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APPLICATION FOR CONFIDENTIAL DESIGNATION
(20 CCR SECTION 2505)

2009 INTEGRATED ENERGY POLICY REPORT
DOCKET NUMBER 09-IEP-L



Applicant: Southern California Edison Company ("SCE")

COMPLETED

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

Southern California Edison Company (SCE) is submitting information concerning utility-owned nuclear power plants,¹ as requested by the California Energy Commission (CEC) Committee Data Request in Docket No. 09-IEP-1L (Nuclear Power Plant Data Request). Specifically, SCE is providing information responsive to these requests for San Onofre Nuclear Generation Station (SONGS) and Palo Verde Nuclear Generation Station (Palo Verde). SCE is a co-owner and operating agent for SONGS. SCE is a co-owner, and Arizona Public Service (APS) is operating agent for Palo Verde. The information provided is approximately 108.0 KB.

¹ SCE is precluded from providing the CEC copies of the plant evaluations completed for SONGS and Palo Verde by the Institute of Nuclear Power Operation (INPO) requested in Question Nos. I.8 (SONGS) and I.8 (Palo Verde). As stated in the responses to those questions, INPO is an industry organization established after the accident at Three-Mile Island (TMI) in 1978 to provide nuclear power operators with critical evaluations of their performance compared to subjective qualitative standards of excellence. The purpose of INPO is to assess nuclear power plant operators in improving performance by providing confidential critical analysis. SCE as a nuclear power plant operator agrees to hold INPO performance evaluation in confidence. INPO also holds a copyright on its information and limits distribution to the plant operators. The reason for these confidentiality standards is to minimize nuclear power plant operator concerns about divulging information to INPO for fear that the information will later be used against a nuclear power plant operator. The U.S Court of Appeals for the District of Columbia Circuit has upheld the position that INPO's overall plant evaluation assessments are confidential, Critical Mass Energy Project v. Nuclear Regulatory Commission, 830 F. 2d 278, 282 (1987). This decision was upheld on subsequent appeal holding that INPO performance evaluations are exempt from disclosure under Freedom of Information Act. 975 F. 2d 871 (D.C. Cir. 1992) (en banc). For these reasons, SCE cannot provide copies of INPO plant evaluations to a third party. SCE is willing to make available copies of INPO plant evaluations for SONGS from 2007 - 2009 at its Sacramento offices for review by CEC personnel, as done in the 2007 IEPR. SCE cannot allow copies to be made or notes to be taken. Palo Verde will not provide copies of INPO plant evaluations for Palo Verde from 2007 - 2009. Therefore, SCE cannot provide copies of Palo Verde evaluations for CEC review.

By this application, SCE seeks confidential protection for the information identified in Section 2 below. As explained in Sections 4 and 5, this information constitute “trade secrets” that should be protected from public disclosure.

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 responses to the following questions from the Nuclear Power Plant Data Request be designated as confidential and exempt from public disclosure:

- **Section I – Plant Performance** – SCE requires confidential treatment of the information provided in response to Question No. I.4 (SONGS) and I.4 (Palo Verde), which seek information concerning forecasted outage dates at SONGS and Palo Verde greater than fifteen days.

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 information above be restricted from public disclosure for a three-year period.

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

SONGS and Palo Verde Forecast Outage Information

a) Background

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 forecasted plant outages at SONGS and Palo Verde – which is requested in Question Nos. I.4 (SONGS) and I.4 (Palo Verde) – provides information regarding the timing and quantity of energy SCE will in the near future have to sell or purchase for its customers.

The data provided in response to these outage-related questions requires confidential treatment because this information could allow a market participant to calculate SCE's forecasted energy supply needs during these outages on an hourly basis, and potentially for the peak of the year. By providing a critical factor (i.e. the amount of utility-retained generation available from SONGS and Palo Verde during a certain time period) that is used to calculate SCE's "residual net short" position, which is the amount of energy SCE must procure in the market after meeting its forecasted load with "must take" and available 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 advanced knowledge regarding planned outages at SONGS and Palo Verde, a market participant could charge SCE a higher price for power during those outages, which would ultimately harm SCE, its customers, and the competitive market. This is particularly true for SONGS and Palo Verde because they are large baseload resources that serve a significant portion of SCE's load in southern California.

b) Applicable Statutory Provisions and Other Law

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."² Forecast outages for SONGS and Palo Verde are trade secrets because they derive value from not being known to the public, cannot be easily acquired or duplicated, and SCE makes reasonable efforts to maintain its secrecy. As explained above, a market participant could misuse this information to charge SCE a higher price for power during those outages.

² Civil Code §3426.1(d).

