

DOCKETED

Docket Number:	21-IEPR-02
Project Title:	Electricity Resource Plans
TN #:	239808
Document Title:	East Bay Community Energy Application for Confidential Designation
Description:	East Bay Community Energy 2021 IEPR Supply Forms
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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: East Bay Community Energy

Address: 1999 Harrison St., Ste. 800, Oakland CA 94612

Phone and E-mail: (510) 827-2051 ; jdorrance@ebce.org

Proceeding or Project Name: Integrated Energy Policy Report - 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.**

EBCE 2021 IEPR Electric Resource Plan (9/17/21, refiled 9/21/21), Form S-1, Form S-2,
and Form S-5.

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

See Attached Cover Letter

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.

EBCE requests that the information be kept confidential for 3 years from the date of submission (until September 17, 2024).

- 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), 6254.7(d), 6254.15, 6255; 20 CRR § 2505(a)(1)(D); Cal. Evid. Code § 1060.

- 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 EBCE's forecasted peak load, adjusted demand, planning reserve margin, and total procurement requirement. The confidential information in Form S-2 and S-5 provides EBCE's detailed resource procurement status and may reveal EBCE's open capacity and energy position. If this highly market sensitive and trade secret information were made public, it would undermine EBCE's negotiating position and disrupt functioning energy and capacity markets. Conversely, there is little public interest in EBCE's specific, non-aggregated data. See Attached Cover Letter

- 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 EBCE'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.

EBCE does not publicly disclose detailed load forecast data or detailed capacity and energy market positions. EBCE 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: 9/21/2021

Signed:



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CEC-13 (Revised 03/17)

CALIFORNIA ENERGY COMMISSION

Name (print or type): Jim Dorrance
Title: (print or type) Power Resources Manager
Representing: East Bay Community Energy

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



September 21, 2021

California Energy Commission
Dockets Office, MS-4
Re: Docket No. 21-IEPR-02
1516 Ninth Street
Sacramento, CA 95814

Re: Application of East Bay Community Energy for Confidential Treatment for Information Contained in its 2021 Electricity Resource Plans (Forms S-1, S-2 and S-5)

East Bay Community Energy ("EBCE") requests the California Energy Commission ("Commission") designate information included in EBCE'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 Commission's *Forms and Instructions for Submitting Electricity Resource Plans Prepared in Support of the 2021 Integrated Energy Policy Report*, EBCE provides the following information in support of its application for confidentiality designation.

Contact Information

Applicant: East Bay Community Energy
Address: 1999 Harrison St. Ste. 800
Oakland CA, 94612

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

Jim Dorrance
Power Resources Manager
East Bay Community Energy
jdorrance@ebce.org

Description and Identification of Confidential Information

EBCE seeks confidential treatment of information in Electricity Resource Plan Forms S-1, S-2 and Form S-5.

The confidential information in Form S-1 includes the following:

- Line 1 - Forecast Total Peak-Hour 1-in-12 Demand, years 2021-2030
- Line 5 - Adjusted Demand: End-Use Customers, years 2021-2030
- Line 7 - Coincident Peak-Hour Demand, years 2021-2030
- Line 11 - Firm LSE Procurement Requirement, years 2021-2030
- Line 16 - Adjusted Demand: End-Use Customers, years 2021-2030
- Line 18 - Firm LSE Procurement Requirement, years 2021-2030
- Line 19 - Annual Peak Load / Actual Metered Deliveries, years 2019-2020
- Line 25 - Adjusted Annual Peak Load (years 2019-2020)

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

- Lines 6a-6i - Capacity Supply Resources, Renewable Contract Supply, years 2021- 2030
- Lines 6a-6i - Energy Supply Resources, Renewable Contract Supply, years 2021- 2030
- Line 7a - Capacity Supply Resources, Total Other Bilateral Contract Supply, years 2021-2030
- Line 7d - Capacity Supply Resources, Generic Capacity Purchases, years 2021-2030
- Line 9 - Capacity Balance Summary, Total: Existing and Planned Supply, years 2021-2030
- Line 10 - Capacity Balance Summary, Firm LSE procurement Requirement, Years 2019-2030
- Line 10 - Energy Balance Summary, Firm LSE procurement Requirement, Years 2019-2030
- Line 11 - Capacity Balance Summary, Net Surplus (or Need), years 2019-2030
- Line 11 - Energy Balance Summary, Net Surplus (or Need), years 2019-2030
- Line 12 - Energy Balance Summary, Generic Renewable Supply, years 2020-2030

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

- Column K – Capacity (MW) Under Contract

Length of Time the Information Should be Kept Confidential

EBCE requests that the Commission keep EBCE's information confidential and protected from public disclosure for a period of 3 years. This length of time is needed to ensure that EBCE'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 EBCE, EBCE's ratepayers, and the electricity market as a whole.

Provisions of Law Allowing Commission to Keep the Documentation Confidential

The Public Records Act exempts “trade secrets” from public disclosure, including “any formula, plan, ... production data, or compilation of information ..., which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service...and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.” (Govt. Code § 6254.7(d); see also, §§ 6254(k) and 6254.15; Evid. Code § 1060).

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.” (20 CRR § 2505(a)(1)(D).)

EBCE 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 a loss of a competitive advantage to EBCE. The forecasted load and supply data in these Forms would reveal EBCE’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 EBCE by undermining EBCE’s negotiating position, both as a buyer and a seller.

The Public Records Act also exempts records from public disclosure if the public interest in nondisclosure clearly outweighs the public interest in disclosure (Govt. Code § Section 6255(a)). Thus, even if there were no trade secret exemption, there is still a separate basis for not publicly-releasing EBCE’s confidential information, since the disclosure of the information has the potential to undermine EBCE’s market position and disrupt energy markets more generally.

Submitted Information Is Presently Confidential

EBCE does not publicly disclose forecasted energy and capacity positions. EBCE considers such information market sensitive, as public disclosure of this information could compromise EBCE’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), EBCE seeks protection of this information from public disclosure in those forums.

EBCE’s confidential information can be disclosed if it is aggregated with other load serving entities’ information at a level that does not permit EBCE’s confidential information to be derived from the aggregated data.

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 EBCE.

Signed: */s/Jim Dorrance*

Name: Jim Dorrance

Title: Power Resources Manager

Representing: East Bay Community Energy