

CALIFORNIA ENERGY COMMISSION

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March 19, 2009

DOCKET**09-IEP-1B**DATE MAR 19 2009RECD. MAR 19 2009

Mr. John A. Pacheco
San Diego Gas & Electric Company ("SDG&E")
101 Ash Street, HQ 12
San Diego, California 92101-3017

RE: Docket 09-IEP-1B SDG&E Application for Confidential Designation of Resource Plan Data

Dear Mr. Pacheco,

On February 13, 2009, San Diego Gas & Electric Company (SDG&E) submitted an Application For Confidentiality (Application) in the above-captioned Docket. The application seeks confidentiality for certain information contained in SDG&E's Electricity Resource Plan filing provided to the California Energy Commission (Energy Commission) in connection with the *2009 Integrated Energy Policy Report*. SDG&E is seeking to protect from public disclosure specific categories of data and information about SDG&E's electricity supplies in 2007 through 2018. This data and information was provided on the following forms:

- Form S-1 Capacity Resource Accounting Table (CRATS)
- Form S-1 Monthly
- Form S-2 Energy Balance Table
- Form S-2 Monthly, and
- Form S-5 Bilateral Contracts for each applicable contract or aggregation of contracts

In support of its request for confidentiality, the Application from SDG&E states, in part:

"In developing this request SDG&E is attempting to seek a balance between public disclosure and protecting ratepayer's interest. SDG&E's sole objective is to not disclose to the market data which could result in higher costs to consumers. These forms provide competitively and commercially sensitive business and resource planning information and trade secrets. Again, there is a demonstrable risk of harm to ratepayers if the information were to be released." (Application at 1, 5, and 6)

The length of time for keeping records confidential varies somewhat by context.

- “SDG&E requests that the forecast data indicated be kept confidential for a period of three years, or through December 31, 2011. The three-year period is adequate time for the demand and supply forecast data to become ‘stale’ in terms of price movement in the electricity and gas markets.” (Application at 4)
- “Because historical information is generally less commercially sensitive than forecast information, SDG&E requests that its historic peak demand information be kept confidential for a period of one year, or through December 31, 2009.” (Application at 4)
- “SDG&E also requests that its bilateral contract and power purchase agreement information are kept confidential for three years from the date the contract starts deliveries or until one year following expiration of the contract, whichever comes first. Public knowledge of this information could lead to financial harm to SDG&E’s ratepayers because it would allow other market participants to access specific terms that could be used to gain an unfair advantage in the otherwise competitive marketplace.” (Application at 4-5)

A properly filed application for confidentiality shall be granted under the 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 Energy Commission to keep the record confidential. “

With the exceptions noted below, SDG&E’s February 17, 2009, confidentiality application makes a reasonable claim to grant confidentiality for specific categories of data and information provided on the S-1, S-1 Monthly, S-2, S-2 Monthly, and S-5 forms. The information contained on these forms constitutes a trade secret; it would place SDG&E at a competitive disadvantage if disclosed, and this could lead to potentially higher costs to SDG&E ratepayers to the extent that it would create a risk of financial harm to ratepayers.

The 2008 peak demand information will not be kept confidential until December 31, 2009. This information is provided on form S-1, lines 9, 11, 12a, 13, 14, 24, 25, 27, and 31.

On the S-1 form, disclosure of data on lines 7, 8, and 9 is not granted confidentiality for any years in the forecast period, 2009-2018. Line 9 is the adjusted peak-hour demand for end use customers. On June 19, 2007, former Executive Director B. B. Blevins determined that this data on line 9 would not be confidential for the first three years of the forecast period or for subsequent years. For the same reasons stated previously, this data for years 2009-2018 on lines 10, 11, and 12a is not granted confidentiality.

The Energy Commission may use the information submitted by SDG&E in publicly available reports and presentations, but without disclosing confidential information to market participants. To prevent disclosure, confidential data that may be used in reports and presentations will be aggregated with resource plan information from other load-serving entities in order to conceal the confidential specifics of SDG&E's load forecasts, resource portfolio, or individual supply contracts.

The other categories of information contained on the S-1, S-1 Monthly, S-2, and S-2 Monthly for which confidentiality was requested by SDG&E on February 13, 2009, will be kept confidential until December 31, 2011.

The requested categories of information on bilateral contracts and power purchase agreements provided on individual S-5 forms will be kept confidential as follows:

- Blue Lake Power, LLC through April 1, 2012
- Bull Moose Energy of San Diego, LLC through December 1, 2012
- Covanta Delano (previously AES Delano) through January 1, 2011
- Cabrillo Energy I, LLC (a.k.a. NRG or Encina) through December 31, 2010
- EnerNoc (Celebrity Energy Partners, San Diego, LLC) through November 16, 2009
- Esmeralda Energy Company through July 1, 2015
- Esmerald-Truckhaven Geothermal, LLC through July 1, 2015
- MMR Power Solutions, LLC through June 2, 2013
- NaturEner Glacier Wind Energy 1, LLC through March 31, 2012
- NaturEner Glacier Wind Energy 2, LLC through December 31, 2012
- Otay Mesa Energy Center through October 3, 2012
- Orange Grove Energy, L.P. through October 1, 2012
- Pacific Wind, LLC through August 1, 2014
- MM Prima Deschecha Energy, LLC through October 1, 2010
- SDCWA Rancho Penasquitos Hydroelectric Facility through January 23, 2010
- SES Solar Two LLC through December 31, 2013
- Dynegy Southbay, LLC through May 1, 2010
- Wellhead Power Margarita, LLC through July 1, 2011

Information on an S-5 form for Aggregated Bio-gas is not granted confidentiality. The generating units (QF and bilateral), amount to 22 MW, and had "various" starting dates from 2003 to 2006. Consequently, information contained on this S-5 form does not rise to the level of a trade secret and is not granted confidentiality.

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Finally, persons may petition to inspect or copy the records that I have designated as confidential. The procedures and criteria for filing, reviewing, and acting upon such petitions are set forth in the California Code of Regulations, Title 20, Section 2506. Be advised that an appeal of this decision must be filed within 14 days from the date of my decision. The procedures and criteria for appealing any part of this decision are set forth in the California Code of Regulations, Title 20, Section 2505. If you have any questions concerning this matter, please contact Kerry Willis, Senior Staff Counsel, at (916) 654-3967.

Sincerely,

MELISSA JONES
Executive Director

JW:sdf

cc: Kerry Willis, Legal Office
Jim Woodward, Electricity Analysis Office