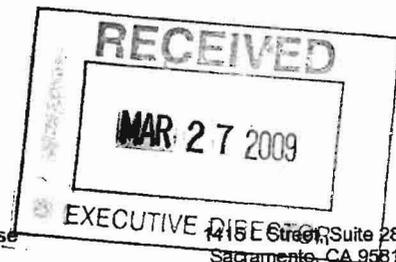


COMPLETED



**Pacific Gas and Electric Company**



Mark Krausse  
Director  
State Agency Relations

1415 Street, Suite 280  
Sacramento, CA 95814

(916) 386-5709  
(916) 386-5720 Fax  
mckd@pge.com

March 26, 2009

Melissa Jones, Executive Director  
California Energy Commission  
Attn: Docket 09-IEP-1  
1516 Ninth Street  
Sacramento, CA 95814

|                  |             |
|------------------|-------------|
| <b>DOCKET</b>    |             |
| <b>09-IEP-1B</b> |             |
| DATE             | MAR 26 2009 |
| RECD.            | MAR 27 2009 |

**Re: Docket: 09-IEP-1 – PG&E's data response**

Dear Ms. Jones,

The accompanying narrative, compact disks, and paper copies contain PG&E's response to the California Energy Commission's request for information related to PG&E's historical and forecast data regarding electricity demand, supply and associated revenue requirements, as the CEC requested by its forms and instructions adopted in December, 2008, in preparation for the 2009 IEPR. We apologize for the delay in sending this information to you. We know you have a challenging schedule ahead of you in this IEPR, but we wanted to be sure that the version we are sending you reflected updated information and was adequately reviewed

We are also providing applications for confidential designation, for a limited subset of the data in these forms. For ease of review, we have provided two different copies of the paper and electronic data sets – one confidential version and one with the confidential cells blacked out. (We have not included paper copies of Form 1.6; the files are too large.) PG&E requests that the Commission promptly grant this request in order to ensure protection of this confidential, proprietary, and competitive-sensitive trade secret information.

We are providing two different scenarios for investing in future electric resources. Scenario 1 has forecasted RPS resources to meet a 20% minimum RPS target by 2013 and beyond, while Scenario 2 accelerates RPS resource additions more quickly beginning in 2015 to achieve a 33% RPS target by 2020. Although we provide forecasted revenue requirements and sales associated with the two cases, it is worth noting that the resultant projected rates could well be different, because we cannot consider any subsequent real-world events and factors that will change the forecast.

Please also note that, as a general matter, the forward looking information contained in this response is preliminary in nature, given that future events and regulatory decisions that have not been taken into account are likely to occur and these events and decisions may significantly affect the information in this response. Thus, PG&E does not purport that the information contained in this response will reflect actual future rates, revenue requirements, or sales.

PG&E has developed this information after discussing the data requirements with Commission staff. We value the cooperative working relationship we have with your analysts, and encourage you to call me at the number above, or Kathy Treleven at (415) 973-4185, with any questions or concerns you might have.

Sincerely,

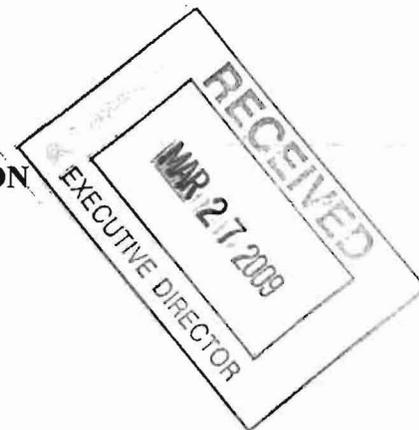
A handwritten signature in black ink, appearing to read 'Mark Krausse', with a long, sweeping horizontal line extending to the right.

Mark Krausse

COMPLETED

APPLICATION FOR CONFIDENTIAL DESIGNATION  
(20 CCR SECTION 2025)

2009 INTEGRATED ENERGY POLICY REPORT  
Docket Number 09-IEP-1 B



Applicant: Pacific Gas and Electric Company ("PG&E")

Attorney for Applicant: Christopher J. Warner  
Address of Attorney: Chief Counsel  
Law Department  
Pacific Gas and Electric Company  
P.O. Box 7442  
San Francisco, CA 94120-75442  
CJW5@pge.com  
(415) 973-6695  
(415) 972-5220

1. (a) Title, data, and description of the record.

Electricity Supply forms issued by the California Energy Commission (CEC) for the 2009 Integrated Energy Policy Report.

(b) Specify the part(s) of the record for which you request confidential designation.

PG&E is providing in full all the information requested in Electricity Supply Forms S-1, S-2 and S-5<sup>1</sup>. This information is available to all Commissioners and to staff members on the 2009 Integrated Energy Policy Report Committee solely for its own use in the IEPR proceeding. However, PG&E is requesting confidential designation for certain information designated as confidential in Electricity Supply Forms S-1, S-2 and S-5.<sup>2</sup>

PG&E has provided Form S-1 (monthly and annual tables, 309 KB), Form S-2 (monthly and annual tables, 112 KB) and Form S-5 (bilateral contracts, 691 KB). The CEC granted confidentiality to the below data categories in the 2007 IEPR forms on March 12, 2007 and May 9, 2007 (except as described below for certain historical data categories in Form S-1, certain forecasted annual 2009 hydro data in Form S-2, and certain locational or delivery attributes in Form S-5 that PG&E is also seeking confidentiality). PG&E's request for confidentiality in these 2009 IEPR forms is consistent with those decisions for similar data, copies of which are

<sup>1</sup> Form S-3 is only for publicly owned LSE with annual peak loads under 200 MW; and Form S-4 regarding QF contract data was not requested.

