

COMPLETED  
APPLICATION FOR CONFIDENTIAL DESIGNATION  
(20 CCR SECTION 2505)

ORIGINAL

2011 INTEGRATED ENERGY POLICY REPORT  
DOCKET NUMBER 11-IEP-1B

Applicant: Southern California Edison Company ("SCE")



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		DATE 05/06/11
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**1. Identification of the information being submitted, including title, date, size (for example, pages, sheets, megabytes), and docket number**

The information being submitted is the 2011 Electricity Resource Planning Forms S-1, S-2 and S-5 adopted by the California Energy Commission ("Energy Commission") on December 15, 2010, and filed in 11-IEP-1B on April 29, 2011. The forms are approximately 166 kilobytes and are attached hereto as Attachment 1. The portions SCE seeks confidentiality for have been identified in yellow or blue highlighting in Attachment 1. The Energy Commission has previously granted SCE confidential treatment for those portions of the forms highlighted in yellow. The Energy Commission has not granted SCE confidentiality for the portions of the forms highlighted in blue in previous years, but in some cases, has granted confidentiality to Pacific Gas and Electric Company ("PG&E") and San Diego Gas & Electric Company ("SDG&E") for the same portions of their forms.

**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 forms S-1, S-2 and S-5 of SCE's 2011 Electricity Resource Planning Forms, be designated as confidential and exempt from public disclosure.

- **Form S-1 Capacity Resource Accounting Table (CRATs)** – SCE requires confidential treatment of the information contained in the following lines for the time periods specified:

- Line 1 – Forecast Total Peak Hour 1-in-2 Demand for the years 2010-2014;
- Line 5 – Adjusted Peak-Hour Demand: End Use Customer for the years 2010-2014;
- Line 7 – Coincident Peak-Hour Demand for the years 2010-2014;
- Line 8 – Required Planning Reserve Margin for the years 2010-2014;
- Line 10 – Firm Sales Obligation for the years 2010-2014;
- Line 10a – CAM Allocation to non-SCE for the years 2010-2014;
- Line 11 – Firm LSE Peak-Hour Resource Requirement for the years 2011-2014;
- Line 12a – Total Fossil Fuel Dependable Capacity for the years 2011-2020;
- Lines 12b-12c – Individual Fossil Fuel Resources for the years 2011-2013;
- Lines 12d-12j – Individual Fossil Fuel Resources for the years 2011-2020;
- Line 13a – Total Dependable Nuclear Capacity for the years 2011-2020;
- Lines 13b-13f – Individual Nuclear Resources for the years 2011-2020;
- Line 14a – Total Dependable Hydroelectric Capacity for the years 2011-2020;
- Line 14b – Total Hydro Plants larger than 30 MW for the years 2011-2020;
- Line 17a – Total Qualifying Facility (QF) Capacity for the years 2011-2020;
- Line 17g – Natural Gas for the years 2011-2020;
- Lines 19c-19ed – Individual Bilateral Contracts for the years 2011-2020;
- Line 20 – Short Term and Spot Market Purchases for the years 2011-2014;
- Line 21 – Total: Existing and Planned Capacity for the years 2011-2014;

- Line 22 – Firm LSE Peak-Hour Resource Requirement for the years 2011-2014;
- Line 23 – (Capacity Need) or Capacity Surplus for the years 2011-2014; and
- Line 25 – Generic Non-Renewable Resources for the years 2011-2020.
- **Form S-2 – Energy Balance Resource Accounting Table** – SCE requires confidential treatment of the information contained in the following lines for the time periods specified:
  - Line 1 – Forecast Total Energy Demand/Consumption for the years 2011-2014;
  - Line 5 – Adjusted Energy Demand/Consumption for the years 2011-2014;
  - Line 6 – Firm Sales Obligations for the years 2011-2014;
  - Line 7 – Firm LSE Energy Requirement for the years 2011-2014;
  - Line 8a – Total Fossil Energy Supply for the years 2011-2020;
  - Lines 8b-8c – Individual Fossil Resources for the years 2011-2013;
  - Lines 8d-8j – Individual Fossil Resources for the years 2011-2020;
  - Line 9a – Total Nuclear Energy Supply for the years 2011-2020;
  - Lines 9b-9f – Individual Nuclear Resources for the years 2011-2020;
  - Line 10a – Total Hydroelectric Energy Generation for the years 2011-2020;
  - Line 10b – Total Energy: Hydro Plant larger than 30 MW for the years 2011-2020;
  - Line 10d – Hydroelectric Energy in Dry-Year Conditions for the years 2011-2020;
  - Line 10e – Hydroelectric Energy in Wet-Year Conditions for the years 2011-2020;
  - Lines 12b-12n – Individual DWR Contracts for the years 2011-2013;

- Line 13a – Total Energy Supply from QF Contracts for the years 2011-2020;
- Line 13g – Natural Gas for the years 2011-2020;
- Lines 15c-15cl – Individual Bilateral Contracts for the years 2011-2020;
- Line 16 – Short Term and Spot Market Purchases for the years 2011-2014;
- Line 17 – Total Energy: Existing and Planned Resources for the years 2011-2014;
- Line 18 – Firm LSE Energy Requirement for the years 2011-2014;
- Line 19 – (Energy Need) or Energy Surplus for the years 2011-2014;
- Line 21 – Generic Non-Renewable Energy for the years 2011-2020;
- Line 25 – QF Renewable Contract Resources for IOUs for the years 2011-2020;
- Line 32 – Total Retail Sales for the years 2011-2014; and
- Line 33 – Renewable Energy as a Percentage of Retail Sales for the years 2011-2014.

