



Pacific Gas and
Electric Company.

COMPLETED

June 1, 2011

Melissa Jones, Executive Director
California Energy Commission
1516 9th Street, MS-4
Sacramento, CA 95814-5512

DOCKET 11-IEP-1C
DATE JUN 01 2011
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Re: Docket: 11-IEP-1C – PG&E's Retail Price and Rate Forms Data Response

Dear Ms. Jones,

The accompanying narrative and tables contain PG&E's response to the California Energy Commission's request for information to PG&E's historical and forecast revenue requirement data regarding utility operations as the CEC requested by its forms and instructions adopted in December, 2010.

We are also providing applications for confidential designation for a subset of the data in these forms. For ease of review, we have provided two different copies of the paper and electronic sets – one confidential version and one with the confidential cells blacked out. PG&E requests that the Commission promptly grant this request in order to ensure protection of this confidential, proprietary, and competitive-sensitive trade secret information.

Please note that, as a general matter, the forward-looking information contained in this response is preliminary in nature, given that future events and regulatory decisions that have not been taken into account are likely to occur and these events and decisions may significantly affect the information in this response. Thus, PG&E does not purport that the information contained in this response will reflect actual future resources.

We value the cooperative and collaborative working relationship we have with the CEC and with your analysts. PG&E appreciates the tremendous amount of hard work and ambitious schedule ahead of you in the 2011 IEPR, and encourage you to call me at the number above or Dan Patry at (415)973-6146, with any questions or concerns you might have.

Sincerely,

Mark Krausse by *[Signature]*
Mark Krausse

**APPLICATION FOR CONFIDENTIAL DESIGNATION
(20 CCR SECTION 2025)**

**2011 INTEGRATED ENERGY POLICY REPORT
Docket Number 011-IEP-C**

Applicant: Pacific Gas and Electric Company ("PG&E")

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1. (a) Title, data, and description of the record.

Electric Retail Price and Rate forms issued by the California Energy Commission (CEC) for the 2011 Integrated Energy Policy Report.

(b) Specify the part(s) of the record for which you request confidential designation.

PG&E is providing in full all the information requested in the Electric Retail Price Forecast Forms 8.1a, 8.1b, and 8.2. This information is available to all Commissioners and to staff members on the 2011 Integrated Energy Policy Report Committee solely for its use in the IEPR proceeding. However, PG&E is requesting confidential designation for the following portions of the Electric Retail Price Forecast forms:

- (i) Form 8.1a - forecast fuel and non-fuel revenue requirements, and forecast fuel costs for 2011- 2022 for utility-owned natural gas-fired generation.

2. State and justify the length of time the Commission should keep the record confidential.

PG&E requests that the portions of the forms for which it requests confidential designation herein be kept confidential for a period of three years from submission. PG&E believes that this confidentiality is required to ensure that the data do not reveal PG&E's "net open" or elements that can be used to calculate the 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 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. At the same time, the public interest in ensuring that the State's energy policy plans and forecasts include this information is protected, because the information is being made available to the Commission staff and all Commissioners for internal use in the IEPR proceeding without restriction, as well as for public use on an aggregated basis.

3. (a) State the provision(s) of the Public Records Act or other law that allows the Commission to keep the record confidential, and explain why the provision(s) applies to the record.

The portions of Form 8.1a. for which PG&E requests confidentiality provide competitively and commercially sensitive business and resource planning information and trade secrets. Under the Public Records Act, Govt. Code Section 6254(k), records subject to the privileges established in the Evidence Code are not required to be disclosed. See also Govt. Code Section 6254.7(d). Evidence Code Section 1060 provides a privilege for trade secrets, which is defined in Civil Code Section 3426.1. That definition includes information, including a formula, technique, and process, that derives independent economic value from not being generally known to the public or to other persons who could obtain value from its disclosure.

These forms contain detailed disaggregated forecast information for fuel and non-fuel revenue requirements and gas prices for 2011- 2020 for utility-owned natural gas-fired generation that relatively easily allows a party to calculate PG&E's current energy supply and capacity needs on a disaggregated basis – the same annual energy supply information for which PG&E has requested confidentiality in Electricity Supply Form S-2.

For example, using the fuel cost revenue requirement for utility-owned natural gas-fired generation, plus the forecast natural price, both of which are contained in Form 8.1a, the forecast annual energy supply volumes from its gas-fired generation can be estimated by using the publicly available average heat rate for the unit. By thus calculating PG&E's "residual net short" position, potential suppliers achieve a competitive advantage that potentially harms PG&E's customers who may end up paying higher power prices.¹ Second, to release this information publicly would allow market participants to have access to competitively sensitive information that would normally not be available to them in this form or format.

