



**Pacific Gas and Electric Company.**

CONFIDENTIAL

COMPLETED

Mark Krausse  
Director  
State Agency Relations

DOCKET	
11-IEP-1C	
DATE	04/29/11
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April 29, 2011

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



**Re: Docket: 11-IEP-1C – PG&E’s Demand Forms Data Response**

Dear Ms. Jones,

The accompanying narrative, compact discs, and paper copies contain PG&E’s response to the California Energy Commission’s request for information to PG&E’s historical, forecast, and contract data regarding electricity supply 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. In lieu of our narrative description of the tables comprising PG&E’s response for the supply forms, we have coordinated an in-person meeting with Jim Woodward to discuss questions and concerns. 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 *Dan Patry*  
Mark Krausse

APPLICATION FOR CONFIDENTIAL DESIGNATION  
(20 CCR SECTION 2025)

**2011 INTEGRATED ENERGY POLICY REPORT**  
**Docket Number 11-IEP-1B**

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

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

Electricity Supply 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 the information requested in Electricity Supply Forms S-1, S-2, S-4 and S-5<sup>1</sup>. This information is available to all Commissioners and to staff members on the 2011 Integrated Energy Policy Report Committee solely for its own use in the IEPR proceeding. However, PG&E is requesting confidential designation for certain information designated as confidential in Electricity Supply Forms S-1, S-2, S-4 and S-5.<sup>2</sup>

PG&E has provided Form S-1 (annual capacity resource tables), Form S-2 (annual energy balance tables), S-4 (wind resource nameplate capacity) and Form S-5 (bilateral contracts). The CEC granted confidentiality to the below data categories in the 2007 and 2009 IEPR forms on April 24, 2009, March 12, 2007 and May 9, 2007. PG&E's request for confidentiality in these 2011 IEPR forms is consistent with those decisions for similar data. The types of data contained in these categories are unchanged or substantially similar to the categories in the 2009 and 2007 IEPR forms. PG&E requests that these categories be deemed confidential for the same reasons as presented in the 2009 and 2007 IEPR are still relevant.

<sup>1</sup> Form S-3 is only for publicly owned LSE with annual peak loads under 200 MW.

<sup>2</sup> PG&E requests that the confidentiality of this information be maintained by restricting access to hard copies and controlled electronic files only and solely to the IEPR proceeding.

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

PG&E requests that the following categories of information designated as confidential be kept confidential for a period of three years from submission, i.e. until April 1, 2014 or, for Form S-5, until the contract expiration date, whichever is later. PG&E believes that this confidentiality is required to ensure that supply and resource data do not reveal PG&E's "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.

**Supply Form S-1 (Capacity)  
Forecast Period (2011 -2020)**

PG&E requests confidentiality for the following lines for 2011 through 2013:

- Line 21, Total: Existing and Planned Capacity;
- Line 22, Firm LSE Peak-Hour Resource Requirement;
- Line 23, (Capacity Need) or Capacity Surplus;
- Line 25a, Generic Non-Renewable Energy

PG&E requests confidentiality for the following lines for 2011 through 2020:

- Line 11, Firm LSE Peak-Hour Resource Requirement;
- Lines 19a-z, Total Capacity from Other Bilateral Contracts, as well as the bilateral contracts and Seasonal Exchange broken down;

PG&E requests confidentiality for the following lines for the 2009 through 2020 period:

- Line 17a, Total Qualifying Facility (QF) Capacity;
- Line 17g, Natural Gas;
- Line 17h, Other

- Line 20, Spot Market Purchases

Historical Period (2009-2010)

As described in the documents supporting Form S-1, supply resource values do not necessarily represent the actual peak capacity that was realized during the historical period. Rather, they represent capacity expected to have been available during the peak. PG&E is seeking (and has previously been granted<sup>3</sup>) confidentiality for forecasted values for the below data categories. PG&E also requests confidentiality for the following limited set of data categories for the historical period, because divulging them would allow easy extrapolation to the forecast period.

