

## CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512

June 20, 2005

03-RPS-1078

Meredith E. Allen, Esq.  
San Diego Gas and Electric Company  
101 Ash Street  
San Diego, CA 92101

RE: **Application for Confidential Designation,  
Response to RPS Short List Data Request,  
Docket Nos. 03-RPS-1078 and 02-REN-1038**

<b>DOCKET</b> 02-REN-1038
DATE JUN 20 2005
RECD. JUN 21 2005

Dear Ms. Allen:

On June 2, 2005, the San Diego Gas and Electric Company (SDG&E) submitted information in response to the Energy Commission's April 22, 2005, RPS Short List Data Request (SLDR), together with an Application for Confidentiality (Application). This Application was submitted pursuant to the California Code of Regulations, Title 20, section 2505, and seeks the confidential designation of various information submitted by SDG&E. Energy Commission staff have reviewed SDG&E's Application in light of its SLDR responses and seeks additional information as identified below in order to fully evaluate the Application. This information is broken out by the SLDR number for Bids Below and Above the MPR and is requested pursuant to Title 20, section 2505(a)(3)(A). In responding to this request for additional information please refer to the enclosed tables, which summarize SDG&E's SLDR responses and the basis for keeping these responses confidential.

**For Bids Below The MPR**

Question 2 – Estimated aggregate annual generation for all bids.

SDG&E requests this data be kept confidential indefinitely, but indicates that it may be disclosed as part of the aggregated generation data released in SDG&E's annual compliance filings to the California Public Utilities Commission (CPUC). Will this aggregated annual generation data be discernable publicly once the executed contracts from SDG&E's RFO are filed with the CPUC for approval? Is there any point in time when this data will become stale and lose its potential value, for example, after three years, five years, etc.?

SDG&E requests this data be kept confidential because it could be used to derive the utility's "annual renewable net short" for future years. Please explain how this data could be used to calculate SDG&E's "annual renewable net short" in future years. Isn't it possible for market participants to determine SDG&E's renewable needs based on SDG&E's annual procurement plan and annual RPS compliance filings with the CPUC?

SDG&E also indicates that the data provides a picture of the utility's demand and strategies for conducting RPS procurement and that disclosure of this data will disadvantage the utility in its current contract negotiations. Aren't the utility's demands and procurement strategies identified in the SDG&E's annual procurement plan and annual RPS compliance filings with the CPUC? Please explain how SDG&E will be disadvantaged by the disclosure of this data.

Question 3 – Total number of short listed bids.

SDG&E requests this data be kept confidential until it has filed each of the contracts resulting from the RFO with the CPUC. By what date does SDG&E expect to have all such contracts filed with the CPUC? Is there a final date upon which SDG&E will terminate pending negotiations? What if pending negotiations fail to result in final contracts with some of the short listed bidders? How long should the data for these short listed bidders be kept confidential?

SDG&E requests this data be kept confidential because its disclosure will disadvantage the utility in its current contract negotiations to the detriment of the utility and its customers. Please explain how SDG&E or its customers would be disadvantaged by the disclosure of this data.

Question 5 – What percentage of generation in short listed bids represent projects that required transmission development beyond installing gen-ties?

SDG&E requests this data be kept confidential until it has filed each of the contracts resulting from the RFO with the CPUC. What if pending negotiations fail to result in final contracts with some of the short listed bidders? How long should the data for these short listed bidders be kept confidential?

SDG&E requests this data be kept confidential because its disclosure will disadvantage the utility in its current contract negotiations to the detriment of utility and its customers. Please explain how SDG&E or its customers would be disadvantaged by the disclosure of this data.

Question 6 – Single, aggregate weighted-average price for all short listed bids.

SDG&E request this data be kept confidential indefinitely. Will this data be discernable publicly once the executed contracts from SDG&E's RFO are filed with the CPUC for approval? Is there any point in time when this data will become stale and lose it potential value, for example, after three years, five years, etc.?

### **For Bids Above The MPR**

#### **Question 2** – Type of product bid by individual bidders.

SDG&E requests this data be kept confidential until it has filed each of the contracts resulting from the RFO with the CPUC. By what date does SDG&E expect to have all such contracts filed with the CPUC? Is there a final date upon which SDG&E will terminate pending negotiations? What if pending negotiations fail to result in final contracts with some of the short listed bidders? How long should the data for these short listed bidders be kept confidential?