<sup>2</sup> PG&E requests that the confidentiality of this information be maintained by restricting access to hard copies and controlled electronic files only and solely to the IEPR proceeding.

attached. The types of data contained in these categories are unchanged or substantially similar to the categories in the 2007 IEPR forms. PG&E requests that these categories be deemed confidential for the same reasons as presented in the 2007 IEPR are still relevant.

**2. State and justify the length of time the Commission should keep the record confidential.**

PG&E requests that the following categories of information designated as confidential be kept confidential for a period of three years from submission, i.e. until April 1, 2012 or, for Form S-5, until the contract expiration date, whichever is later. PG&E believes that this confidentiality is required to ensure that supply and resource data do not reveal PG&E's "net open" and ongoing and future procurement and competitive positions and strategies, thereby compromising PG&E's ability to secure the most favorable deals for customers. It is in the public interest to protect data concerning PG&E's net open position from disclosure to market participants and competitors, in order that such market participants and competitors not manipulate or misuse the information in order to raise capacity and energy prices during a period when real or perceived imbalances in supply and demand may exist. This competitive and market sensitive information should remain confidential, as knowledge about PG&E's specific procurement needs and patterns could undermine its competitive position and current business plans. At the same time, the public interest in ensuring that the State's energy policy plans and forecasts include this information is protected, because the information is being made available to the Commission staff and all Commissioners for internal use in the IEPR proceeding without restriction, as well as for public use on an aggregated basis.

**Supply Form S-1 (Capacity)**

Forecast Period (2009 -2020)

PG&E requests confidentiality for the following lines for each month of 2009 through 2011, except for the yearly peak month:

- Line 1a, Forecast Total Peak-Hour 1-in-2 Demand;
- Line 7, Direct Access Loads (-/+);
- Line 9, Adjusted Peak-Hour Demand: End-Use Customers;
- Line 10, Coincidence Adjustment (-);
- Line 11, Coincident Peak-Hour Demand;
- Line 12a, Required Planning Reserve Margin (for example, 15%);
- Line 12b, Credit for Imports That Carry Their Own Reserves (-);
- Line 16a, Total Dependable Nuclear Capacity; and
- Line 16b, Diablo Canyon Unit 1 & 2.

PG&E requests confidentiality for the following lines for each month of 2009 through 2020:

- Line 13, Firm Sales Obligations;
- Line 14, Firm LSE Peak-Hour Resource Requirement;
- Line 20a, Total QF Capacity;
- Line 20g, QF - Natural Gas;
- Line 20h, QF - Other;
- Line 22a, Total Capacity From Other Bilateral Contracts;
- Line 22b, Non-Renewable DG Supply; and
- Line 22c & 22o-t, bilateral contracts with Puget Sound, JRSimplot, Los Medanos, Metcalf, Elk Hills, Reliant Energy, and Morgan Stanley Capital.

PG&E requests confidentiality for the following lines for each month of 2009 through 2011:

- Line 22d-n, bilateral contracts with Pittsburg 5-7, Potrero 3-6, Contra Costa 6-7, and Moss Landing 6-7;
- Line 23, Short-Term and Spot Market Purchases;
- Line 24, Total: Existing and Planned Capacity;
- Line 25, (Resource Need) or Resource Surplus;
- Line 27, Generic Non-Renewable Resources; and
- Line x27, Generic Non-Renewable Resources.

#### Historical Period (2007-2008)

The 2009 IEPR is the first year historical information is being requested, and therefore not covered in past IEPR confidentiality decisions. As described in the documents supporting Form S-1, supply resource values do not necessarily represent the actual peak capacity that was realized during the historical period. Rather, they represent a reasonable approximation of likely peak capacity. The approximation for the below data categories relating to QF and other bilateral contracts was developed by repeating the forecasted 2009 peak values. Since PG&E is seeking (and has previously been granted<sup>3</sup>) analogous forecasted 2009 peak values for the below data categories to be confidential, to be consistent, PG&E also requests confidentiality for the following limited set of data categories for the historical period which would divulge the confidential forecast period.

PG&E requests confidentiality for the following lines for each month of 2007 and 2008:

- Line 20a, Total QF Capacity;
- Line 22a, Total Capacity From Other Bilateral Contracts; and
- Line 22c-q, bilateral contracts with Puget Sound, Pittsburg 5-7, Potrero 3-6, Contra Costa 6-7, Moss Landing 6-7, JRSimplot, Los Medanos, and Metcalf.

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<sup>3</sup> CEC Executive Director, B. B. Blevins, March 12, 2007 confidentiality decision.

