

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:

Address:

Phone and E-mail:

Proceeding or Project Name:

Docket Number:

- 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.**

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

Form S-2A: Cells F10:DU119
Form S-5: I9:1157

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.

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.

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.

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.

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.

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: _____

Signed: _____



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

CEC-13 (Revised 03/17)

CALIFORNIA ENERGY COMMISSION

Name (print or type): _____

Title: (print or type) _____

Representing: _____

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

Attachment 1

September 9, 2022

Drew Bohan, Executive Director
California Energy Commission
1516 Ninth Street
Sacramento, California 95814

RE: **Docket No. 22-IEPR-03 – Electricity Forecast**
Application of City of San Jose, administrator of San Jose Clean Energy for Confidential Designation of Information Contained in its 2022 Integrated Energy Policy Report Electricity Resource Plan Forms.

Director Bohan,

The City of San Jose, administrator of San Jose Clean Energy (“SJCE”) requests that certain information included in its completed 2023 Integrated Energy Policy Report (“IEPR”) Electricity Resource Planning Forms (Form S-2, Form S-2A and Form S-5) being submitted to the California Energy Commission (“CEC”) be designated confidential pursuant to Title 20, Cal. Code. Regs., Section 2505 et seq.

In accordance with the CEC’s *Forms and Instructions for Submitting Electricity Resource Plans Prepared in Support of the 2023 Integrated Energy Policy Report*, SJCE is providing the following information in support of its application for confidentiality designation.

Contact Information

Applicant: City of San Jose, administrator of San Jose Clean Energy
Address: 200 E. Santa Clara Street, 14th Floor
San Jose, California 95113

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

Taylor Knecht
Senior Policy Analyst
City of San Jose, administrator of San Jose Clean Energy
Taylor.Knecht@sanjoseca.gov

Description and Identification of Confidential Information

SJCE seeks confidential treatment of information regarding capacity and energy supply for bilateral power purchase contracts provided on Form S-2 in cells P10:Y10, AC10:AL10, P14:Y19, AC14:AL19, P21:Y21, P23:Y87, AC21:AL21, AC23:AL87, P90:Y90, AC90:AL90, P94:Y94, AC94:AL94, P102:Y208, AC102:AL208, P210:Y222, AC210:AL222, P224:Y340,

AC224:AL340, P342:Y342, AC342:AL342, P344:Y344, AC344:AL344, P347:Y349, AC347:AL349 and monthly capacity and energy forecast supply data in Form S-2A in cells F10:DU119. In addition, SJCE seeks confidential treatment of contracted capacity information listed in cells I9:I157 on Form S-5. The information subject to SJCE's confidentiality application has been highlighted in yellow cell-fill in SJCE's confidential Form S-2, Form S-2A, and Form S-5 submissions.

Length of Time the Information Should be Kept Confidential

SJCE requests that the confidential information described in the previous section be kept confidential for a period of three (3) years. This length of time is needed to ensure that SJCE's detailed bilateral contract information remains secure from market participants who could otherwise make competitive use of this information to the detriment of SJCE, its customers, and the electricity market as a whole.

Justification for Request of Confidential Treatment

An application for confidentiality shall be granted when an applicant makes a reasonable claim that the Public Records Act or other source of law authorizes the CEC to keep records confidential (Cal. Code Regs., tit. 20, § 2505(a)(3)(A)). The Public Records Act exempts disclosure of records that are subject to provisions of the Evidence Code relating to privilege (Cal. Gov't Code § 6254(k)). These privileged records include those containing "trade secrets" and allows the owner of a trade secret to prevent another from disclosing it (Cal. Evid. Code § 1060). Trade secrets have been defined as "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 other persons who can obtain economic value from its disclosure or use." (Cal. Civ. Code § 3426.1; *see also* Gov't Code § 6254.7 and § 6254.15 for similar definitions). The CEC'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).)

Forms S-2, S-2A and S-5 contain confidential and trade secret information regarding SJCE's resource adequacy position, obligation, forecasts, and projected compliance, as well as its energy demand forecasts. SJCE is a relatively small program as compared to large investor-owned utilities such as Pacific Gas & Electric, and SJCE procures its electricity through a relatively small number of contracts. If provided with marked data on Forms S-2, S-2A and S-5, other market participants would have insight into SJCE's open portfolio position and resource adequacy obligations, giving suppliers and competitors an advantage and harming SJCE and its customers.

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)). Even if SJCE's data is not considered "trade secrets," there is a separate basis for not publicly disclosing SJCE's confidential information because the public interest in keeping SJCE's market sensitive and proprietary information confidential outweighs the public interest in making them public. The data inputted in the Electricity Resource Planning forms contains some of SJCE's market sensitive information, including resource adequacy supply and commercial contract terms

that are not public. SJCE does not publicly disclose its open position with respect to resource adequacy or energy demand. This information included constitutes confidential and market sensitive information which, if released, would put SJCE at a competitive disadvantage vis-à-vis other market participants and, consequently, compromise SJCE's ability to procure resources on terms favorable to its ratepayers. It is in the public interest to withhold such information from disclosure, given the sensitivity of the information and the potential harm that would be caused by its disclosure.

Declaration

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 SJCE.

Dated: September 9, 2022

/s/ Taylor Knecht

Taylor Knecht
Senior Policy Analyst
City of San Jose, administrator of San Jose Clean Energy
Taylor.Knecht@sanjoseca.gov