- **Form S-5 – Bilateral Contracts and Power Purchase Agreements - SCE**

requires confidential treatment of the information contained in Lines 4-5, 7-9, 11-14, 16-18, 20-21, 23, 25-31, 34, 36-53, 56-58, 60-74, 77-79, 81-86, 93-98, and 100-102 for the columns below for a period of three years from the date the contract states deliveries begin or until 1 year following expiration, whichever comes first:

- Column M – Contract / Agreement Products;
- Column N – Availability of Products;
- Column O – Must Take;
- Column P – Generating Units Specified;
- Column Q – Capacity of the Units;
- Column R – Availability of the Units;

- Column S – Unit Contingent / LD Contracts;
- Column T – Firm;
- Column U – Firming or Shaping;
- Column V – Contract / Agreement Type;
- Column W – Transmission Contingent & Path;
- Column X – Termination & Extension Rights;
- Column Y – Performance Requirements;
- Column Z – Notes (1); and
- Column AA – Notes (2).

**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 based on either a window of confidentiality looking 3 years forward, one year back<sup>1</sup> or the entire forecast for a three-year period.

SCE requests that the Energy Commission provide confidential treatment to cover SCE's data for year 2014 due to the timing considerations that affect this IEPR cycle. SCE is required to provide similar data to the California Public Utilities Commission ("CPUC") in Rulemaking 10-05-006, Long Term Procurement Plan ("LTPP"), for years 2012 through 2021. For data that SCE is entitled to front three years confidential treatment in the LTPP proceeding, SCE has requested confidentiality for years 2012 through 2014 pursuant to the CPUC's Confidentiality Matrix adopted in D.06-06-066 and modified in D.07-05-032. As a result, to maintain consistency between the Energy Commission and the CPUC, the Energy Commission should grant SCE confidential treatment for year 2014. SCE appreciates the efforts of the Energy Commission in working collaboratively with the CPUC to assure regulatory consistency in areas such as the Energy Commission's Resource Planning Forms. This, too, is an area where SCE

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<sup>1</sup> For example, a forecast in 2011 of gas prices for 2012, 2013, and 2014 would be confidential, but the forecast in 2011 of gas prices for 2015 would be public. As data become one year old, the 1-year window of confidentiality for historical data becomes applicable. Thus in the 2011 gas price forecast for 2012, 2013 and 2014, the data for 2012 should be released in 2013, when it is one year old. The data for 2013 should be released in 2014, and so on. See Decision ("D.") 06-06-066, as modified by D.07-05-032, attached Confidentiality Matrix, p. 2, fn. 6.

urges the Commission to likewise assure regulatory consistency. Both commissions are simultaneously reviewing similar data. There are some minor differences. For example, the start year of the forecasts is different. We ask that the Energy Commission give consideration to the confidential designations in the concurrent CPUC LTPP proceeding for year 2014. Thus, the Energy Commission can achieve consistent protections of SCE's market sensitive data with the CPUC.

**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.

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, pattern, compilation, program, device, method, technique, and process, that: (1) [d]erives 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) [i]s 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 CPUC and the statutes applicable to the CPUC may not be binding on the Energy Commission. That being said, as a matter of consistency, the Energy Commission 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 [CPUC] shall adopt appropriate procedures to ensure the confidentiality of any market sensitive information . . .” The Energy Commission, 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, and the associated Confidentiality Matrix adopted in those decisions, identify information as market sensitive when releasing the information would materially increase the price of electricity, thereby harming customers.<sup>3</sup>

In the 2011 IEPR, SCE seeks protection of information identified by the CPUC as market sensitive in the Confidentiality Matrix. Attachment 2 contains a table showing that information for which SCE is seeking confidential treatment from the Energy Commission is or can be used to derive a category of data the CPUC has identified as market sensitive. As a regulated utility, SCE is subject to the jurisdiction of both the Energy Commission 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

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<sup>2</sup> Civil Code §3426.1(d).

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

to the information for which SCE has receives confidential treatment in various proceedings before the CPUC pursuant to the Confidentiality Matrix.

To maintain consistency between the Energy Commission 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 Energy Commission should protect SCE's market sensitive information, just as the CPUC does.

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 Energy Commission 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. 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 Energy Commission staff in previous IEPR proceedings, SCE has worked to identify information that can be aggregated with other data for public disclosure. Nonetheless, for the reasons stated in response to questions 3, 4 and 5, the information required in the 2011 Electricity Resource Planning Forms S-1, S-2 and S-5 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 (e.g., Rulemaking 10-05-006, Long Term Procurement Plan) and Energy Commission 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 Energy Commission staff members, SCE has identified the information as confidential and has followed all Energy Commission 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 signed by parties receiving the information. SCE has not, to the best of its knowledge, publicly made this data available in the form required by the Energy Commission.

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 28, 2011

Signed: Raymond Johnson

Name: Raymond B. Johnson

Title: Manager, Demand and Price Forecasting