SDG&E requests this data be kept confidential because its disclosure will disadvantage the utility in its current contract negotiations to the detriment of the utility and its customers. Please explain how SDG&E or its customers would be disadvantaged by the disclosure of this data.

#### **Question 3** – Number of years of energy delivery for individual projects.

SDG&E requests this data be kept confidential until it has filed each of the contracts resulting from the RFO with the CPUC. What if pending negotiations fail to result in final contracts with some of the short listed bidders? How long should the data for these short listed bidders be kept confidential?

SDG&E requests this data be kept confidential because its disclosure will disadvantage the utility in its current contract negotiations to the detriment of the utility and its customers. Please explain how SDG&E or its customers would be disadvantaged by the disclosure of this data.

#### **Question 4** – Contract price for individual projects levelized over the contract term.

SDG&E requests this data be kept confidential indefinitely. Will this data be publicly discernable if a project receives Supplement Energy Payments (SEP), the award and payment of which will be public? If so, why is SDG&E seeking confidentiality for an indefinite period of time? Is there any point in time when this data will become stale and lose its potential value, for example, after three years, five years, etc.?

#### **Question 5** – Year energy deliveries are expected to begin for each project.

SDG&E requests this data be kept confidential until each project comes on-line. Will this data be disclosed publicly when SDG&E files the contracts for these projects with the CPUC for approval? If so, why is SDG&E seeking confidentiality of this data until a project comes on-line? Is it possible that this data may be publicly disclosed by SDG&E and/or the bidders prior to a project coming on-line, for example, as part of the regulatory permitting process, if any, required to develop and/or operate a project? Will

this data be publicly discernable before a project comes on line if a project receives SEPs, the award and payment of which will be public?

SDG&E requests this data be kept confidential because its disclosure will disadvantage the utility in its current contract negotiations to the detriment of the utility and its customers. Please explain how SDG&E or its customers would be disadvantaged by the disclosure of this data.

In addition, SDG&E indicates that disclosure of this data may impact negotiations that bidders may be having regarding fuel and/or land rights, interconnection, CAISO-related agreements and permits. Please explain how these negotiations may be impacted by the disclosure of this data.

Question 7 – Have negotiations with each bidder begun?

SDG&E requests this data be kept confidential until it has filed each of the contracts resulting from the RFO with the CPUC. SDG&E requests this data be kept confidential because its disclosure will disadvantage the utility in its current contract negotiations to the detriment of the utility and its customers. Please explain how SDG&E or its customers would be disadvantaged by the disclosure of this data.

Question 8 – Estimated date to complete negotiations with each bidder.

SDG&E requests this data be kept confidential until it has filed each of the contracts resulting the RFO with the CPUC. SDG&E requests this data be kept confidential because its disclosure will disadvantage the utility in its current contract negotiations to the detriment of the utility and its customers. Please explain how SDG&E or its customers would be disadvantaged by the disclosure of this data, given the fact that this data is only an estimate.

Question 9 – Is new transmission beyond a gen-tie addition or upgrade needed to connect each project to grid?

SDG&E requests this data be kept confidential until it has filed each of the contracts resulting from the RFO with the CPUC. What if pending negotiations fail to result in final contracts with some of the short listed bidders? How long should the data for these short listed bidders be kept confidential?

SDG&E requests this data be kept confidential because its disclosure will disadvantage the utility in its current contract negotiations to the detriment of the utility and its customers. Please explain how SDG&E or its customers would be disadvantaged by the disclosure of this data.

Question 10 – Weighted-average bid price in nominal ¢/kWh for each year of a project's expected delivery.

SDG&E requests this data be kept confidential indefinitely. Will this data be publicly discernable if a project receives SEPs, the award and payment of which will be public? If so, why is SDG&E seeking confidentiality for an indefinite period of time? Is there any point in time when this data will become stale and lose its potential value, for example, after three years, five years, etc.?

Question 10 – Estimated annual generation for each project.

