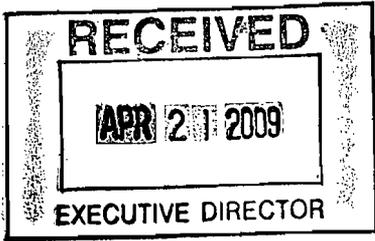
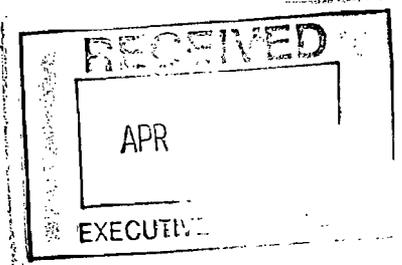


COMPLETED



APPLICATION FOR CONFIDENTIAL DESIGNATION  
(20 CCR SECTION 2505)

2009 INTEGRATED ENERGY POLICY REPORT  
DOCKET NUMBER 09-IEP-1 C



Applicant: Southern California Edison Company ("SCE")

Attorney for Applicant:	Walker Matthews
Address of Attorney:	2244 Walnut Grove Ave. Rosemead, California 91770 <u>Walker.Matthews@sce.com</u> (626) 302-6879

**1. Identification of the information being submitted, including title, date, size (for example, pages, sheets, megabytes), and docket number**

2009 Electricity Demand Forecast Form 1.6a adopted by the California Energy Commission (CEC) on December 17, 2008, and filed in 09-IEP-1C on April 21, 2009. The form is approximately 2 MB and is attached hereto as Attachment 1.

On February 27th, 2009, SCE filed Form 1.6a with 2008 load data available through September 2008, and submitted an Application for Confidential Designation for this data and other information provided on other CEC forms for the 2009 IEPR. On March 27, 2009, the CEC granted SCE's February 27th, 2009 Application for Confidentiality for data submitted on Form 1.6a (2009 Ruling), and directed SCE to file a separate confidentiality request when SCE was able to submit remaining from October 1, 2008 through December 2008 for the columns labeled "Unbundled Load", "System Losses" and "Total System Load". SCE is now able to provide this data, which is highlighted in purple, and requests that the CEC provide confidential treatment for this additional data, consistent with 2009 Ruling, which granted confidentiality to the same categories of information through September 2008.

**2. Description of the data for which confidentiality is being requested (for example, particular contract categories, specific narratives, and time periods)**

SCE requests that the following parts of Form 1.6a of SCE's 2009 Electricity Demand Forecast Forms be designated as confidential and exempt from public disclosure.

<b>DOCKET</b>	
<b>09-IEP-1C</b>	
DATE	April 21 2009
RECD.	April 21 2009

- **Form 1.6.a – Recorded LSE Hourly Loads for 2007, 2008, and Forecast Loads for 2010** – SCE requires confidential treatment of the information contained in the following columns for the time period October 1, 2008 to December 31, 2008:<sup>1</sup>

- Date (PST)
- Hour (PST)
- Bundled Load
- Unbundled Load
- Other Load (Resale, Dept. Load)
- System Losses
- Total System Load
- Estimated Interruptible & Demand Response (history only)
- Estimated Outages (history only)
- MWD
- Transmission Planning Area Load (if applicable)

**3. A clear description of the length of time for which confidentiality is being sought, with an appropriate justification, for each confidential data category request**

For reasons discussed in more detail below, SCE requests that the specified historical information above be restricted from public disclosure for one year.

**4. Applicable provisions of the California Public Records Act (Government Code Section 6250 *et seq.*) and/or other laws, for each confidential data category request**

SCE purchases and sells large quantities of electrical energy on behalf of its customers. The market place for such purchases and sales is highly competitive. Accordingly, information regarding the timing and quantity of energy SCE has to sell or purchase on behalf of its customers is extremely valuable and, if revealed, could place SCE at a competitive disadvantage when purchasing or selling energy. It is straightforward that information concerning SCE's

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<sup>1</sup> SCE has no data to provide for columns labeled "Bundled Losses", "Unbundled Losses", "Distribution Service Area Load", and "Control Area Load" and therefore is not seeking confidentiality for this information.

loads for 2008 requested in the 2009 IEPR Electricity Demand Forecast Form 1.6a provides information regarding the timing and quantity of energy SCE has to sell or purchase for its customers.

The data identified in this application requires confidential treatment because this information could allow a market participant to calculate SCE's forecasted energy supply needs for the peak of the year, or on an hourly basis. By providing a critical factor used to calculate SCE's "residual net short" position – the amount of energy SCE must procure in the market after meeting its forecasted load with "must take" and utility-retained generation – potential suppliers could calculate whether SCE had sufficient resources to meet that demand for the year, or on any particular hour or day. With such information, a supplier could charge SCE a higher price for power, or depress the price SCE could obtain for selling power when it had too much on hand. Either outcome would ultimately harm SCE's customers.

Certain statutory provisions protect this information from public disclosure. First, the Public Records Act, found at Government code §6254(k), establishes that public records subject to privileges established in the California Evidence Code are not required to be disclosed. Evidence Code §1060 shields "trade secrets" from public disclosure. "Trade secrets" include any "information, including a formula, technique, and process, that: (1) derives independent economic value, actual or potential, from not being generally known to the public or to other persons who could obtain value from its disclosure or use; and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy."<sup>2</sup> The data for which SCE seeks confidential protection here are trade secrets because they derive value from not being known to the public, and that SCE makes reasonable efforts to maintain its secrecy. Public disclosure of this information will cause electricity prices to rise.