## Supply Form S-2 (Energy)

Forecast Period (2009 -2020):

PG&E requests confidentiality for the following lines for each month and yearly totals of 2009 through 2011:

- Line 1a, Forecast Total Energy Demand / Consumption;
- Line 7, Direct Access Loads (-/+);
- Line 9, Adjusted Energy Demand / Consumption;
- Line 13a, Total Nuclear Energy Supply;
- Line 13b, Diablo Canyon Unit 1 & 2;
- Line 20, Short Term and Spot Market Purchases
- Line 21, Total: Existing and Planned Energy
- Line 22, (LSE Energy Need) or Surplus
- Line 24 & x24, Generic Non-Renewable Energy
- Line 25 & x25, Total Generic Resources to be Added
- Line 26h & x26h, Renewable Energy as a Percentage of End-Use Demand
- Line 27 & x27, Total Retail Sales
- Line 28 & x28, Renewable Energy as a Percentage of Retail Sales

PG&E requests confidentiality for the following lines for each month and yearly totals of 2009 through 2020:

- Line 10, Firm Sales Obligations;
- Line 11, Firm LSE Energy Requirement;
- Line 12a, Total Fossil Energy Supply;
- Line 12b-e, fossil energy for Humboldt Bay, Wartsila Humboldt, Colusa, and Gateway;
- Line 14d, Hydroelectric Energy in Dry-Year Conditions (1-in-5);
- Line 14e, Hydroelectric Energy in Wet-Year Conditions (1-in-5);
- Line 16a, Total Energy Supply From DWR Contracts;
- Line 16b-m, DWR energy for Calpine #1 Product 1, Los Esteros, Coral, Calpine #3, CalPeak Panoche, CalPeak Vaca Dixon , Wellhead Fresno, GWF, PacifiCorp, Wellhead Gates, Wellhead Panoche, and Kings River;
- Line 17a, Total Energy Supply from QF Contracts;
- Line 17g, QF - Natural Gas;
- Line 17h, QF - Other;
- Line 19a, Total Energy Supply From Other Bilateral Contracts;
- Line 19b, Non-Renewable DG Supply;
- Line 19c-r, bilateral contracts with Puget Sound, Pittsburg 5-7, Potrero 3-6, Contra Costa 6-7, Moss Landing 6-7, JRSimplot, Starwood, Cinergy Firebaugh, and Russell City;
- Line 21, Total: Existing and Planned Energy

PG&E requests confidentiality for the following lines for each month (but not yearly totals) of 2009 through 2020:

- Line 14a, Total Hydroelectric Energy Generation (Actual / Forecast)
- Line 14b, Total Energy: Hydro Plants Over 30 MW (Actual /Forecast)

As described in the documents supporting Form S-2, the hydroelectric data for 2009 was based on current precipitation and generation forecasts for calendar year 2009. While the forecast for 2010 through 2020 is based on average year generation, the current forecast for 2009 depicts generation which is lower than average, and is much closer to an extreme 1-in-5 forecast. Since PG&E is seeking (and has previously been granted<sup>4</sup>) confidential treatment for similar forecasted values (Line 14d, Hydroelectric Energy in Dry-Year Conditions (1-in-5)), PG&E also requests confidentiality for the following limited set of data categories relating to the current forecast of 2009 annual generation. PG&E is confronted with unique challenges and opportunities during times of extreme hydrologic conditions, and confidentiality of this data is required to protect PG&E's position as a major buyer and seller of energy for its customers,

PG&E requests confidentiality for the following lines for yearly totals of 2009 only:

- Line 14a, Total Hydroelectric Energy Generation (Actual / Forecast)
- Line 14b, Total Energy: Hydro Plants Over 30 MW (Actual / Forecast)

#### **Supply Form S-5 (Bilateral Contract and Power Purchase Agreements)**

PG&E has provided Form S-5 (691 KB) for 49 bilateral contracts. The CEC granted confidentiality to all of these contracts for the following data categories in the 2007 IEPR on March 12, 2007 and May 9, 2007:

- Contract Products;
- Availability of Contract Products;
- Must Take;
- Generating Unit(s) Specified<sup>5</sup>
- Capacity of the Unit(s);
- Availability of the Unit(s);
- Unit Contingent / LD Contract;
- Firm;
- Contract / Agreement Type<sup>6</sup>

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<sup>4</sup> CEC Executive Director, B. B. Blevins, March 12, 2007 confidentiality decision.

<sup>5</sup> Previously "Unit(s) Under Contract."

<sup>6</sup> Previously "Contract Pricing." While this category no longer seeks numerical information on pricing terms compared to the 2007 IEPR, this category still reveals sensitive contract term

- Transmission Contingent & Path;
- Termination & Extension Rights;
- Performance Requirements; and
- Notes

In the March 12, 2007 decision the CEC found that disclosure of the information in these categories “would place PG&E at an economic disadvantage and require trade secret protection.” The information contained in these categories for the 2009 IEPR is unchanged or substantially similar to the information for these categories in the 2007 IEPR. PG&E requests that these categories be deemed confidential for all contracts because these same disclosure concerns are still relevant.

PG&E also seeks confidential treatment for only specific types of information that is disclosed in responding to the following two categories:

- Delivery Point(s); and
- Locational Attributes of Unit(s)

In many cases, the general locational attribute was already well known such as “Interconnection to the PG&E distribution system” or Transmission Zone ZP-26,” which PG&E is not requesting be held confidential.

However, PG&E is requesting confidential treatment for more specific locational or delivery attributes that reveal sensitive contract terms or information such as “the 60 kV bus at Round Mountain Substation near Red Bluff,” or a targeted geographic location. At the recommendation of CEC staff to facilitate clear and focused applications for geographically specific attributes that are commercially sensitive<sup>7</sup>, PG&E has split this information into two distinct lines for general (public) and specific (confidential) attributes. PG&E has marked only the subset of information which contains specific attributes as confidential.