¹ "Residual net short" refers to the amount of energy PG&E needs to procure in the market after meeting its forecasted load with existing power supplies, including existing power purchase contracts and utility retained generation.

As a matter of law and public policy, the CEC should ensure that it does not facilitate availability of such data.

Certain categories of this information already are subject to protection from disclosure by the California Public Utilities Commission under Section 454.5 of the Public Utilities Code. That section requires the California Public Utilities Commission to maintain on a confidential basis market sensitive information related to a distribution utility's procurement plan. The data provided here is similar to the same data that has been or would likely be protected in that forum as well. See CPUC Decision No. 06-06-066, Appendix 1. Since the CPUC issued that decision, PG&E has been scrupulous in adhering to the CPUC's confidentiality rules.

(b) Discuss the public interest in nondisclosure of the record. If the record contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please also state how it would be lost, the value of the information to the Applicant, and the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

The public and PG&E's customers have a compelling interest in protecting this information from disclosure to competitors or electricity suppliers who could use the information to manipulate the costs of energy supplies procured by PG&E and other utilities on behalf of their customers. Because of the ease with which PG&E's net short position can be derived using this disaggregated data, protection from disclosure to third parties is required. These determinations need not be mathematically exact to cause harm; customers incur substantial risk of higher energy prices (or fewer revenues from sales) any time a potential supplier knows that a utility must buy or sell gas or electricity on behalf of its customers at any given time. PG&E believes that it would be relatively easy to perform these calculations if the data in these forms were disclosed on a disaggregated basis.

In general, PG&E's electricity procurement-related and resource planning forecasts created after January 1, 2003 when the utilities resumed their procurement responsibilities are a prime candidate for confidential treatment because such information could be used to reveal sensitive PG&E-specific data on the net short, spot purchases, spot sales, total bundled sales, and contract purchases. Similarly, if buyers know when PG&E has to sell power, PG&E could get a lower price than if the market assumed the utility had discretion over whether or not to sell. Such market knowledge is a key factor, for example, for why prices drop during spring hydro run-off periods.

The more detail that is made public concerning a utility's relative peak demand and capacity positions, the greater the potential for market abuse. Suppliers could calculate adjustments to a utility's resource portfolio and be able to determine more accurately the utility's incremental needs from the market. Suppliers might then bid

up prices either through additional buying or less aggressive selling, in anticipation of significant purchases by the utility, as compared with prior periods.

PG&E believes that the public interest in favor of disclosure of IEPR-related information can be promoted without disclosure of this information on a disaggregated basis. The disaggregated information is being provided without restriction to the Commission staff and all Commissioners for their internal use in the IEPR proceeding.

4. **State whether the record may be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identity of the Applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if it is aggregated or masked, explain why.**

Aggregation of data collected by the CEC from all California electric and gas utilities on a statewide basis would be acceptable, as long as not disaggregated by geographic region or service territory in a manner that would permit imputation on a stand-alone utility basis. Also, after the passage of at least three years, release of the data provided herein would not cause as much concern.

5. **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.**

PG&E maintains access to this information on a confidential basis. It is only available by hard copy and electronically on a limited basis within certain departments and corporate affiliates, such as PG&E's parent company, that must have access to the information to conduct their procurement, regulatory, and business planning and forecasting activities. In addition, under Standard of Conduct #2 adopted by the CPUC for the utilities' electric procurement activities, PG&E employees are obligated to protect the Company's trade secrets:

2. Each utility must adopt, actively monitor, and enforce compliance with a comprehensive code of conduct for all employees engaged in the procurement process that: 1) identifies trade secrets and other confidential information; 2) specifies procedures for ensuring that such information retains its trade secret and/or confidential status [e.g., limiting access to such information to individuals with a need to know, limiting locations at which such information may be accessed, etc.]; ... (See D.02-12-074, pp. 57-58.)

PG&E has not to the best of its knowledge previously released this information to the general public or to third parties or market participants on an unlimited basis in this format or projecting out over this duration of time. While certain of the information here or similar categories of information may have been provided in

part or in aggregated form previously under protective order or nondisclosure agreements in various state or federal regulatory filings, PG&E has not to the best of its knowledge previously publicly disclosed this data in this disaggregated format.

For all these reasons, PG&E requests that the CEC protect this information from disclosure to the public, PG&E's suppliers, or PG&E's competitors.

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: June 1, 2011

Signed: 

Name: Christopher J. Warner
Title: Chief Counsel
Pacific Gas and Electric Company