SDG&E requests this data be kept confidential indefinitely, but indicates that it may be disclosed as part of the aggregated generation data released in SDG&E's annual compliance filings to the CPUC. Will this data be discernable publicly if a project receives SEPs, the award and payment of which will be public? Is there any point in time when this data will become stale and lose its potential value, for example, after three years, five years, etc.?

SDG&E requests this data be kept confidential because it could be used to derive the utility's "annual renewable net short" for future years. Please explain how this data could be used to calculate SDG&E's "annual renewable net short" in future years. Isn't it possible for market participants to determine SDG&E's renewable needs based on SDG&E's annual procurement plan and annual RPS compliance filings with the CPUC?

SDG&E also indicates that the data provides a picture of the utility's demand and strategies for conducting RPS procurement and that disclosure of this data will disadvantage the utility in its current contract negotiations. Aren't the utility's demands and procurement strategies identified in the SDG&E's annual procurement plan and annual RPS compliance filings with the CPUC? Please explain how SDG&E will be disadvantaged by the disclosure of this data.

### **For All Bids**

Regarding efforts by SDG&E to keep the SLDR response data confidential, please explain whether SDG&E has entered into confidentiality agreements with each of its short listed bidders that obligate the parties to keep data confidential. Please provide a copy of any such confidentiality agreement.

Please provide additional information as discussed herein within 10 business days of the date of this letter. Your response should be filed with the Energy Commission's

Meredith E. Allen  
June 20, 2005  
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Docket Unit with copies to the Energy Commission's Executive Director and Legal Office. If you have any questions concerning this matter, please contact me at (916) 654-5141.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gabriel Herrera', with a long horizontal flourish extending to the right.

GABRIEL HERRERA  
Senior Staff Counsel

Enclosures

cc: Vince Bartolomucci, SDG&E  
Docket Unit  
Scott Matthews  
Heather Raitt  
Marwan Masri  
Mike Jaske

SDG&E Application for Confidential Designation  
RPS Short List Data Request  
For Bids Below the MPR

SLDR No.	Information/Data Requested	Length of Time Confidentiality Requested	Basis for Requesting Confidential Designation	Public Interest in Not Disclosing	Effort Taken to Keep Confidential	Notes
2	Estimated aggregate annual generation for all bids below MPR	Confidential indefinitely. Disclosable as part of actual aggregated generation data released in annual compliance filing w/ CPUC.	Data could be used to derive utility's "annual renewable net short" for future years. Disclosure will disadvantage utility in its current contract negotiations. Data provide a picture of utility's demand and strategies for conducting RPS procurement. Gov Code § 6254, § 6255 PUC § 454.5	Disclosure will disadvantage utility during negotiations resulting in higher power prices to utility customers. Utility may not be able to achieve RPS goal, particularly on an accelerated 2010 schedule.	Access maintained on a confidential basis. Available by hard copy and electron-ically on a limited basis w/in certain departments that must have access for utility work. Hard copies kept in secure location. Data is password protected on computers. Access to areas where data available is restricted by key card.	
3	Total number of projects below MPR	Confidential until utility has filed each of the contracts for these projects w/ CPUC.	Disclosure will disadvantage utility in its current contract negotiations to the detriment of utility and its customers.	See above	See above	
4	% of 2004 APT to be met w/ projects	None	N/A	N/A	N/A	
5	What % of generation in bids represents projects that require trans. development beyond installing gen-ties	Confidential until utility has filed each of the contracts for these projects w/ CPUC.	Disclosure will disadvantage utility in its current contract negotiations to the detriment of utility and its customers.	See above.	See above.	
6	Single, aggregate, weighted-average price for all bids	Confidential indefinitely.	Disclosure would harm utility and customers in 2004 RFO and future RFOs by providing info on price utility is willing to pay and by providing info on supplier bid prices. Aggregate weighted-average	See above	See above.	

