

July 12, 2013

VIA OVERNIGHT DELIVERY

California Energy Commission
Robert Oglesby, Executive Director
California Energy Commission
1516 Ninth Street MS-39
Sacramento, CA 95814-5504



Re: *13-IEP-1C Electricity Demand Forecast and Application
for Confidential Designation*

Dear Executive Director Oglesby:

Enclosed is a CD of the confidential portion of Southern California Edison Company's Amended 2013 Integrated Energy Policy Report Electricity Demand Forecast Form 1.6a and Application for Confidential Designation pursuant to Section 2505 of Title 20 of the California Code of Regulations. If you have any questions or require additional information, please contact Carl H. Silsbee at (626) 302-1708.

Very truly yours,

Veronica Flores-Ochoa

Enclosure(s)

**APPLICATION FOR CONFIDENTIAL DESIGNATION
(20 CCR SECTION 2505)**

**2013 INTEGRATED ENERGY POLICY REPORT
DOCKET NUMBER 13-IEP-1C**

Applicant: Southern California Edison Company (“SCE”)

Attorney for Applicant:	Rebecca Meiers-De Pastino
Address of Attorney:	2244 Walnut Grove Ave. Rosemead, California 91770 rebecca.meiers-depastino@sce.com (626) 302-6016

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

On April 15, 2013 in 13-IEP-1C, SCE filed confidential and public versions of its 2013 Electricity Demand Forecast Forms 1.1b, 1.2, 1.3, 1.4, 1.5, and 1.6a adopted by the California Energy Commission (“Energy Commission”) on December 12, 2012 and requested confidential treatment of certain data on those forms.

SCE’s April 15, 2013 filing of Form 1.6a SCE’s April 15, 2013 provided data at the generation level. SCE later learned that the Energy Commission required bundled and direct access load data at the independent system operator level. Accordingly, SCE submits an amended Form 1.6a with the data the Energy Commission requested and renews its request for confidential treatment of certain historical load data contained in Form 1.6a. The amended Form 1.6a is approximately 2.36 MB and is attached hereto as Attachment 1.

For the 2013 Integrated Energy Policy Report (“IEPR”), the Energy Commission highlighted the specific columns and rows of the 2013 IEPR Electricity Demand Forecast Forms to identify its prior treatment of the information. The portions highlighted in yellow represent data that was previously granted confidential treatment by the Energy Commission. The portions

highlighted in blue represent data for which the Energy Commission has not previously granted confidential treatment.

In response to SCE's original filing and Application for Confidential Designation of bundled, direct access and total system load data contained in Form 1.6a for 2012 and 2013, the Energy Commission granted SCE's request for confidential treatment of data regarding SCE's bundled and direct access load for the years 2012 and 2013, but denied confidential treatment for total system load for 2012 and 2013. Amended Form 1.6a does not contain data for which confidential treatment was previously denied. Accordingly, SCE highlighted the information in Attachment 1 for which it seeks protection in yellow and requests that the Energy Commission continue to treat that information as confidential.

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 2013 Electricity Demand Forecast Forms be designated as confidential and exempt from public disclosure.

- **Form 1.6a – Hourly Loads by Transmission Planning Subarea or Climate Zone (IOUs Only) (MW)** – SCE requires confidential treatment of the information contained in the following columns for the time periods specified:
 - Bundled Load for the years 2012 – 2013;
 - Direct Access Load for the years 2012 – 2013; and

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 the years 2012-2013. This methodology is consistent with the California Public Utilities Commission's ("CPUC's") Decision ("D.") 06-06-066, as modified by D.07-05-032, and its attached Confidentiality Matrix.¹

¹ D.06-06-066, as modified by D.07-05-032, Confidentiality Matrix, p. 2, fn. 6.

Specifically, the Form 1.6a data for year 2012 historical demand can be used to calculate Total IOU Bundled Customer hourly historical energy sales, which is confidential under the Confidentiality Matrix, Section X.E. Further, the Form 1.6a data for 2013 forecast demand can be used to calculate LSE Total Energy Forecast – Bundled Customer, LSE Energy Forecast by Service Area, and Total Peak Demand Load Forecast – IOU Planning Area, which are confidential under Confidentiality Matrix, Sections V.C.

