

CALIFORNIA ENERGY COMMISSION

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April 3, 2009

DOCKET 09-IEP-1B
DATE APR 03 2009
RECD. APR 03 2009

Mr. Greg Bass
Sempra Energy Solutions — Retail Commodity Operations
401 West A Street, Suite 500
San Diego, California 92101

**RE: Application for Confidentiality--Sempra Energy Solutions
Electricity Resource Plan Forms
Docket 09-IEP-1B**

Dear Mr. Bass:

On March 2, 2009, Sempra Energy Solutions LLC ("SES") submitted a second revised Application for Confidentiality (Application) in the above-captioned Docket, received at the California Energy Commission (Energy Commission) on March 4, 2009. This Application replaced an original application filed February 2, 2009, and a revised application filed February 13, 2009. The second revised application seeks confidentiality for certain information contained in SES's Electricity Resource Plan filing submitted in connection with the *2009 Integrated Energy Policy Report*. SES is seeking to protect from public disclosure data and information on the following forms:

- Form S-1 Capacity Resource Accounting Table (CRATs)
- Form S-1 Monthly
- Form S-2 Energy Balance
- Form S-2 Energy Balance 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 SES states, in part:

The above described information, in its entirety, has not been released to the public, is based on contracts SES has in place at the time of the Electricity Resource Plan's creation and is considered proprietary and confidential information. SES is not aware of any way in which this information could be legitimately acquired or duplicated by others...

The above mentioned forms submitted by SES contain trade secrets or otherwise commercially sensitive data. ... For example, the information could be used to determine SES's historical and

forecasted power and capacity needs. That information in turn could be used by SES's competitors to refine their business strategies and cause competitive harm to SES. (Application at pp. 2 and 3.)

In addition, SES requests that the Energy Commission keep this information confidential:

Accordingly, SES respectfully requests that all of the information and data set forth in the above mentioned forms (S-1 (CRATs and Monthly), S-2 (Energy Balance and Monthly) and S-5) submitted on compact disk be designated as confidential. SES further requests that the designation of confidentiality be for a 3-year period. However, the data can be released immediately if aggregated with all the other energy service provider's ("ESP") Electricity Resource Plans. (Application at p. 3.)

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. "

SES's March 2, 2009, confidentiality application makes a reasonable claim to grant confidentiality for the described S-1 and S-5 forms in their entirety, and also for the S-1 Monthly and S-2 Monthly forms in their entirety. The information contained on these forms constitutes a trade secret, and would place SES at a competitive disadvantage if disclosed.

This information submitted by SES does not fall under the auspices of Automatic Designation for confidential treatment per California Code of Regulations, title 20, subsection 2505(a)(5)(B)(2). That subsection relates to quarterly reports submitted by load-serving entities to the Energy Commission with data on energy sales by county, by utility distribution company service area, and to specific customer sectors or groups. Such data was not requested or provided on the above-named forms.

Information on the S-2 Energy Balance form is also granted confidentiality based on trade secret, except for the information contained on line 28 which calculates renewable energy purchases as a percent of retail sales for each year. The percentage numbers on line 28 do not disclose the amount of renewable energy procurement or retail sales. The information contained on form S-2, line 28 would not disclose any confidential load, open position, or contract information. Consequently, information contained on form S-2, line 28 does not rise to the level of a trade secret and is not granted confidentiality.

The Energy Commission may use the information submitted by SES in publicly available reports and presentations, but without disclosing confidential information to

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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 SES's load forecasts, resource portfolio, or individual supply contracts.

The Energy Commission appreciates the efforts by SES to answer technical questions related to its resource plan filing, and to provide Energy Commission staff with additional data deemed necessary to make this filing complete and adequate in accordance with the adopted forms and instructions.

Information contained on the S-1, S-2, and S-5 forms produced by SES on and subsequent to February 13, 2009, will be kept confidential until December 31, 2011.

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 fourteen 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: Docket Office
Jim Woodward, Electricity Analysis Office