**3. (a) State the provision(s) of the Public Records Act or other law that allows the Commission to keep the record confidential, and explain why the provision(s) applies to the record.**

Supply Forms S-1, S-2 and S-5 provide competitively and commercially sensitive business and resource planning information and trade secrets. Under the Public Records Act, Govt. Code Section 6254(k), records subject to the privileges established in the Evidence Code are not required to be disclosed. See also Govt. Code Section 6254.7(d). Evidence Code Section 1060 provides a privilege for

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information such as the mechanism used to determine energy payments under the contract pricing (e.g., whether the pricing terms are fixed, gas/power indexed, shaping and firming, include capacity, etc.).

<sup>7</sup> Factual Summary of Confidentiality Determinations Granted to Electricity Supply Plans Provided by LSEs to the Energy Commission for the 2007 Energy Report; Jim Woodward, Electricity Analysis Office, CEC; January 27, 2009.

trade secrets, which is defined in Civil Code Section 3426.1. That definition includes information, including a formula, technique, and process, that derives independent economic value from not being generally known to the public or to other persons who could obtain value from its disclosure.

These forms contain detailed disaggregated forecast information that relatively easily allows a party to calculate PG&E's current energy supply and capacity needs on a disaggregated basis. By thus calculating PG&E's "residual net short" position, potential suppliers achieve a competitive advantage that potentially harms PG&E's customers who may end up paying higher power prices.<sup>8</sup> Second, to release this information publicly would allow market participants to have access to competitively sensitive information that would normally not be available to them in this form or format. As a matter of law and public policy, the CEC should ensure that it does not facilitate availability of such data.

Certain categories of this information already are subject to protection from disclosure by the California Public Utilities Commission under Section 454.5 of the Public Utilities Code. That section requires the California Public Utilities Commission to maintain on a confidential basis market sensitive and trade secret information related to a distribution utility's procurement plan. The data provided here is similar to the same data that has been or would likely be protected in that forum as well. See CPUC Decision No. 06-06-066, Appendix 1. Since the CPUC issued that decision, PG&E has been scrupulous in adhering to the CPUC's confidentiality rules.

**(b) Discuss the public interest in nondisclosure of the record. If the record contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please also 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.**

The public and PG&E's customers have a compelling interest in protecting this information from disclosure to competitors or electricity suppliers who could use the information to manipulate the costs of energy supplies procured by PG&E and other utilities on behalf of their customers. Because of the ease with which PG&E's net short position can be derived using this disaggregated data, protection from disclosure to third parties is required. These determinations need not be mathematically exact to cause harm; customers incur substantial risk of higher energy prices (or fewer revenues from sales) any time a potential supplier knows that a utility must buy or sell gas or electricity on behalf of its customers at any given time. PG&E believes that it would be relatively easy to perform these calculations if the data in these forms were disclosed on a disaggregated basis.

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<sup>8</sup> "Residual net short" refers to the amount of energy PG&E needs to procure in the market after meeting its forecasted load with existing power supplies, including existing power purchase contracts and utility retained generation.

In general, PG&E's electricity procurement-related and resource planning forecasts created after January 1, 2003 when the utilities resumed their procurement responsibilities are a prime candidate for confidential treatment because such information could be used to reveal sensitive PG&E-specific data on the net short, spot purchases, spot sales, total bundled sales, and contract purchases. Similarly, if buyers know when PG&E has to sell power, PG&E could get a lower price than if the market assumed the utility had discretion over whether or not to sell. Such market knowledge is a key factor, for example, for why prices drop during spring hydro run-off periods.

The more detail that is made public concerning a utility's relative peak demand and capacity positions, the greater the potential for market abuse. Suppliers could calculate adjustments to a utility's resource portfolio and be able to determine more accurately the utility's incremental needs from the market. Suppliers might then bid up prices either through additional buying or less aggressive selling, in anticipation of significant purchases by the utility, as compared with prior periods. See PG&E Application for Confidentiality, March 2, 2005, CEC Docket No. 04-IEP-1D.

PG&E believes that the public interest in favor of disclosure of IEPR-related information can be promoted without disclosure of this information on a disaggregated basis. The disaggregated information is being provided without restriction to the Commission staff and all Commissioners for their internal use in the IEPR proceeding.

4. **State whether the record may 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 it is aggregated or masked, explain why.**

Certain of the data in Supply Forms S-1, S-2 and S-5 could be provided in an aggregated format for disclosure to the public and third parties as described in the CEC's March 12, 2007 confidentiality decision. PG&E believes this aggregation would be sufficient to avoid the competitive and ratepayer harms that would occur in the event the disaggregated data were disclosed to market participants.

5. **State how the record is kept confidential by the Applicant and whether it has ever been disclosed to a person other than an employee of the Applicant. If it has, explain the circumstances under which disclosure occurred.**

PG&E maintains access to this information on a confidential basis. It is only available by hard copy and electronically on a limited basis within certain departments and corporate affiliates, such as PG&E's parent company, that must have access to the information to conduct their procurement, regulatory, and business planning and forecasting activities. In addition, under Standard of

Conduct #2 adopted by the CPUC for the utilities' electric procurement activities, PG&E employees are obligated to protect the Company's trade secrets:

2. Each utility must adopt, actively monitor, and enforce compliance with a comprehensive code of conduct for all employees engaged in the procurement process that: 1) identifies trade secrets and other confidential information; 2) specifies procedures for ensuring that such information retains its trade secret and/or confidential status [e.g., limiting access to such information to individuals with a need to know, limiting locations at which such information may be accessed, etc.]; ... (See D.02-12-074, pp. 57-58.)