The Energy Commission and the CPUC are often charged with overlapping responsibilities. As a result, both commissions undertake endeavors that require them to review similar types of data. Accordingly, the Energy Commission has endeavored to work collaboratively with the CPUC to assure regulatory consistency in areas such as the Energy Commission’s Demand Forecasts and should continue to employ that practice with respect to its disposition of this application.

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.

The demand forecast data for which SCE requests confidential treatment is confidential proprietary sensitive information about the timing in which and the quantity of the energy SCE has to sell or purchase for its customers. 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, such information is extremely valuable and, if revealed, could place SCE at a competitive disadvantage when purchasing or selling energy. For this reason, CPUC decisions protect such information from public disclosure and dissemination. As noted above, SCE encourages the Energy Commission to adopt a consistent methodology for maintaining the confidentiality of such information.

The data identified as confidential 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 an excess that it desired to sell. Either outcome would ultimately harm SCE’s customers.

The California Legislature has enacted statutes to protect confidential information, including the information for which SCE seeks protection here, from public disclosure. Specifically, the Public Records Act, found at Government Code Section 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, or 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 economic value from its disclosure or use; and (2) [i]s the subject of efforts that are reasonable under the circumstances to maintain its secrecy.”² The Section 25322 of the California Public Resources Code governing the confidentiality of information gathered by the Energy Commission follows the same standard.³ Specifically, if the information is exempt from disclosure under the California Public Records Act, “[t]he commission shall grant the [confidentiality] request.”⁴ The data for which SCE seeks confidential protection here are trade secrets because they derive value from not being known to the public. In fact, public disclosure

² Civil Code §3426.1(d).

³ Cal. Pub. Resources Code 25322 § 25322(a)(1)(A) (“The data collection system managed pursuant to Section 25320 shall include the following requirements regarding the confidentiality of the information collected by the commission: (1) Any person required to present information to the commission pursuant to this section may request that specific information be held in confidence. *The commission shall grant the request in any of the following circumstances: (A) The information is exempt from disclosure under the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.*”) (emphasis added.)

⁴ *Id.*

of this information would cause electricity prices to materially increase, which would harm customers. Accordingly, SCE makes reasonable efforts to maintain its secrecy.

Although the CPUC's decisions and the statutes applicable to the CPUC may not be binding on the Energy Commission, as a matter of comity and 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.⁵

In the 2013 IEPR, SCE seeks protection of information identified by the CPUC as market sensitive in the Confidentiality Matrix. Attachment 2 contains a table showing how 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 to the information for which SCE receives confidential treatment in the Confidentiality Matrix.

⁵ See D.06-06-066 at 40-43 and Finding of Fact No. 2, at p. 76.

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. Allowing persons or entities to circumvent the CPUC's confidentiality rules by "agency shopping" and thus obtain access to data that would otherwise be deemed confidential can have the unintended consequence of undermining the public's confidence in the regulatory environment and both agencies.

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 and energy 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, the Public Resources Code, and Public Utilities Code. Accordingly, the CPUC has

determined that the benefit of maintaining the confidentiality of this “market sensitive” information outweighs any benefit to be gained from publicly releasing it.

The data for which SCE seeks protection is “market sensitive” and protected under the CPUC-approved Confidentiality Matrix. The Form 1.6a data for year 2012 historical demand can be used to calculate Total IOU Bundled Customer hourly historical energy sales, which is confidential under the Confidentiality Matrix, Section X.E. Further, the Form 1.6a data for 2013 forecast demand can be used to calculate LSE Total Energy Forecast – Bundled Customer, LSE Energy Forecast by Service Area, and Total Peak Demand Load Forecast – IOU Planning Area, which are confidential under Confidentiality Matrix, Section V.C.

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 and 4, the information required in 2011 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 submitted to the CPUC

pursuant to Public Utilities Code Section 583⁶ and other CPUC procedural safeguards to maintain its confidentiality. With respect to the Energy Commission staff, 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: July 11, 2013

Signed:



Name:

Carl H. Silsbee

Title:

Manager of Resource Economics

⁶ California Public Utilities Code Section 583 provides: “No information furnished to the commission by a public utility, or any business which is a subsidiary or affiliate of a public utility, or a corporation which holds a controlling interest in a public utility, except those matters specifically required to be open to public inspection by this part, shall be open to public inspection or made public except on order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding. Any present or former officer or employee of the commission who divulges any such information is guilty of a misdemeanor.”