

## CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512  
www.energy.ca.gov



April 24, 2009

<b>DOCKET</b>	
<b>09-IEP-1B</b>	
DATE	APR 24 2009
RECD.	APR 28 2009

Mr. Mark Krause  
Pacific Gas & Electric Company ("PG&E")  
1415 L Street, Suite 280  
Sacramento, California 95814

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

Dear Mr. Krause:

On March 26, 2009, Pacific Gas & Electric Company (PG&E) submitted an Application for Confidentiality (Application) in the above-captioned Docket. The application was received at the California Energy Commission (Energy Commission) on March 27, 2009. The application seeks confidentiality for certain information contained in PG&E's Electricity Resource Plan filing provided to the in connection with the *2009 Integrated Energy Policy Report*. PG&E is seeking to protect from public disclosure specific categories of data and information about PG&E's electricity supplies in 2007 through 2018. This data and information was provided on the following forms:

- Form S-1 Annual and Monthly Capacity Resource Accounting Tables (CRATS)
- Form S-2 Annual and Monthly Energy Balance Tables
- Form S-5 Bilateral Contracts

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

"PG&E's request for confidentiality in these 2009 IEPR forms is consistent with those decisions for similar data, copies of which are attached. The types of data contained in those categories are unchanged or substantially similar to the categories in the 2007 IEPR forms. PG&E requests that these categories be deemed confidential for [meaning "because"] the same reasons as presented in the 2007 IEPR are still relevant." (Application at 1-2)

"PG&E believes that 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 position 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." (Application at 2)

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

"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." (Application at 2)

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, PG&E's March 26, 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 could place PG&E at a competitive disadvantage if disclosed, and this could lead to potentially higher costs to PG&E ratepayers to the extent that it would create a risk of financial harm to ratepayers, the public. Thus, it is in the public interest to keep the information confidential.

The Application indicates that all requested data was provided, although this general statement is later qualified.

"PG&E is providing in full all the information requested in Electricity Supply Forms S-1, S-2, and S-5." (Application at p. 1.)

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."(Application at p. 3.)

The Energy Commission appreciates that the largest utilities may find it difficult to determine which capacity resources were called on during the hour of annual non-coincident peak load for PG&E's bundled customers (along with average megawatt quantities during that hour). For

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PG&E it may be time-consuming to identify 1) procured capacity that was serving load, 2) owned capacity that was providing ancillary services, and 3) other capacity resources that were called upon by the California ISO during the peak hour for grid balancing, with *ex post* allocations to load-serving entities. Several other load-serving entities had difficulties providing this historical data, particularly for bilateral contracts.

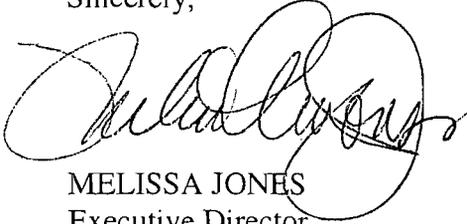
While we appreciate the good-faith effort to provide specific QF resource and bilateral contract data related to peak loads in 2007 and 2008, we find that PG&E did not provide actual, estimated, or proprietary data in these categories for 2007 and 2008, but instead repeated the data provided for 2009. Therefore, these 2007 and 2008 peak capacity values listed on the S-1 form are not granted confidentiality as requested, and these data will be deleted from PG&E's S-1 form.

The Energy Commission may use the information submitted by PG&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 PG&E's load forecasts, resource portfolio, or individual supply contracts.

Categories of information designated as confidential on the S-1, S-1 Monthly, S-2, and S-2 Monthly forms will be kept confidential until December 31, 2011. Categories of information designated as confidential on the S-5 Bilateral Contract forms will be kept confidential until December 31, 2011, or until the contract expiration date, whichever is later.

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

Jim Woodward, Electricity Analysis Office