PG&E has not to the best of its knowledge previously released this information to the general public or to third parties or market participants on an unlimited basis in this format or projecting out over this duration of time. While certain of the information here or similar categories of information may have been provided in part or in aggregated form previously under protective order or nondisclosure agreements in various state or federal regulatory filings, PG&E has not to the best of its knowledge previously publicly disclosed this data in this disaggregated format.

For all these reasons, PG&E requests that the CEC protect this information from disclosure to the public, PG&E's suppliers, or PG&E's competitors.

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 and that I am authorized to make the application and certification on behalf of the Applicant.

Dated: March 26, 2009

Signed: \_\_\_\_\_



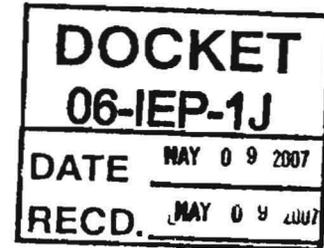
Name: Christopher J. Warner  
Title: Chief Counsel  
Pacific Gas and Electric Company

## CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512

May 9, 2007

Mr. Christopher J. Warner  
Pacific Gas & Electric Company  
P. O. Box 7442  
San Francisco, CA 94120



RE: **Amended Executive Director Decision,  
Application for Confidentiality  
Pacific Gas & Electric Company  
Docket No. 06-IEP-1J**

Dear Mr. Warner:

On May 2, 2007, the California Energy Commission (Energy Commission) participated in a conference call with Pacific Gas & Electric Company (PG&E) to discuss my Decision of March 12, 2007, (hereinafter referred to as "Decision") to deny parts of PG&E's requests for confidentiality in the above captioned docket. As a result of that conference call, PG&E's March 26 written Appeal, and my subsequent conversations with Energy Commission staff, I have amended portions of the Decision.

PG&E's Appeal of my Decision concerns the denial of confidentiality for the monthly capacity and energy forecasts for the years 2007-2016 for the Diablo Canyon, Humboldt, and other facilities. In general, PG&E maintains that revealing this information would effectively disclose the maintenance schedules of these units, and signal to market participants that PG&E is attempting to replace significant amounts of capacity and energy during selected periods.

I find this assertion compelling, and amend portions of my Decision as follows:

- Diablo Canyon--
  - Monthly capacity for the years 2007-2009 will be granted confidentiality since monthly capacity would reveal maintenance schedules and thus indicate a need to replace substantial amounts of energy during selected months.
    - Exception: Capacity during the peak demand month of August is not granted confidentiality. This information is already generally known.
  - Monthly capacity for the years 2010-2016 is not designated as confidential since near term scheduled outages cannot be deduced from knowledge of outages during this later period. This remains consistent with my earlier Decision.
  - Energy amounts for the years 2007-2009 are designated as confidential to conceal maintenance schedules.
  - Energy amounts for the years 2010-2016 are not granted confidentiality because maintenance schedules cannot be deduced from outer year schedules, and Diablo Canyon is a baseload unit intended to operate at or near its availability factor; information regarding its dispatch cannot be

revealed by monthly values. This remains consistent with my earlier Decision.

- Humboldt--
  - Monthly capacity for the years 2007-2009 is not granted confidentiality since PG&E will not need to replace a "large" amount of energy and capacity.
  - Monthly capacity for the years 2010-2016 is not granted confidentiality. This remains consistent with my earlier Decision.
  - Monthly energy for the years 2007-2016 was designated as confidential in my earlier Decision.
- Monthly capacity for the other utility controlled fossil/nuclear facilities (Wartsilla, Colusa, and Gateway) for the years 2007-2016 is already in the public domain and cannot be designated confidential. Monthly energy amounts will be designated as confidential.
- Total utility controlled fossil/nuclear capacity for the years 2007-2009 is designated as confidential except during the peak month of August. This information is already generally known. Capacity for the years 2009-2016 is not designated as confidential. This remains consistent with my earlier Decision. Energy amounts for the years 2007-2016 are designated as confidential.
- Total dependable capacity for all hydro plants over 30MWs for the years 2007-2016 is denied confidentiality. This remains consistent with my earlier Decision. Monthly energy for the years 2007-2016 is granted confidentiality. Annual energy totals are denied confidentiality. This remains consistent with my earlier Decision. Wet and Dry year values are granted confidentiality. This information if made public could harm PG&E economically.
- Total capacity of utility controlled physical resources is granted confidentiality for the years 2007-2009 for all but the peak month of August. For the years 2010-2016, all months are denied confidentiality. Energy is granted confidentiality for the years 2007-2016.
- Non-Gas QF Capacity for the years 2007-2016 is denied confidentiality. This remains consistent with my earlier Decision. In addition, this information is available to the public through the joint publication of "The Cogeneration and Small Production Semi-Annual Report," the California ISO's "Qualifying Capacity for Resource Adequacy," and PG&E's assumptions regarding 2007-2016 renewal and extension of their QF contract in their 2007 LTPP.
- Non-Gas QF energy for the years 2007-2016 is denied confidentiality. This remains consistent with my earlier Decision. For other Bilateral Contracts, capacity for the years 2007-2009 is granted confidentiality. This information if made public could

Mr. Christopher J. Warner  
May 9, 2007  
Page 3

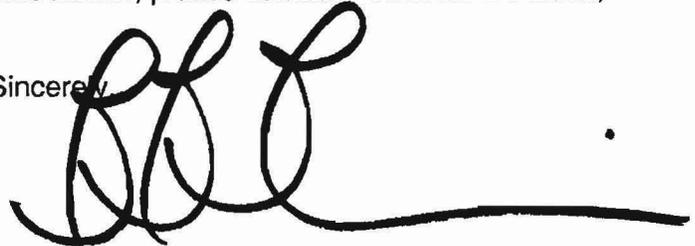
harm PG&E economically. Capacity for the years 2010-2016 is denied confidentiality for aging power plants. This remains consistent with my earlier Decision. Capacity for the years 2010-2016 (other power plants) is granted confidentiality. In addition, Energy for all contracts for the years 2007-2016 is granted confidentiality.

