

DOCKETED

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APPLICATION FOR CONFIDENTIAL DESIGNATION (Title 20 Cal. Code. Regs., § 2505 et seq.)

CEC-13 (Revised 03/17)

CALIFORNIA ENERGY COMMISSION

All confidential filings: Individual documents may not exceed 30 MB¹ or be password protected.² The application must be a separate document from the confidential materials. The application itself is not confidential and is a public record. The application will be reviewed and acted upon by the Executive Director in consultation with the Chief Counsel of the Energy Commission. (§ 2505, subd. (a))

If you have questions, contact the Docket Unit at (916) 654-5076 or email: docket@energy.ca.gov.

Existing proceedings: Applications for confidentiality and the confidential documents must be uploaded directly to the Docket Unit through the e-filing system. Paper copies or CDs do not need to be submitted. Links to the e-filing system are provided on most proceeding webpages labeled “**Submit e-filing.**” Alternatively, go to: <http://www.energy.ca.gov/e-filing/index.html>. Registration is necessary the first time documents are uploaded. Once registration is complete, to submit a confidential filing click on **Quick Actions** from the **DASHBOARD** and select **Submit Confidential e-filing** from the dropdown list. The application must be uploaded first followed by one or more confidential files.

Filings not associated with any proceeding: Applications for confidentiality and the confidential materials must be submitted directly to the **Docket Unit** in paper form or on a CD, but not by email. Two copies must be submitted, on separate media if electronic, each marked with a descriptive title and “Confidential.” (§ 1208.1)

TO: Energy Commission Docket Unit

Applicant: Peninsula Clean Energy Authority ("PCE")

Address: 2075 Woodside Road, Redwood City CA 94061

Phone and E-mail: 1-866-966-0110, compliance@peninsulacleanenergy.com

Proceeding or Project Name: Electricity Resource Plans

Docket Number: 21-IEPR-02

- 1(a). Title, date, and description (including number of pages) of the information or data for which you request confidential designation. **Information or data seeking a designation of confidentiality must be included with this application.**

Electricity Resource Plan, Form S-1 "Requirement", Rows 1, 5, 6, 7, 8, 11, Columns I through R; Form S-2 "Supply", Rows 6a, 6d-6, 6d-7, 7a, 7e-25 through 7e-106, 7f, 9, 10, 11, 12, 13, Columns I through R; Rows 7a, 7c, 7d, 7e, 7e-1 through 7e-24, 9, 11, 13, Columns V-AE; Form S-5 "Table", Column K, rows 6d-1 through 6d-9, 6d-11 through 6d-17, 6d-24 through 6d-30, 7e-25 through 7e-106, 7f

- 1(b). Specify the part(s) of the information or data for which you request confidential designation.

See above and Attachment 2.

¹ Contact the Docket Unit if you cannot reduce the size of your file.

² If you wish to protect the files while in transit, you may combine them in a password-protected .zip file..



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2. State and justify the length of time the Energy Commission should keep the information or data confidential.

PCE requests that data be kept confidential for 3 years for the reasons set forth in Attachment 2.

3(a). State the provision(s) of the Public Records Act (Gov. Code, § 6250 et seq.) or other law that allows the Energy Commission to keep the information or data confidential, and explain why the provision(s) apply to that material.

Cal. Govt. Code § 6254 (k); Cal. Evid. Code § 1060; Cal. Govt. Code § 6255.

Please see Attachment 2.

3(b). Discuss the public interest in nondisclosure of the material submitted for a confidential designation. If the material contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please state how it would be lost, the value of the information to the applicant and the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

The confidential information in Form S-1 provides PCE's forecasted peak load, adjusted demand, planning reserve margin, and total procurement requirement.

The confidential information in Form S-2 and S-5 provides PCE's detailed resource procurement status and may reveal PCE's open capacity and energy position.

If this highly market sensitive and trade secret information were made public, it would undermine PCE's negotiating position and disrupt functioning energy and capacity markets. Conversely, there is little public interest in PCE's specific, non-aggregated data.