PG&E requests confidentiality for the following lines for 2009 and 2010 historical period, as well as forecasted data through 2010:

- Line 17a, Total QF Capacity,
- Line 17g, QF capacity from gas-fired units,
- Line 17h, QF capacity from units with other fuels,
- Lines 19a- 19z, covering long-term bilateral contracts, and
- Line 20, Short-Term and spot Market Purchases.

PG&E also requests confidentiality for Form S2, Lines 15a – 15z, covering energy from bilateral contracts, because divulging them would allow easy extrapolation to the forecast period.

**Supply Form S-2 (Energy)**

Forecast Period (2011 -2020):

PG&E requests confidentiality for the following lines yearly totals of 2011 through 2013:

- Line 1, Forecast Total Energy Demand / Consumption;
- Line 5, Adjusted Energy Demand / Consumption;
- Lines 9a-c, Total Nuclear Energy Supply, Diablo Canyon Units 1 and 2;
- Line 21, Generic Non-Renewable Energy;
- Line 21a-b, Incremental CHP New Facilities and Incremental CHP New Contracts for Existing Facilities;
- Line 21c, Generic Non-Renewable Energy Other;
- Line 32, Total Retail Sales;
- Line 33, Renewable Energy as a Percentage of Retail Sales;

PG&E requests confidentiality for the following lines yearly totals of 2011 through 2020:

- Line 6, Firm Sales Obligations;

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<sup>3</sup> CEC Executive Director, B. B. Blevins, March 12, 2007 confidentiality decision.

- Line 7, Firm LSE Energy Requirement;
- Line 8a, Lines 8b-f, Total Fossil Energy Supply; Colusa, Gateway, Humboldt, Oakley, [LFO]Mobile GT1-2
- Line 12a, Lines 12b-p, Total Energy Supply from DWR Contracts, each individual contract broken down;
- Line 13a, Lines 13g-h, Total Energy Supply from QF Contracts, Natural Gas, Other
- Line 15a, Lines 15b-z, Total Energy Supply from Other Bilateral Contracts, each individual contract broken down.
- Line 17, Total Energy: Existing and Planned Resources
- Line 18, Firm LSE Energy Requirement

PG&E requests confidentiality for the following lines related to hydroelectric generation for 2011 only:

- Line 10a, Total Hydroelectric Generation (incl. IDWA)
- Line 10b, Total Energy: Hydro Plants larger than 30 MW

As described in the documents supporting Form S-2, the hydroelectric data for 2011 was based on current precipitation and generation forecasts for calendar year 2011. While the forecast for 2012 through 2020 is based on average year generation, the current forecast for 2011 depicts generation which is higher than average. Since PG&E is seeking (and has previously been granted<sup>4</sup>) confidential treatment for similar forecasted values (Line 10d, Hydroelectric Energy in Dry-Year Conditions (1-in-5)), PG&E also requests confidentiality for the following limited set of data categories relating to the current forecast of 2011 annual generation. PG&E is confronted with unique challenges and opportunities during times of extreme hydrologic conditions, and confidentiality of this data is required to protect PG&E's position as a major buyer and seller of energy for its customers,

PG&E requests confidentiality for the following lines for yearly totals of 2011 only:

- Lines 10d-e, Hydroelectric Energy in Dry-Year Conditions, Hydroelectric Energy in Wet-Year Conditions.

#### **Supply Form S-4 (Wind Resources)**

PG&E requests confidentiality for the following columns and lines in PG&E's amended S-4 as approved by CEC Staff:

- Column O, Lines 2-55, Expected Project Nameplate MW by 1/1/16
- Column R, Lines 2-55, Owner's Contact Information
- Column S, Lines 2-55, Notes

<sup>4</sup> CEC Executive Director, B. B. Blevins, March 12, 2007 confidentiality decision.

