

## CALIFORNIA ENERGY COMMISSION

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March 12, 2014

Rebecca Meiers-De Pastino  
Southern California Edison Company  
2244 Walnut Grove Ave  
Rosemead, CA 91770

California Energy Commission

**DOCKETED****14-HYDRO-01**

TN 72780

MAR 13 2014

**RE: Application for Confidentiality Responses to CPUC Questions on drought impacts to Hydro Power production  
Southern California Edison Company  
Docket No. 14-HYDRO-01**

Dear Ms. Meiers-De Pastino:

Southern California Edison Company (Applicant) filed an application for confidentiality seeking confidentiality for data previously submitted to the California Public Utilities Commission (CPUC). The specific data at issue includes the responses to Questions # 2-6 and is designated with a statement that the data is confidential. The data relates to hydro power and projected impacts of the California drought on the Applicant's procurement of hydro power. The information provided falls under the CPUC's Market Sensitive Data Matrix, CPUC D.06-06-066 as a trade secret with the potential to impact energy prices if the data is released. Under the CPUC's Data Matrix the hydro data would be confidential for three years.

While the California Energy Commission (Energy Commission) is not obligated to follow the Market Sensitive Data Matrix, trade secrets and avoidance of market manipulation that underlies the matrix also supports a designation of confidentiality by the Energy Commission.

A properly filed Application for Confidentiality shall be granted under the California Code of Regulations, title 20, section 2505(a)(3)(A), "If the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the Energy Commission to keep the record confidential." The California Public Records Act allows for the non-disclosure of trade secrets and proprietary information. (Gov. Code, §§ 6254(k), 6254.7, 6254.15 Evid. Code, § 1060.) The California courts have traditionally used the following definition of trade secret:

a trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. . . .

(*Uribe v. Howe* (1971) 19 Cal.App.3d 194, 207-208, from the Restatement of Torts, vol. 4, § 757, comments b, p.5.)

California Code of Regulations, title 20, section 2505(a)(1)(D) states that if the applicant for confidential designation believes that the record should not be disclosed because it contains trade secrets, or its disclosure would otherwise cause loss of a competitive advantage, the application shall state: 1) the specific nature of the advantage; 2) how the advantage would be lost; 3) the value of the information to the applicant; and 4) the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

In this case Applicant purchases and sells large quantities of electrical energy on behalf of its customers. The market place for such purchases and sales is highly competitive. Information about anticipated procurement needs, if revealed, could place the Applicant at a competitive disadvantage when purchasing or selling energy. The Applicant derives value from the data not being known to the public. Further, public disclosure may cause electricity prices to increase which would harm the Applicant's customers. The Applicant has taken care to ensure the data has not been previously released to prevent potential market manipulation.

In addition to the data's proprietary nature, the Energy Commission's effort to coordinate with the CPUC on energy issues that impact the state, such as the effect of drought on hydro power, require some deference to the CPUC's confidentiality findings.

Applicant has made a reasonable claim that the law allows the Energy Commission to keep the hydro related data confidential. The information has been developed exclusively by Applicant, contains information that is not public, and has the potential to not only disadvantage the Applicant if the information is made public, but to also impact the market prices of energy.

Based on the above discussion, the Applicant's confidentiality application is granted. The data subject to this confidentiality designation will be kept confidential for 3 years, which is consistent with the CPUC Data Matrix.

Be advised that persons may petition to inspect or copy records that I have designated as confidential. The procedures and criteria for filing, reviewing, and acting upon such petitions are set forth in the California Code of Regulations, title 20, section 2506. If you have any questions concerning this matter, please contact Jared Babula, Senior Staff Counsel, at (916) 651-1462.

Sincerely,



Robert P. Oglesby  
Executive Director

cc: Docket Unit  
Sylvia Bender  
Ivin Rhyne