SDG&E Application for Confidential Designation  
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SLDR No.	Information/Data Requested	Length of Time Confidentiality Requested	Basis for Requesting Confidential Designation	Public Interest in Not Disclosing	Effort Taken to Keep Confidential	Notes
			price could become floor in future RFOs. Bidders currently engaged in negotiations w/ utility could use aggregate weighted-average price to compare their bids and negotiate accordingly to the utility's detriment. Bidders have requested this data be kept confidential. CPUC standard T&Cs allow pricing info to be kept confidential.			
7	Response data current as of what date	None	N/A	N/A	N/A	



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For Bids Above the MPR

SLDR No.	Information/Data Requested	Length of Time Confidentiality Requested	Basis for Requesting Confidential Designation	Public Interest in Not Disclosing	Effort Taken to Keep Confidential	Notes
2	Type of product bid by project	Confidential until utility has filed each of the contracts for these projects w/ CPUC.	Disclosure will disadvantage utility in its current contract negotiations to the detriment of utility and its customers.	Disclosure will disadvantage utility during negotiations resulting in higher power prices to utility customers. Utility may not be able to achieve RPS goal, particularly on an accelerated 2010 schedule.	Access maintained on a confidential basis. Available by hard copy and electron-ically on a limited basis w/in certain departments that must have access for utility work. Hard copies kept in secure location. Data is password protected on computers. Access to areas where data available is restricted by key card.	
3	Number of years of energy delivery for project	Confidential until utility has filed each of the contracts for these projects w/ CPUC.	Disclosure will disadvantage utility in its current contract negotiations to the detriment of utility and its customers.	See above	See above	
4	Contract price for project levelized over the contract term	Confidential indefinitely.	Disclosure would harm utility and customers in 2004 RFO and future RFOs by providing info on price utility is willing to pay and by providing info on supplier bid prices. Aggregate weighted-average price could become floor in future RFOs. Bidders currently engaged in negotiations w/ utility could use aggregate weighted-average price to compare their bids and negotiate accordingly to the utility's	See above	See above	

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			detriment. Bidders have requested this data be kept confidential. CPUC standard T&Cs allow pricing info to be kept confidential. Gov Code § 6254, § 6255 PUC § 454.5			
5	Year energy deliveries from project are expected to begin	Confidential until the project comes on-line.	Disclosure will disadvantage utility in its current contract negotiations to the detriment of utility and its customers.	See above.	See above.	
6	Adjusted MPR used for project's contract	None	N/A	N/A	N/A	
7	Have Negotiations Begun	Confidential until utility has filed each of the contracts resulting from RFO w/ CPUC.	Disclosure will disadvantage utility in its current contract negotiations to the detriment of utility and its customers.	See above	See above	
8	Estimated date to complete negotiations w/ each bidder	Confidential until utility has filed each of the contracts resulting from RFO w/ CPUC.	Disclosure will disadvantage utility in its current contract negotiations to the detriment of utility and its customers.	See above	See above	
9	Is new transmission beyond a gen-tie addition or upgrade needed to connect project to grid	Confidential until utility has filed each of the contracts for these projects w/ CPUC.	Disclosure will disadvantage utility in its current contract negotiations to the detriment of utility and its customers.	See above	See above	
10	Weighted-average bid price in nominal ¢/kWh for each year of expected delivery	Confidential indefinitely.	Disclosure of price data would harm utility and customers in 2004 RFO and future RFOs by providing info on price utility is willing to pay and by providing info on supplier bid prices.	See above	See above	

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SLDR No.	Information/Data Requested	Length of Time Confidentiality Requested	Basis for Requesting Confidential Designation	Public Interest in Not Disclosing	Effort Taken to Keep Confidential	Notes
			<p>Aggregate weighted-average price could become floor in future RFOs.</p> <p>Bidders currently engaged in negotiations w/ utility could use aggregate weighted-average price to compare their bids and negotiate accordingly to the utility's detriment.</p> <p>Bidders have requested this data be kept confidential.</p> <p>CPUC standard T&amp;Cs allow pricing info to be kept confidential.</p> <p>Gov Code § 6254, § 6255 PUC § 454.5</p>			
10	Estimated annual generation.	Confidential indefinitely. Generation data is disclosable as part of actual aggregated generation data released in annual compliance filing w/ CPUC.	<p>Generation data could be used to derive utility's "annual renewable net short" for future years.</p> <p>Disclosure will disadvantage utility in its current contract negotiations.</p> <p>Data provides a picture of utility's demand and strategies for conducting RPS procurement.</p> <p>Bidders have requested this data be kept confidential.</p> <p>CPUC standard T&amp;Cs allow pricing info to be kept confidential.</p> <p>Gov Code § 6254, § 6255 PUC § 454.5</p>	See above	See above	