- Total Other Bilateral Contracts for capacity and energy in the years 2007-2016 is granted confidentiality.
- DWR Capacity for the years 2007-2016 is not designated as confidential. This remains consistent with my earlier Decision.
- DWR Energy for the years 2007-2016 is granted confidentiality.

Making the information that I have designated as confidential could possibly harm PG&E if made public, since it would indicate a need to procure large amounts of capacity and energy. This information constitutes a trade secret and represents business proprietary information. As such, this information is expressly exempt from disclosure under the California Public Records Act. (Gov. Code, § 6255(k).) With this Amended Decision, the information that I have designated as confidential will be kept confidential until December 31, 2009.

In light of this Amended Executive Director Decision, the Energy Commission will schedule your Appeal on any remaining issues for the June 6, 2007, Business Meeting, as requested by PG&E. Finally, I appreciate PG&E's willingness to discuss these issues with my staff, and I hope that we have reached resolution on the issues that have concerned PG&E. If you have any further questions concerning this matter, please contact Fernando De Leon, Senior Staff Counsel, at (916) 654-4873.

Sincerely,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end.

B. B. BLEVINS  
Executive Director

cc: Docket Unit  
Energy Commission Project Managers  
Jonathan Blee  
Lorraine White

## CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512

March 12, 2007

Mr. Les Guliasi  
Pacific Gas and Electric Company  
Mail Code B29L  
P. O. Box 770000  
San Francisco, CA 94177

|                                   |
|-----------------------------------|
| <b>DOCKET</b><br><b>06-IEP-1J</b> |
| <b>DATE</b> MAR 12 2007           |
| <b>RECD.</b> MAR 13 2007          |

RE: **Application for Confidentiality,  
Electricity Resources Data Submittal Forms S-1, S-2, and S-5  
Pacific Gas and Electric Company  
Docket No. 06-IEP-1J**

Dear Mr. Guliasi:

On February 13, 2007, Pacific Gas and Electric Company (PG&E) filed an application for confidentiality in the above-captioned Docket. The application seeks confidentiality for information contained on the Electricity Resources Data Submittal forms S-1, S-2, and S-5. PG&E states, in part:

PG&E requests that all of Form S-1 . . . and all of Form S-2 . . . be kept confidential for a period of three years from submission. PG&E believes that this confidentiality is required to ensure that supply and resource data do not reveal PG&E's "net open" and ongoing and future procurement and competitive positions and strategies, thereby compromising PG&E's ability to secure the most favorable deals for customers. . . . This competitive and market sensitive information should remain confidential, as knowledge about PG&E's specific procurement needs and patterns could undermine its competitive position and current business plans. . . . PG&E requests that Supply Form S-5 . . . be confidential, for the duration of the contract or through 2016. . . . These forms contain detailed disaggregated forecast information that relatively easily allows a party to calculate PG&E's current energy supply and capacity needs on a disaggregated basis. By thus calculating PG&E's "residual net short" position, potential suppliers achieve a competitive advantage that potentially harms PG&E's customers who may end up paying higher power prices.

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."

PG&E's makes a reasonable claim for confidentiality based on trade secret. Consequently, confidentiality is granted for *some* of the information contained on forms S-1, S-2 and S-5. This grant of confidentiality applies to all the S-1 and S-2 forms submitted to the Energy Commission by PG&E, including all four "scenarios" that are

discussed in PG&E's current long-term procurement plan filings with the California Public Utilities Commission (CPUC). Specifically, the following S-1 and S-2 information for the months January 2007 through December 2009 is granted confidentiality:

- Forecast total peak-hour load/energy demand;
- Direct Access Loads in the UDC Territory;
- Peak Load: New & Existing Contracts (a line meant only ESPs to report data);
- Peak Coincidence (line 7a on PG&E's S-1 forms);
- Net Peak / Energy Demand for End-Use Customers;
- Net Peak Demand + \_\_ % Planning Reserve Margin (15% or 16%)
- Firm LSE Peak Resource / Energy Requirement; and
- Non-Renewable Generic Resources (all lines with data).

Also designated as confidential on the S-1 and S-2 forms are all cells for 2007-2009 with mathematical summaries that might reveal numbers listed above. Examples of this include the Total Existing & Planned Capacity on form S-1 (line 52), and the Net Open or Net Surplus Capacity Position on form S-1 (line 64).

For the estimates of monthly capacity and energy from utility-controlled fossil and nuclear resources, only the monthly energy estimate data related to the Humboldt Bay, Wartsila Humboldt, Colusa, and Contra Costa 8 (Gateway) plants is granted confidentiality. The forecast of monthly energy from these IOU-owned resources during the entirety of the forecast period date, January 2007 through December 2016, will be protected as confidential through December 31, 2009. The capacity numbers for the existing Humboldt Bay plant and the three new plants being developed are all in the public record and are *not* granted confidentiality.

The request to designate forecast generation as confidential is *not* granted for these utility-controlled resources:

- Diablo Canyon; and
- "Total for All Hydro Plants Over 30 MW".

