

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

February 2, 2007

Ms. Aimee M. Smith
San Diego Gas & Electric Company
101 Ash Street, HQ-13
San Diego, CA 92101

DOCKET	
00-SB-1305	
DATE	FEB 02 2007
RECD.	FEB 05 2007

**RE: Application for Confidentiality:
Audit Verification 2005 Annual Power Content
Label and Annual Report
Docket No. 00-SB-1305**

Dear Ms. Smith:

On January 12, 2007, San Diego Gas & Electric Company (SDG&E) filed an application for confidential designation pertaining to the above-captioned information with the California Energy Commission (Energy Commission). Your application states, in part:

SDG&E is hereby requesting confidential treatment of monthly procurement-related data in its Audit/Verification of 2005 Annual Power Content Label and Annual Report. The specific provisions to be treated as confidential are highlighted in the Attachments attached to the Audit/Verification and are discussed below:

Section 1(a)

1. "2005 Deliveries" – Monthly electricity deliveries, in MWH, delivered by renewable resources.

Section 1(c)

2. "Miramar NGBA Revenue Requirement" – Monthly electricity generation, in MWH, generated by Miramar.

Section 1(d)

3. "2005 SDG&E Net Generation (MWH)" – Monthly electricity generation, in MWH, generated by San Onofre Nuclear Generating Station ("SONGS").

Section 1(e)

4. "San Diego Gas & Electric, 2005 Monthly Purchases" – Monthly electricity, in MWH, purchased through bi-lateral contracts.

5. "San Diego Gas & Electric, 2005 Monthly Sales" – Monthly electricity, in MWH, sold through bi-lateral contracts.

6. "Rincon 2005 Sales" – Monthly electricity, in WWH, sold in by Rincon.

SDG&E requests that the portions of the Annual Report for which it requests confidential designation herein be kept confidential for a minimum of three years. . . . The information discussed above provides competitively and commercially sensitive business and procurement information and trade secrets. . . . The primary public interest being protected is SDG&E's competitiveness as it transacts in the market for customer needs.

The California Public Records Act allows for non-disclosure of trade secrets. (Gov. Code, § 6254(k), Evid. Code, § 1060.) The California Courts have traditionally used the following definition of trade secret:

a trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. . . .

(*Uribe v. Howie* (1971) 19 Cal.App.3d 194, 207-208, 96 Cal.Rptr. 493, 500-501, from the Restatement of Torts, vol. 4, sec. 757, comment b, p. 5.)

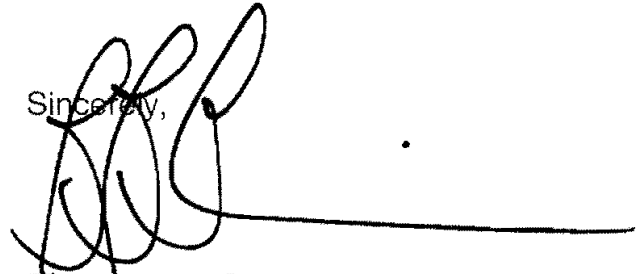
Your application does not make a reasonable argument under the Energy Commission's regulations for classifying the information that you have submitted as a trade secret. (Cal. Code Regs., tit. 20, § 2505.) Therefore, I must deny your request for confidentiality.

Specifically, with regard to Section 1(a), SDG&E has already filed similar information with the Energy Commission as part of the Renewable Portfolio Standard (RPS), which was published in the "CEC-RPS-Track," in January 2007, for 2005 data. Section 1(c) contains information that is filed with the Energy Information Administration (EIA) on Forms 906 and 860 and on the Federal Energy Regulatory Commission (FERC) Form 1, which are publicly available documents. Likewise, Section 1(d) contains information filed with FERC on Form 1. The information submitted in Section 1(e) is not the information the Energy Commission is seeking. The Energy Commission needs annual procurement and sales data from individual power plants rather than the monthly data that SDG&E has provided. Accordingly, we will destroy the monthly data that has been submitted, and ask that you provide us with the annual data. The Energy Commission only needs procurement information that could be tied to individual power plants. Finally, the Rincon 2005 information contained in Section 1(e) is publicly available information and filed with the EIA.

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The procedures and criteria for appealing this decision are set forth in the California Code of Regulations, title 20, section 2505. Be advised that an appeal of this decision must be filed within 14 days from my decision. If you have any further questions regarding this decision, please contact Fernando De Leon, Senior Staff Counsel, at (916) 654-4873.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

B. B. BLEVINS
Executive Director

cc: Project Manager
Docket Unit