### **Supply Form S-5 (Bilateral Contract and Power Purchase Agreements)**

PG&E has provided the following amended Form S-5 for approximately 120 bilateral contracts as approved by CEC Staff. The Form S-5 is submitted as a spreadsheet, because that is more readable and user-friendly than a separate sheet for each and every contract. The CEC granted confidentiality to all of these contracts for the following data categories in the 2007 and 2009 IEPRs on April 24, 2009, March 12, 2007 and May 9, 2007:

- Contract Products;
- Availability of Contract Products;
- Must Take;
- Generating Unit(s) Specified,<sup>5</sup>
- Supplier/Seller
- Capacity of the Unit(s);
- Availability of the Unit(s);
- Unit Contingent / LD Contract;
- Firm;
- Contract / Agreement Type<sup>6</sup>
- Transmission Contingent & Path;
- Termination & Extension Rights;
- Performance Requirements; and
- Notes

In the April 24, 2009 decision the CEC found that disclosure of the information in these categories “could place PG&E at a competitive disadvantage if disclosed, and this could lead to potentially higher costs to PG&E ratepayers....” In the March 12, 2007 decision the CEC found that disclosure of the information in these categories “would place PG&E at an economic disadvantage and require trade secret protection.” The information contained in these categories for the 2011 IEPR is unchanged or substantially similar to the information for these categories in the 2007 and 2009 IEPRs. PG&E requests that these categories be deemed confidential for all contracts because these same disclosure concerns are still relevant.

PG&E also seeks confidential treatment for only specific types of information that is disclosed in responding to the following two categories:

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<sup>5</sup> Previously “Unit(s) Under Contract.”

<sup>6</sup> Previously “Contract Pricing.” While this category no longer seeks numerical information on pricing terms compared to the 2007 IEPR, this category still reveals sensitive contract term information such as the mechanism used to determine energy payments under the contract pricing (e.g., whether the pricing terms are fixed, gas/power indexed, shaping and firming, include capacity, etc.).

- Delivery Point(s)1-CAISO Congestion Zone;
- Delivery Point 2 – Substation
- CAISO Resource ID
- Locational Attributes of Unit(s)

In many cases, the general locational attribute was already well known such as “Interconnection to the PG&E distribution system” or Transmission Zone ZP-26,” which PG&E is not requesting be held confidential.

However, PG&E is requesting confidential treatment for more specific locational or delivery attributes that reveal sensitive contract terms or information such as “the 60 kV bus at Round Mountain Substation near Red Bluff,” or a targeted geographic location. At the recommendation of CEC staff to facilitate clear and focused applications for geographically specific attributes that are commercially sensitive<sup>7</sup>, PG&E has split this information into two distinct lines for general (public) and specific (confidential) attributes. PG&E has marked only the subset of information which contains specific attributes as confidential.

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.

Supply Forms S-1, S-2, S-4 and S-5 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, as well as commercially and competitively sensitive expected capacity information, that relatively easily allows a party to calculate PG&E’s current energy supply and capacity needs on a disaggregated basis, as well as disclose financially and commercially sensitive information on individual projects. 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.<sup>8</sup> Second, to release this information publicly would allow

<sup>7</sup> Factual Summary of Confidentiality Determinations Granted to Electricity Supply Plans Provided by LSEs to the Energy Commission for the 2007 Energy Report; Jim Woodward, Electricity Analysis Office, CEC; January 27, 2009.

<sup>8</sup> “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.

market participants to have access to competitively sensitive information that would normally not be available to them in this form or format. 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 and trade secret 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. See PG&E Application for Confidentiality, March 2, 2005, CEC Docket No. 04-IEP-1D.

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.**

Certain of the data in Supply Forms S-1, S-2 and S-5 could be provided in an aggregated format for disclosure to the public and third parties as described in the CEC's April 24, 2009 and March 12, 2007 confidentiality decisions. PG&E believes this aggregation would be sufficient to avoid the competitive and ratepayer harms that would occur in the event the disaggregated data were disclosed to market participants.

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: April 28, 2011

Signed: 

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