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| <b>Docket Number:</b>   | 21-IEPR-02   |
| <b>Project Title:</b>   | Electricity Resource Plans   |
| <b>TN #:</b>            | 239932   |
| <b>Document Title:</b>  | SCE Application for Confidential Designation and Correlating Table Supply Forms 2021 |
| <b>Description:</b>     | N/A  |
| <b>Filer:</b>           | Southern California Edison Company   |
| <b>Organization:</b>    | Southern California Edison   |
| <b>Submitter Role:</b>  | Applicant  |
| <b>Submission Date:</b> | 10/1/2021 2:24:11 PM   |
| <b>Docketed Date:</b>   | 10/1/2021  |

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

**2015 INTEGRATED ENERGY POLICY REPORT  
DOCKET NUMBER 21- IEPR-02**

Applicant: Southern California Edison Company (SCE)

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**1. Identification of the information being submitted**

SCE submits its 2021 Electricity Resource Planning Supply Forms S-1, S-2 and S-5. The Excel file submitted by SCE is titled 2021 IEPR Supply Forms\_Confidential. The file size is 451 kilobytes. SCE used the forms provided by the California Energy Commission (CEC) for this year's submissions. Those forms are filed concurrently with this application. Each form conspicuously labels confidential data by highlighting that data in yellow.

This year's IEPR S-2 form requests information not previously sought. In that past, the data requested and provided by SCE was system data and therefore reflected aggregated sums of all LSEs in the system. The data requested this year is specific to SCE and its bundled customers' open position. As such, if its confidentiality is not maintained, SCE's bundled position will be revealed, allowing third party market participants to engage in market manipulation that would drive up prices for SCE's customers. SCE therefore submits this new application for confidential designation of the data highlighted yellow in Form S-2 on Rows 680/Line 9, 681/10, and 682/11.

The CEC has already previously designated all other data in SCE's Supply Forms S-1, S-2, and S-5 that is highlighted in yellow as confidential. SCE therefore respectfully requests that the CEC maintain that designation for this year's IEPR without the need for a new application.

## **2. Description of the data for which confidentiality is being requested.**

SCE respectfully requests that the CEC designate the following parts of Form S-22 confidential and exempt from public disclosure. SCE requires confidential treatment of the information contained in the following rows for the time periods specified below.

- **Row 680/ Line 9:** Total Existing and Planned Supply for 2020- 2024
- **Row 681/Line 10:** Firm LSE Procurement Requirement for 2020-2024
- **Row 682/Line 11:** Net Surplus or Need for 2020-2024

## **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 reasons discussed in more detail below, SCE requests that the specified information above be restricted from public disclosure based on a window of confidentiality looking three years forward and one year back, or the entire forecast for a three-year period. As data becomes one year old, the 1-year window of confidentiality for historical data becomes applicable. This methodology is consistent with the California Public Utilities Commission's (CPUC's) Decision (D.) 06-06-066, as modified by D.07-05-032, and its attached Confidentiality Matrix.<sup>1</sup>

Specifically, the three rows of data listed above would reveal SCE's bundled net open long or short position for capacity and total bundled customer energy forecast, which the CPUC has designated three years of forecast data as confidential.<sup>2</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 has endeavored to work collaboratively with the CPUC to assure regulatory consistency and should continue to employ that practice with respect to its disposition of this application.

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<sup>1</sup> D.06-06-066, as modified by D.07-05-032, Confidentiality Matrix, p. 2, fn. 6.

<sup>2</sup> See Sections V.C, VI.A (front three years of the forecast are confidential), and X (bundled total demand public after data are one year old) of the Confidentiality Matrix.

**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.**

SCE purchases and sells large quantities of electrical energy on behalf of its customers. The marketplace for such purchases and sales is highly competitive. Accordingly, information about the timing and quantity of energy SCE must sell or needs to purchase to serve its customers is extremely valuable and, if revealed, could place SCE at a competitive disadvantage when purchasing or selling energy. For this reason, CPUC decisions protect such information from public disclosure and dissemination by prohibiting SCE from sharing such data with third parties. As noted above, SCE encourages the CEC to adopt a methodology that is consistent with the one utilized by the CPUC for maintaining the confidentiality of such information so that SCE is not violating the CPUC's regulations in order to comply with the CEC's regulations.

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 and discern SCE's bundled net open position. By providing data that would allow third party market participants to discern 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. 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>3</sup>

The Section 25322 of the California Public Resources Code governing the confidentiality of information gathered by the CEC follows the same standard.<sup>4</sup> Specifically, if the information is exempt from disclosure under the California Public Records Act, “[t]he commission shall grant the [confidentiality] request.”<sup>5</sup>

The data for which SCE seeks confidential protection here are trade secrets because they derive value from not being known to the public. In fact, public disclosure of this information would cause electricity prices to materially increase, which would harm customers. Accordingly, SCE makes reasonable efforts to maintain its secrecy.

Although the CPUC’s decisions and the statutes applicable to the CPUC may not bind the CEC, as a matter of comity and consistency, SCE requests that the CEC apply the same level of confidential protection to information as provided by the CPUC. In D.06-06-066, as modified by D.07-05-032, the CPUC adopted 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), which provides that “the [CPUC] shall adopt appropriate procedures to ensure the confidentiality of any market sensitive information . . .” The CEC, and numerous other stakeholders, participated in the proceeding

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<sup>3</sup> Civil Code §3426.1(d).

<sup>4</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>5</sup> *Id.*

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>6</sup>

SCE seeks protection of information identified by the CPUC as market sensitive in the Confidentiality Matrix. 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. 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 CEC 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, SCE requests that the CEC protect SCE's market sensitive information just 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 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.

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<sup>6</sup> See D.06-06-066 at 40-43 and Finding of Fact No. 2, at p. 76.

**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 to the detriment of customers. By providing a critical factor in the calculation of SCE's position, market participants would potentially be able to calculate whether SCE has sufficient resources to meet that demand. 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. All the data for which SCE seeks protection is "market sensitive" and protected under the CPUC-approved Confidentiality Matrix.

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 CEC 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 in form S-2 that SCE has identified as confidential, 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>7</sup> and other CPUC procedural safeguards to 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 to 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, SCE.

Dated: October 1, 2021

Signed: /s/ Eric Lavik  
Name: Eric Lavik  
Title: Principal Manger, Portfolio Reporting and Financial Analysis

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<sup>7</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 commission or a commissioner in the course of a hearing or proceeding. Any present or former officer or employee of the commission who divulges any such information is guilty of a misdemeanor."