

COMPLETED



**Pacific Gas and  
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Mark Krausse  
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DOCKET 11-IEP-1J
DATE JUN 09 2011
REC'D JUN 10 2011

June 9, 2011

**ELECTRONIC DELIVERY**

California Energy Commission  
Docket Office, MS-4  
Re: Docket No. 11-IEP-1J  
1516 Ninth Street  
Sacramento, CA 95814

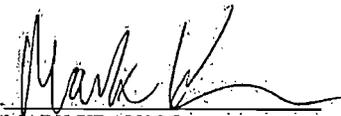
RECEIVED
JUN 10 2011
EXECUTIVE DIRECTOR

**RE: Docket 11-IEP-1J, Nuclear Data Request in the 2011 Integrated Energy Policy Report.**

In response to your April, 2011 data request regarding existing nuclear power plants, we have attached our response in the form of a narrative with numerous spreadsheets and documented files referenced on a flash drive. The responses have been separated into two groups; the larger group, which you are receiving, that comprises the bulk of our response; and a smaller set of information that is sensitive. The latter information has been sent to Melissa Jones and Barbara Byron along with our recommendations for confidential treatment and a formal confidentiality application.

Please feel free to call me or Dan Patry, (415) 973-6146, with any questions or concerns.

Sincerely,

  
MARK KRAUSSE  
Pacific Gas and Electric Company

Mark Krausse  
Cc: (cover letter, narrative and flash drives)  
Melissa Jones, CEC, by UPS overnight  
Barbara Byron, CEC, by UPS overnight

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

***2011 INTEGRATED ENERGY POLICY REPORT***

**Docket Number 11-IEP-1L**

**Nuclear Power Plant Data Request**

To: Melissa Jones, Energy Commission Executive Director, MS-39  
Barbara Byron, Energy Commission Project Manager

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

Attorney for Applicant: Jennifer K. Post  
Address of Attorney: Attorney  
Law Department  
Pacific Gas and Electric Company  
P.O. Box 7442  
San Francisco, CA 94120-75442  
jlk@pge.com  
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(415) 972-5952

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

Nuclear Power Plant Data Request 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 all of the information requested in the Nuclear Power Plant Data Request. 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. PG&E is requesting confidential designation for Nuclear Power Plant Data Request questions A.15 and B.2 (proprietary evaluations issued by the Institute of Nuclear Power Operations (INPO) subject to confidentiality requirements and INPO Event Reports (IER) 11-1 and 11-2). The reasons for this confidential designation are provided below. The information subject to confidentiality will be made available separately for inspection at the Energy Commission's offices (INPO evaluations and IER 11-1 and 11-2).

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

PG&E requests that the information be kept confidential for as long as INPO's policies require that it be kept confidential. PG&E believes that the confidentiality

of this information is required to ensure that information owned and possessed by INPO as part of self-assessments performed by INPO is not revealed, thereby compromising and adversely affecting the benefits of such self-assessments.

At the same time, the public interest in ensuring that the State's energy policy plans reflect 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.

**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 response to Question A.15 and B.1 and B. 2 should be kept confidential pursuant to confidentiality requirements between PG&E and INPO as well as court decisions upholding the confidentiality of INPO documents. INPO is an industry organization established to provide nuclear power operators with critical evaluations of their performance compared to industry-wide standards of excellence. The purpose of INPO is to improve nuclear operating performance and safety by providing nuclear power plant operators with critical evaluations and analyses. As a nuclear power plant operator, PG&E has agreed to hold INPO evaluations and analyses as confidential and INPO is the copyright holder and owner of such evaluations and analyses. INPO does not distribute its evaluations or analyses to the public, and has only made such evaluations and analyses available to third parties under confidentiality agreements or commitments.

The reason for these confidentiality protections for INPO evaluations is to maximize the incentives for nuclear power plant operators to make information available to INPO that will help improve nuclear power plant operations without fear that such information will be used against the operators.<sup>1</sup> Although PG&E is unable to provide copies of INPO evaluations because of INPO's copyright and ownership protections, PG&E can request that such INPO evaluations be made available to the Energy Commission and its consultants for inspection at Energy Commission offices in Sacramento or other convenient location, subject to an appropriate confidentiality commitment and non-disclosure agreement executed by the Energy Commission's consultants. Copies and notes will not be able to be taken, but PG&E is willing to work with the Commission, its consultants and INPO to permit non-confidential facts relating to the INPO evaluations to be included in the public versions of relevant IEPR documents and reports.

**(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**

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<sup>1</sup> The courts have upheld the confidentiality of INPO evaluations under the Freedom of Information Act, the federal version of the Public Records Act. *Critical Mass Energy Project v. Nuclear Regulatory Commission*, 830 F. 2d 278, 282 (D.C. Cir. 1987), *app.den.* 975 F. 2d 871 (D.C. Cir. 1992).

**competitive advantage, please also state how it would be lost, the value of the information to the Applicant, and the case or difficulty with which the information could be legitimately acquired or duplicated by others.**

For the reasons stated above, the public and PG&E's customers have a compelling interest in protecting INPO evaluation information, the disclosure of which would disincite and deter improvements in nuclear power plant operations that benefit PG&E and its customers.

PG&E believes that the public interest in favor of disclosure of this nuclear-related information can be promoted without disclosure to the public. First, the information is being provided without restriction to the Commission staff, consultants and all Commissioners for their internal use in the IEPR proceeding. Second, PG&E is providing public information on its nuclear facilities and operations in a non-confidentially for the use and access of the public and third-parties. In this manner, the public interest in favor of disclosure is balanced with the public interest against disclosure.

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.**

PG&E does not believe this information can be aggregated or "masked" sufficiently to avoid the economic, competitive and ratepayer harms that would occur in the event the disaggregated information were disclosed to market participants or the public.

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 all 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 safety, 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

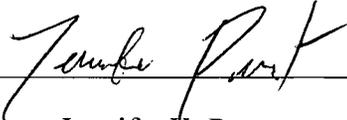
information to individuals with a need to know, limiting locations at which such information may be assessed, etc.]; . . . (See D.02-12-074, pp. 57-58.)

With the exception of disclosure under non-disclosure agreements, and/or protective orders or commitments in Energy Commission, CPUC or NRC proceedings, 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 10, 2011

Signed:  \_\_\_\_\_  
Name: Jennifer K. Post  
Title: Attorney  
Pacific Gas and Electric Company