Second, SCE recognizes that decisions of the California Public Utilities Commission (CPUC) and the statutes applicable to the CPUC may not be binding on the CEC. That being said, as a matter of consistency, the CEC should apply the same level of confidential protection

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<sup>2</sup> Civil Code §3426.1(d).

to information provided to it as provided by the CPUC. In D.06-06-066, as modified by D.07-05-032, the CPUC adopted procedures to afford confidentiality to investor-owned utilities' (IOUs) procurement data, which also fulfills the "trade secret" requirement for maintaining the secrecy of information. These procedures comply with Public Utilities Code §454.5(g), which provides that "the "Commission shall adopt appropriate procedures to ensure the confidentiality of any market sensitive information . . ." The CEC, and numerous other stakeholders, participated in the proceeding leading up to D.06-06-066. The CPUC held a week of evidentiary hearings that included experts in the field of economics. Based on this information, D.06-06-066, as modified by D.07-05-032, attached a matrix (Confidentiality Matrix) identifying information as market sensitive when releasing the information would materially increase the price of electricity, thereby harming customers.<sup>3</sup>

SCE seeks protection of information identified by the CPUC as market sensitive in the Confidentiality Matrix. Attachment 2 contains a table showing that the 2008 LSE load data for which SCE is seeking confidential treatment is or can be used to derive a category of data the CPUC has identified as market sensitive. Specifically, year 2008 historical demand data and 2010 forecast demand data on Form 1.6a can be used to calculate LSE Total Energy Forecast – Bundled Customer, which is confidential under the Confidentiality Matrix, Sections X.E. As a regulated utility, SCE is subject to the jurisdiction of both the CEC and the CPUC. SCE is required to provide similar information to both agencies. Indeed, the information for which SCE is seeking confidential treatment in the IEPR can either be used to calculate or is nearly identical to the information for which SCE receives confidential treatment in the Confidentiality Matrix.

To maintain consistency between the CEC and CPUC and to avoid nullifying the CPUC's lawful determination that the release of market sensitive information would result in a material increase in electricity prices, the CEC should protect SCE's market sensitive information, just as the CPUC does.

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<sup>3</sup> See D.06-06-066 at 40-43 and Finding of Fact No. 2, at p. 76.

In summary, public disclosure of the information for which SCE seeks confidential treatment would harm SCE and its customers by revealing its energy needs. Public knowledge of this trade secret information will ultimately lead to SCE's customers being put at a competitive disadvantage when SCE procures or sells energy on their behalf. Accordingly, the CEC should grant this trade secret information confidential treatment.

**5. A statement attesting a) that the specific records to be withheld from public disclosure are exempt under provisions of the Government Code, or b) that the public interest in non-disclosure of these particular facts clearly outweighs the public interest in disclosure**

The data for which SCE seeks confidential treatment contains information that could allow market participants to calculate SCE's forecasted supply needs, either on an annual peak basis or on an hourly basis. By providing a critical factor in the calculation of SCE's "residual net short" position – the amount of energy SCE needs to procure in the market after meeting its forecasted load with "must take" and utility retained generation – market participants would potentially be able to calculate whether SCE has sufficient resources to meet that demand for the year, or on any particular hour or day. With such information, a supplier could charge SCE a higher price for power, or depress the price SCE could obtain for selling power when it had too much on hand. Either outcome would ultimately harm SCE's customers, who will bear the burden of the higher costs. This information is protected as a trade secret under the Public Records Act. CPUC has also determined that it is "market sensitive" information that outweighs any benefit to be gained from publicly releasing it.

All of the data for which SCE seeks protection is "market sensitive" and protected under the CPUC-approved Confidentiality Matrix. As described above, year 2008 historical demand data and 2010 forecast demand data on Form 1.6a can be used to calculate LSE Total Energy Forecast – Bundled Customer, which is confidential under the Confidentiality Matrix, Sections X.E. (protecting historical data) and V.C. (protecting demand forecasts). By providing this data, a market participant could calculate SCE's forecasted supply needs within the identified areas to manipulate the electricity market.

SCE cannot assign a specific value to the information it seeks to protect. The information for which SCE seeks confidential treatment cannot be easily acquired or duplicated by others. In addition, it would be very costly to SCE's customers (and therefore commercially valuable to its suppliers) if it were publicly disclosed.

**6. A statement that describes how each category of confidential data may be aggregated with other data for public disclosure**

Through discussions with CEC staff, SCE has worked to identify information that can be aggregated with other data for public disclosure. SCE believes that its discussions with CEC staff have been very productive. Nonetheless, for the reasons stated in response to questions 3 and 4, the information required in 2009 Electricity Demand Forecast Form 1.6a cannot be aggregated or masked to allow for its public disclosure.

**7. 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.**

Based on information and belief, SCE has not, to the best of its knowledge, previously publicly released the information for which it seeks confidentiality here. Some of the information contained in the referenced forms may have previously been released to CPUC and CEC staff members. Regarding CPUC staff members, SCE has identified the information as submitted pursuant to Public Utilities Code Section 583 and followed all other CPUC procedures to maintain its confidentiality. Regarding CEC staff members, SCE has identified the information as confidential and has followed all CEC procedures to protect the confidentiality of the information. SCE may have also previously released the information to non-market participants of the Procurement Review Group (PRG). SCE has only made such information available to non-market participants under strict non-disclosure agreements approved by the CPUC and endorsed by parties receiving the information. SCE has provided SCE has not, to the best of its knowledge, publicly made this data available in the form required by the CEC.

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: April 21, 2009

Signed: 

Name: Carl H. Silsbee

Title: Manager of Resource Policy and Economics