Second, decisions of the California Public Utility Commission (CPUC) protect this information from public disclosure. SCE recognizes that decisions of the CPUC and the statutes applicable to the CPUC may not be binding on the CEC. As a matter of consistency, the CEC should apply the same level of confidential protection 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.³

Here, SCE seeks protection of information identified by the CPUC as market sensitive in the Confidentiality Matrix. Attachment 1 contains a table showing that outage-forecast information for which SCE is seeking confidential treatment here, is or can be used to derive a category of data the CPUC has identified as market sensitive. As shown in Attachment 1, forecasts concerning the availability and outages of IOU generation resources, including the expected energy output of power plants owned partly or fully by an IOU, such as SONGS and Palo Verde, are protected under the CPUC-approved Confidentiality Matrix, Section IV.A "Forecast of IOU Generation Resources". On a related note, because outage-related information for SONGS and Palo Verde can be used to calculate SCE's forecasted energy requirements, LSE Total Energy Forecast – Bundled Customer (MWh), which is confidential under the Confidentiality Matrix, Section V.C.

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

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. 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.

Summary

In summary, information concerning forecast outages provided in response to Question Nos. I.4 (SONGS) and I.4 (Palo Verde) should be protected as a "trade secret" under Government code §6254(k) and Evidence Code §1060. Further, this information is also protected under the CPUC's Confidentiality Matrix, Sections IV.A and V.C, as shown in Attachment 1.

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**

SONGS and Palo Verde Forecast Outage Information

As explained above, the forecast outage information for SONGS and Palo Verde provided in response to Question Nos. I.4 (SONGS) and I.4 (Palo Verde) 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 (i.e. the availability of utility-retained generation from SONGS and Palo Verde during a certain period of time) in the calculation of SCE's "residual net short" position, 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 advanced knowledge regarding planned outages at SONGS and Palo Verde, a supplier could charge SCE a higher price for power during those outages, which would ultimately harm SCE, its customers, and the competitive market. This is particularly true for SONGS and Palo Verde because they are large baseload resources that serve a significant portion of SCE's load in southern California.

This information should be protected as a trade secret under the Public Records Act. Information concerning forecast outages at SONGS and Palo Verde are valuable to SCE because they are not known to the public, cannot be easily acquired or duplicated, and SCE makes reasonable efforts to maintain its secrecy. Public knowledge of this trade secret information will ultimately put SCE at a competitive disadvantage when SCE procures or sells energy, and allow market participants to extract higher prices for power during outages.

Furthermore, the CPUC has also determined that it is “market sensitive” information that outweighs any benefit to be gained from publicly releasing it. As shown in Attachment 1, forecasts concerning the availability and outages of IOU generation resources, including the expected energy output of power plants owned partly or fully by an IOU, are protected under the CPUC-approved Confidentiality Matrix, Section IV.A “Forecast of IOU Generation Resources”. On a related note, because outage-related information for SONGS and Palo Verde can be used to calculate SCE’s forecasted energy requirements during those periods, LSE Total Energy Forecast – Bundled Customer (MWh), which is confidential under the Confidentiality Matrix, Section V.C.

Summary

While SCE cannot assign a specific value to the information it seeks to protect, the information is valuable to SCE for the reasons explained above. The information is not known to the public. Nor can it be easily acquired or duplicated by others. Further, SCE makes reasonable efforts to maintain its secrecy. Public knowledge of this trade secret information will ultimately put SCE at a competitive disadvantage when SCE procures energy.

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

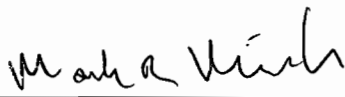
Through discussions with CEC staff, SCE has worked to identify information provided in the 2009 IEPR proceedings that can be aggregated with other data for public disclosure. SCE believes that its discussions with CEC staff have been very productive. However, none of the information for which SCE seeks confidential protection here can 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. While some of the information contained in the referenced form may have previously been released to CPUC and CEC staff members, as well as non-market participants of the Procurement Review Group (PRG), SCE has only made such information available to the CPUC staff members pursuant to the confidentiality requirements provided under Public Utility Code Section 583, and to non-market participants under strict non-disclosure agreements approved by the CPUC and endorsed by parties receiving the information. In addition, in prior IEPR proceeding, SCE has sought confidential designation from the CEC for the categories of information identified in this application. 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: July 28, 2009

Signed: 

Name: Mark R. Minick
Title: Manager, Resource Planning and Analysis

ATTACHMENT 1

**TABLE CORRELATING IEPR MARKET SENSITIVE INFORMATION TO
CPUC D.06-06-066 MATRIX**

**TABLE CORRELATING IEPR MARKET SENSITIVE INFORMATION TO
CPUC D.06-06-066 MATRIX**

| Description of the data for which SCE requires confidential treatment from the CEC | Portion of the Matrix to D.06-06-066 Granting Confidentiality | Length of Time Matrix Grants Confidentiality |
|---|--|--|
| <p>Section G</p> <ul style="list-style-type: none"> ○ Question Nos. I.4 (SONGS) and I.4 (Palo Verde) – forecasted outages at SONGS and Palo Verde | <p>IV.A Forecast of IOU Generation Resources</p> <p>V.C. LSE Total Energy Forecast – Bundled Customer</p> <p><i>Note – Forecasted outage information for SONGS requires confidential treatment from the CEC because the information can be used to calculate SCE's forecast of its energy requirements, LSE Total Energy Forecast – Bundled Customer, which is confidential under the CPUC Matrix.</i></p> | <p>Confidential for three years</p> <p>Front three years of forecast data confidential</p> |