4. State whether the information or data can be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identity of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why.

The data in question can be disclosed if it is aggregated with other LSE's forecast and supply information at a level that does not permit PCE's confidential information to be derived from the aggregated data.

5. State how the material is kept confidential by the applicant and whether it has even been disclosed to a person other than an employee of the applicant. If it has, explain the circumstances under which disclosure occurred.

PCE does not publicly disclose detailed load forecast data or detailed capacity and energy market positions. PCE only provides this information as requested or required by regulatory agencies and in doing so seeks confidential protection of such information.

I certify under penalty of perjury under the laws of the State of California 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: September 17, 2021

Signed: *Janis C. Dwyer*



APPLICATION FOR CONFIDENTIAL DESIGNATION
(Title 20 Cal. Code. Regs., § 2505 et seq.)

CEC-13 (Revised 03/17)

CALIFORNIA ENERGY COMMISSION

Name (print or type): Janis C. Pepper

Title: (print or type) Chief Executive Officer

Representing: Peninsula Clean Energy Authority

Include additional signature blocks if there are multiple partners in the project with shared responsibilities for making the request.

Attachment 2

September 17, 2021

Drew Bohan, Executive Director
Docket No. 21-IEPR-02 Electricity Resource Plans
California Energy Commission
1516 Ninth Street,
Sacramento, CA 95814

Re: Application of Peninsula Clean Energy for Confidential Designation of Information
Contained in its 2021 Electricity Resource Plans (Forms S-1, S-2, and S-5)

Dear Mr. Bohan,

Peninsula Clean Energy (“PCE”) requests the California Energy Commission (“Commission”) designate information included in PCE’s 2021 Electricity Resource Plan, Form S-1, S-2, and S-5 as confidential pursuant to Title 20, Cal. Code. Regs. (“CCR”), Section 2505 et seq. and the justifications set forth below. In accordance with the CEC’s *Forms and Instructions for Submitting Electricity Resource Plans Prepared in Support of the 2021 Integrated Energy Policy Report*, PCE provides the following information in support of its application for confidentiality designation.

Contact Information

Applicant: Peninsula Clean Energy
Address: 2075 Woodside Road
Redwood City CA 94061

All correspondence regarding this filing should be transmitted by electronic mail to the attention of:

Siobhan Doherty
Director of Power Resources
Peninsula Clean Energy
sdoherty@peninsulacleanenergy.com
compliance@peninsulacleanenergy.com

Description and Identification of Confidential Information

PCE seeks confidential treatment of information in Electricity Resource Plan Forms S-1, S-2, and S-5. The confidential information in Form S-1 includes the following:

- Row 1 “Forecast Total Peak-Hour 1-in-2 Demand”, Columns I through R (2021-2030).
- Row 5 “Adjusted Demand: End-Use Customers”, Columns I through R (2021-2030).
- Row 6 “Coincidence Adjustment (-)”, Columns I through R (2021-2030).
- Row 7 “Coincident Peak-Hour Demand”, Columns I through R (2021-2030).
- Row 8 “Required Planning Reserve Margin”, Columns I through R (2021-2030).
- Row 11 “Firm LSE Procurement Requirement”, Columns I through R (2021-2030).

The confidential information in Form S-2 includes the following:

- Row 6a, 6d-6, and 6d-7, “Total Renewable Contract Supply”, Columns I through R (2021-2030).
- Row 7a, 7e-25 through 7e-106, and 7f, “Total Other Bilateral Contract Supply”, Columns I through R (2021-2030).
- Row 7a, 7c, 7d, 7e, 7e-1 through 7e-24, “Total Other Bilateral Contract Supply”, Columns V through AE (2021-2030).
- Row 9 “Total: Existing and Planned Supply”, Columns I through R (2021-2030), V through AE (2021-2030).
- Row 10 “Firm LSE Procurement Requirement”, Columns I through R (2021-2030).
- Row 11 “Net Surplus [or Need]”, Columns I through R (2021-2030), V through AE (2021-2030).
- Row 12 “Generic Renewable Supply”, Columns I through R (2021-2030).
- Row 13 “Generic Non-Renewable Resources”, Columns I through R (2021-2030), V through AE (2021-2030).