Diablo Canyon normally operates as a baseload resource. Planned outages for scheduled maintenance and refueling occur at approximately 18-month intervals in the spring and fall. Accordingly, long-range forecasts of generation from Diablo Canyon are discernable from publicly available data such as the patterns of historic production as reported to the federal Energy Information Agency (EIA).

Furthermore, there are valid and varied public interests favoring disclosure about major energy supplies for Northern California from large hydroelectric generation. Though most of PG&E's utility-owned and controlled hydro facilities do not qualify as RPS-eligible renewable energy generators, *average* production from this existing source of

clean energy and relatively dependable capacity is also a "known quantity" that is relatively predictable. With substantial year-to-year variations in snowpack and runoff, disclosure of *average* production numbers from the aggregate of PG&E's large hydroelectric resources would not be especially helpful to other market participants. PG&E has, in the past two years, announced that energy from its large hydroelectric resources combined with energy from eligible RPS sources would amount to 31 percent or more of total retail energy sales. Accordingly, there is a public interest created by PG&E that favors disclosure of forecast energy amounts from all hydroelectric sources in its supply portfolio.

The extremes of Wet-Year and Dry-Year hydrologic conditions create different challenges and opportunities for PG&E as a wholesale market participant. Accordingly, and to protect PG&E's position as a major buyer and seller of energy for its customers during such years, the forecast data Hydroelectric Capacity/Energy in Wet Year and Dry Year Conditions is granted confidentiality for the entire forecast period, and this protection is granted through December 31, 2009.

On the S-1 and S-2 forms, there are 13 named "DWR Contractual Resources." PG&E asks that all capacity and monthly energy numbers be deemed confidential, including every month of the forecast period. In its application for confidentiality, PG&E asks the Energy Commission to follow the standards set forth in CPUC Decision No. 06-06-066, Appendix 1:

The data provided here is similar to the same data that has been or would likely be protected in that forum as well. It makes little sense for two state agencies receiving the same or similar information to treat it inconsistently.

PG&E's application to designate all generation from DWR Contractual Resources is not consistent with the CPUC decision matrix for this category published at [http://www.cpuc.ca.gov/PUBLISHED/FINAL\\_DECISION/57774.htm](http://www.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/57774.htm).

For example, in the Forecast of DWR Contracts, the CPUC has decided that "[I]ndividual contract information [will be] confidential for three years, or until one year following expiration, whichever comes first. Aggregated annual capacity and energy data from all [are] contracts public." Nevertheless, despite this inconsistency, the Energy Commission is not bound by CPUC decisions. The Energy Commission must follow its own statutory and regulatory requirements. Consequently, none of the capacity estimates for DWR Contractual Resources are granted confidential status. Capacity numbers and expiration dates for these resources are already public knowledge or are publicly available through numerous sources.

Confidentiality is granted for the January 2007 through December 2009 monthly energy estimates for all of PG&E's DWR Contractual Resources. After December 2009, the

volume of monthly energy from DWR contracts is small compared to earlier months, and is also small as a fraction of forecast load. Consequently, disclosure of energy forecasts from DWR Contractual Resources that expire after 2009 would not place PG&E at a competitive disadvantage; and thus, do not qualify as a trade secret.

For the capacity and energy estimates of QF resources, PG&E has asked for a confidential designation of the entire forecast period through December 2016. This request is granted *only* for the QF natural gas category. Confidentiality is *not* granted for any forecasts of capacity or energy from renewable QF resources. However, the lines for "Other" QF resources and Total Supply from QF Contracts will be confidential to protect the QF natural gas estimates. This is consistent with how the Energy Commission treats similar information from the other IOUs.

On the S-1 and S-2 forms, in the section "Other Bilateral Contracts," PG&E has requested confidentiality for the monthly capacity and energy estimates related to 26 individually listed resources. For these 26 listed resources, PG&E has requested confidential designations for all 120 months of the forecast period, through December 2016. For the first 21 listed bilateral contracts, the monthly capacity and energy estimates are granted confidentiality protections but *only* for those monthly estimates through December 2009.

As stated in the *2005 Energy Report*, the Energy Commission supports the development of new capacity for reliable service in amounts that would also accommodate the orderly retirement by 2012 of certain aging power plants. The statewide list of aging power plants includes Pittsburg 5, 6 & 7, along with Contra Costa 6 & 7, which are part of PG&E's supply portfolio. There is also considerable public interest in seeing the Potrero units retired, replaced, or repowered within the next decade. To facilitate better-informed discussions and decisions involving service reliability, environmental performance, and potential costs to customers, these monthly energy estimates for the period after December 2009 are *not* granted confidentiality.

For the first 21 listed bilateral contracts on PG&E's S-2 forms, forecast monthly energy totals constitute a very small percentage of forecast load obligations. Therefore, disclosure of these numbers would not reveal a volume of procurement needs sufficient to put PG&E at a competitive disadvantage in its negotiations with potential suppliers.

For the last five listed bilateral contracts, confidentiality is granted to the monthly energy estimates for the entire forecast period (though December 2016). However, expected capacity numbers from these recently signed long-term power purchase contracts are a matter of public record, including press releases prepared by PG&E. Therefore, capacity numbers for these bilateral contracts are *not* confidential:

- EIF Fresno;
- Starwood Firebaugh;

- EIF Firebaugh;
- Tierra Energy Hayward; and
- Calpine Hayward.

