

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

**DATA REQUEST FOR RESPONSES TO THE CALIFORNIA PUBLIC UTILITIES
COMMISSION'S DATA REQUEST RE DROUGHT AND HYDRO CONDITIONS**

Applicant: Southern California Edison Company ("SCE")

Attorney for Applicant:	Rebecca Meiers-De Pastino
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1. Identification of the information being submitted, including title, date, size (for example, pages, sheets, megabytes), and docket number

SCE submits the responses it provided to the California Public Utilities Commission's (CPUC's) Data Request Set CPUC-ED-SCE-001 Re Drought and Hydro Conditions on February 7, 2014. The set contained 10 questions. SCE's response is contained on 11 pages attached hereto as Attachment 1. Pages containing confidential information are conspicuously marked in red bold writing with the statement: **"CONFIDENTIAL Protected Materials Pursuant to California Public Utilities Commission Decisions and Applicable Law. – Public Disclosure Restricted --."**

2. Description of the data for which confidentiality is being requested (for example, particular contract categories, specific narratives, and time periods).

SCE requests that information contained on the pages of Attachment 1 that are conspicuously marked in red bold writing with the statement: **"CONFIDENTIAL Protected Materials Pursuant to California Public Utilities Commission Decisions and Applicable Law. – Public Disclosure Restricted --"** be designated as confidential and made exempt from public disclosure because the information is deemed to be confidential, market sensitive, trade secret information protected from public disclosure under CPUC decisions and other applicable law.

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 information in Attachment 1 that is marked as confidential be restricted from public disclosure based on a window of confidentiality looking three years forward. 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 Specifically, Sections I.A., IV A. and C., and V.B. and C. of the CPUC's Confidentiality Matrix designates portions of the information provided as confidential for three years. The Energy Commission and the CPUC are often charged with overlapping responsibilities. As a result, both commissions undertake tasks 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 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.

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 about anticipated procurement needs, if revealed, could place SCE at a competitive disadvantage when purchasing or selling energy. For this reason, as discussed above, CPUC decisions protect such information from public disclosure and dissemination. SCE encourages the Energy Commission to adopt a methodology that is consistent with the one utilized by the CPUC for maintaining the confidentiality of such information.

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

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

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 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

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.*

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

SCE seeks protection of information identified by the CPUC as market sensitive in the Confidentiality Matrix. 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, as demonstrated in Attachment 2, the information for which SCE is seeking confidential treatment here is the same information for which SCE receives confidential treatment in 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. 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.

As the primary driver of power prices in California, 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 See D.06-06-066 at 40-43 and Finding of Fact No. 2, at p. 76.

- 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 suppliers to manipulate the price SCE must pay for power. 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. 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.**

The confidential information that SCE has supplied is not aggregated and, as provided, 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.**

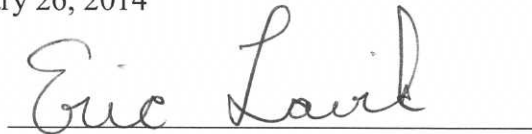
Based on information and belief, SCE has not, to the best of its knowledge, previously publicly released the information for which it seeks confidentiality here. As discussed in response to Question 1 above, in response to a CPUC data request, the information was previously provided to the CPUC with a confidential designation. Some of the information contained in the referenced forms may also have been previously submitted to the CPUC on

other occasions pursuant to Public Utilities Code Section 583,⁶ CPUC decisions and other applicable law, utilizing the CPUC's procedural safeguards to maintain its confidentiality. 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. 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 has not, to the best of its knowledge, publicly made this data available in the form desired 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: February 26, 2014

Signed:

A handwritten signature in cursive script, reading "Eric Lavik", written over a horizontal line.

Name:

Eric Lavik

Title:

Manager of Portfolio Reporting, Power Supply Department

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."