The confidential information in Form S-5 includes the following:

- Row 6d-1 through 6d-9, 6d-11 through 6d-17, 6d-24 through 6d-30, 7e-25 through 7e-106, 7f, Column K “Capacity (MW) Under Contract”.

Length of Time the Information Should Be Kept Confidential

PCE requests that the Commission keep PCE’s information confidential and protected from public disclosure for a period of 3 years. This length of time is needed to ensure that PCE’s detailed load forecast data in Form S-1 and market position information in Form S-2 and S-5 remains secure from market participants that could make competitive use of this information to the detriment of PCE, PCE’s ratepayers, and the electricity market as a whole. Further, this length of time is consistent with how the Commission has treated similar information.¹

Provisions of Law Allowing the Commission to Keep the Documentation Confidential

The California Code of Regulations provides that an application for confidentiality shall be granted where an applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the Commission to keep the records confidential.² The Public

¹ See 19-IEPR-02, *California Energy Commission Letter to Ms. Natasha Keefer – Clean Power Alliance* (May 28, 2019); 19-IEPR-02 *California Energy Commission Letter to Mr. Gary W. Lawson – Valley Clean Energy* (May 29, 2019).

² Cal. Code Regs., tit. 20, § 2505(a)(3)(A).

Records Act exempts from disclosure records that are exempted pursuant to state law, including provisions of the Evidence Code.³ The Evidence Code provides a privilege for trade secrets and allows the owner of a trade secret to prevent another from disclosing it.⁴ In an analogous context, “trade secrets” has been defined to include “information, including a formula, pattern, compilation, program, device, method, technique, or process, that... [d]erives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use...”⁵ Further, the Commission’s regulations provide for information to be designated as confidential if it “contains a trade secret or its disclosure would otherwise cause a loss of a competitive advantage.”⁶

PCE requests that the identified portions of Form S-1, S-2, and S-5 are kept confidential because they contain trade secret information and information that would otherwise cause PCE a loss of a competitive advantage. The forecasted load and supply data in these Forms would reveal PCE’s expected market position for resource adequacy capacity and energy. This information, if publicly known, could be used by competitors to cause competitive harm to PCE and could be used to undermine PCE’s negotiating position, both as a buyer and a seller.

The Public Records Act also permits the Commission to withhold any record where the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.⁷ Thus, even if there were no trade secret exemption, there is still a separate basis for not publicly-releasing PCE’s confidential information, since the disclosure of the information has the potential to undermine PCE’s market position and disrupt energy markets more generally.

The Submitted Information Is Presently Confidential

PCE does not publicly disclose forecasted energy and capacity positions. PCE considers such information market sensitive, as public disclosure of this information could compromise PCE’s competitive position in the electricity market. Further, to the extent similar information is disclosed to other regulatory agencies (e.g., the California Public Utilities Commission), PCE seeks protection of this information from public disclosure in those forums. PCE’s confidential information can be disclosed if it is aggregated with other load serving entities’ information at a level that does not permit PCE’s confidential information to be derived from the aggregated data.

³ Cal. Gov’t Code § 6254 (k).

⁴ Cal. Evid. Code § 1060.

⁵ Cal. Civ. Code § 3426.1; see also Govt. Code § 6254.7(d) (utilizing similar definition); see also *id.* at § 6254.15 (protecting corporate proprietary information including trade secrets from disclosure).

⁶ Cal. Code Regs., tit. 20, § 2505 (a)(1)(D).

⁷ Cal. Gov’t Code § 6255.

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. I also certify that I am authorized to make the application and certification on behalf of PCE.

Dated: September 17, 2021



Janis C. Pepper
Chief Executive Officer
Peninsula Clean Energy
jpepper@peninsulacleanenergy.com