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<b>Project Title:</b>	Electricity and Gas Demand Forecast
<b>TN #:</b>	250899
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June 30, 2023

**Via email**

Daniel S. Hashimi  
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**Application for Confidential Designation for Data in Integrated Energy  
Policy Report  
Docket No. 23-IEPR-03**

Dear Daniel S. Hashimi:

The California Energy Commission (CEC) has received Pacific Gas and Electric Company's (applicant/PG&E) Application for Confidentiality docketed May 19, 2023, (TN 250221) covering the following data:

- Form 1.6: Natural Gas Commodity Price, Electricity Price, Average Natural Gas Transportation Rate by Customer Class, and Price of Renewable, Synthetic, or Hydrogen – Data pertaining to natural gas commodity prices

The applicant states that such data should be designated confidential for three years from the application date to protect the confidentiality of proprietary, market-sensitive information. The applicant asserts that the data constitutes commercially sensitive trade secrets under Government Code Section 7924.510(c).

**Confidentiality Claims**

An application for confidential designation shall be granted under California Code of Regulations, title 20, section 2505(a)(3)(A), "if the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the Commission to keep the record confidential." The executive director's determination made in response to an application for confidential designation is subject to a reasonableness standard. It is the applicant's burden to make a reasonable claim for confidentiality based on the California Public Records Act and other applicable laws.

The California Public Records Act allows for the non-disclosure of trade secrets including, among others, those records exempt from disclosure under the Uniform Trade Secrets Act. (Gov. Code, §§ 7927.705, 7930.005, 7930.205; Civ. Code, § 3426.1; Evid. Code, § 1060.)

Civil Code section 3426.1(d) defines "trade secret" as:

[I]nformation, including a formula, pattern, compilation, program, device, method, technique, or process, that: (1) Derives 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; and (2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. (Civ. Code, § 3426.1(d); See *also* Gov. Code, §§ 7927.705, 7930.005, 7930.205; Evid. Code, § 1061(a); *Uribe v. Howie* (1971) 19 Cal.App.3d 194, 207.)

California Code of Regulations, title 20, section 2505(a)(1)(D), states that if an applicant for confidential designation believes that the record should not be disclosed because it contains trade secrets, the application shall state: (1) the specific nature of the advantage, (2) how the advantage would be lost, (3) the value of the information to the applicant, and (4) the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

### **Discussion**

PG&E's application for confidentiality on the basis of trade secrets is evaluated as follows:

PG&E addresses the four elements necessary to establish a trade secret claim (Cal. Code Regs., tit. 20, § 2505(a)(1)(D)) for the accompanying information as follows:

- 1) *The specific nature of the advantage* – The natural gas commodity data is provided under third party contract as confidential and only to be shared with regulators. The data contains the natural gas commodity price paid per Therm and PG&E notes that other market participants could use the data to the detriment of PG&E ratepayers.
- 2) *How the advantage would be lost* – Disclosing the data could lead to higher costs for PG&E ratepayers.
- 3) *The value of the information to the applicant* – No specific dollar value noted but the data is acquired under third party contract as confidential and is only to be shared with regulators. Disclosing the data could lead to increased costs for PG&E ratepayers.
- 4) *The ease or difficulty with which the information could be legitimately acquired or duplicated by others* – The data cannot be legitimately acquired or duplicated by others.

The applicant has made a reasonable claim that the submitted information is exempt from disclosure as business proprietary or trade secrets.

Therefore, the CEC designates the above-described information as confidential for three years.

### **Executive Director's Determination**

For the reasons stated above, confidentiality is approved as to the information submitted in TN 250221 for a period of three years.

Be advised that under title 20, California Code of Regulations section 2506, one may petition to inspect or copy records that the CEC has designated as confidential. A decision on a petition to inspect or copy records is issued by the CEC's chief counsel. Under title 20, California Code of Regulations section 2507, the executive director may disclose, or release records previously designated as confidential in certain circumstances, and the CEC may hold a hearing to determine the confidentiality of its records on its own motion or on a motion by CEC staff. The procedures and criteria for disclosing or releasing, filing, reviewing, and acting upon such petitions or motions are set forth in the title 20, California Code of Regulations, sections 2506-2508.

If you have questions, please email [confidentialityapplication@energy.ca.gov](mailto:confidentialityapplication@energy.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Drew Bohan', with a stylized flourish at the end.

Drew Bohan  
Executive Director