Near the bottom of the S-2 form in monthly energy, there is a stand-alone section on Renewable Energy Accounting, and another section on Biomass Energy Accounting. On S-2 forms, PG&E's has flagged "Utility Controlled Renewable Resources" (line 60) as confidential, perhaps in error. Line 60 shows the mathematical sum of energy from small hydro plants (line 15) plus any other utility-controlled renewables (line 22). PG&E did not request confidentiality for either line 15 or line 22, so the sum shown on line 60 will not be confidential.

As discussed above, the energy from QF renewable resources will be considered public for the entire forecast period. These numbers are presented on lines 29 through 33 of the S-2 forms, and are automatically summed on line 61. The Biomass energy number on line 29 is repeated automatically on line 68, so neither of those lines, or the sum of all forecast Biomass energy on line 70 are deemed confidential.

In the Renewable Energy Accounting section, line 67 shows the relative percentage of energy demand that is forecast to be matched by supplies from eligible renewable resources (the sum of existing, planned, and generic renewables). On the S-2 forms, the shaded areas indicate a request for confidentiality. This number could be used to calculate highly sensitive monthly energy numbers shown on line 7 (Net Energy Demand for End-Use Customers). Accordingly, confidentiality is granted for the numbers on line 67 for the period January 2007 through December 2009.

Information shown on the S-1 forms (monthly capacity) and on the S-2 forms (monthly energy) is granted confidentiality, and will be protected as such until December 31, 2009 or until a later time as noted above.

PG&E's has requested blanket confidentiality designations for all 34 individual S-5 forms. Each of these forms includes the statement "Note: PG&E is requesting confidentiality for all of Form S-5." In its application, the need to protect confidential and proprietary information is stated in absolute terms:

PG&E requests that Supply Form S-5 9236 kB) be confidential, for the duration of the contract or through 2016, whichever is longer, because this form contains specific, individual, proprietary and third party contract information which may not be disclosed.

The application for confidentiality has certain inconsistencies. For example, the "Supplier" name is the first category on the S-5 form for which blanket confidentiality is

requested; yet, PG&E has not requested confidentiality for Supplier names where they are provided on the S-1 and S-2 forms. Thus, not all the information on the S-5 forms is granted confidentiality.

The Energy Commission finds that public disclosure of information in certain categories of the S-5 form would place PG&E at an economic disadvantage and require trade secret protection. (Gov. Code, § 6254 (k).) Therefore, the following S-5 information will be granted confidentiality:

- Contract Product(s);
- Availability of Contract Product(s)
- Must Take;
- Unit(s) Under Contract;
- Capacity of the Unit(s);
- Availability of the Units(s);
- Firm;
- Contract Pricing;
- Transmission Contingent & Path;
- Termination & Extension Rights, and
- Performance Requirements.

Confidential information on the S-5 forms (bilateral contracts) will be kept confidential until December 31, 2009, or until the contract expiration date, whichever is later.

None of the following S-5 information will be granted confidentiality:

- Supplier name;
- Start Date;
- Expiration Date;
- Contract Capacity;
- Fuel Type;
- Locational Attributes of Unit(s);
- Expected Energy From Contract;
- Delivery Point; and
- Scheduling Coordinator.

However, this decision will be modified regarding individual bilateral contracts if PG&E provides the Energy Commission with additional contract information demonstrating PG&E's legal obligation to keep information confidential longer than the findings of this decision.

Finally, the Energy Commission may use the information submitted by PG&E in publicly available reports and presentations, but without disclosing confidential information to

Mr. Les Guliasi  
March 12, 2007  
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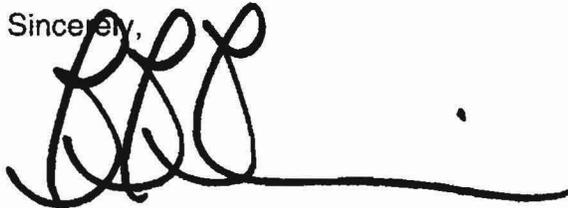
market participants. To prevent inappropriate disclosure, confidential data will be aggregated with resource plan information from other LSEs to conceal the specifics of individual supply contracts or individual LSE portfolios. To safeguard confidentiality, one of the following methods of aggregation will be used:

- a sum of data from all three IOUs (PG&E, SCE, and SDG&E);
- a sum of data from all large LSEs (3 IOUs, LADWP, and SMUD);
- a sum of data from all mid-size and large LSEs in California;
- a sum of data from all mid-size and large LSEs in the California ISO;
- for 2006 only, a sum of data of all LSEs in California, including small POUs;
- for 2006 only, a sum of all LSEs in the California ISO;
- a sum of all mid-size and large LSEs located in NP 15 and ZP 26;
- for 2006 only, a sum of all LSEs located in NP 15 and ZP 26;
- a sum of data from PG&E and all mid-size or large ESPs in its service area; and
- a sum of data from PG&E and all ESPs in its service area.<sup>1</sup>

PG&E's most market sensitive information, its near-term residual net short need or net long position will be kept confidential.

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. The procedures and criteria for appealing any part of 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 fourteen days from the date of my decision. If you have any questions concerning this matter, please contact Fernando De Leon, Senior Staff Counsel, at (916) 654-4873.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. B. Blevins', with a long horizontal line extending to the right.

B. B. BLEVINS  
Executive Director

cc: Docket Unit  
Energy Commission Project Manager

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<sup>1</sup> Multiple presentations of the same data categories using different types of aggregation will not be disclosed if it would allow for the discovery of confidential data through reverse engineering.