided by the utilities be made up of at least fifteen customers, and that a single customer’s load be less than fifteen percent of an assigned category. This tool was established in the Direct Access Proceeding via D. 97-10-031.

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. Moreover, some of the data may lead to the discovery of individual customer information that SDG&E is required to maintain as confidential pursuant to CPUC decisions and various statutory requirements. In light of these issues, SDG&E does not believe the value of public disclosure outweighs the potential harm to customers.

5. Certification

SDG&E, is a California corporation, and I am authorized to make the application and certification on behalf of the SDG&E.

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. Also, to the best of my knowledge, SDG&E has not previously publicly released the information that is the subject of this Application in precisely the presented format or projected over the presented duration of time.

Dated: May 5, 2017

Signed: /s/ TIMOTHY S. VONDER
Name: Timothy S. Vonder
Title: Principal Regulatory Economic Advisor

DATED this 5th day of May, 2017, at San Diego, California.

Respectfully submitted,

/s/ JOHN A. PACHECO
John A. Pacheco

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ATTACHMENT A

**DECLARATION REGARDING INFORMATION SUBSTANTIALLY SIMILAR
TO INFORMATION PREVIOUSLY DEEMED CONFIDENTIAL BY THE
COMMISSION**

Docket Number 17-IEPR-03

As described in the attached Application, San Diego Gas & Electric Company (“SDG&E”) requests that certain information be designated as confidential by the Commission Pursuant to CCR, Title 20, Section 2505(a)(4). Specifically, the following categories of information are subject to confidential treatment under CCR, Title 20, Section 2505(a)(4):

- IEPR Form 1.1b: Retail Sales of Electricity by Class or Sector – Bundled Customers (GWh) Col C-F, Rows 27-29, and Col I, Rows 27-29;
- IEPR Form 1.2: Distribution Area Net Electricity For Generation Load (GWh), Col C-D, Rows 27-29;
- IEPR Form 1.5: Peak Demand Weather Scenarios, Distribution Area Coincident Peak Demand (MW), Col D-G, Rows 10 and 28-39;
- IEPR Form 1.6a 2015: Recorded Hourly Loads for 2015, Col C-F, All Rows
- IEPR Form 1.6a 2016: Recorded Hourly Loads for 2016, Col C-F, All Rows;
- IEPR Form 1.6a 2017: Forecasted Hourly Loads for 2017, Col C-F, All Rows; and
- IEPR Form 2.2: Electricity Rate Forecast (2013 cents/kWh), Col D-I, Rows 27-38.

SDG&E requests that the information be designated confidential for a period of three years, or through December 31, 2019. In the 2015 Integrated Energy Policy Report (“IEPR”) proceeding (Docket No. 15-IEPR-03), the Commission’s Executive Director determined that substantially similar data in the same forms qualified for confidential protection for those same time periods under Government Code § 6254. *See Response to SDG&E Application for Confidentiality*, Docket No. 15-IEPR-03 (July 2, 2015).

Accordingly, pursuant to 20 CCR § 2505(a)(4), SDG&E submits the following certification regarding the Commission’s prior confidentiality designations.

1. I certify under penalty of perjury that the information described above for which SDG&E seeks confidential treatment is substantially the same information as that which the Commission has previously designated as confidential in Docket No. 15-IEPR-03 and that the facts and circumstances relevant to confidentiality remain unchanged; and
2. I am authorized to make this application and certification on behalf of SDG&E.

Date: May 5, 2017

By: /s/ TIMOTHY S. VONDER
Timothy S. Vonder
Principal Regulatory Economic Advisor
San Diego Gas & Electric Company