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December 6, 2013

ADVICE LETTER 2548-E
(U 902-E)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**SUBJECT: REQUEST FOR APPROVAL OF A RESOURCE ADEQUACY CONTRACT
BETWEEN SAN DIEGO GAS & ELECTRIC AND W POWER FOR THE CHULA
VISTA ENERGY CENTER**

San Diego Gas & Electric Company ("SDG&E") hereby submits to the California Public Utilities Commission (the "Commission" or the "CPUC") for approval the *Long Form Confirmation for Resource Adequacy Capacity Product* with W Power, LLC ("W Power") ("Confirmation").¹ This Confirmation, under which SDG&E will buy and W Power will sell resource adequacy ("RA") product from the Chula Vista Energy Center ("CVEC") during the period January 1, 2014, through December 31, 2014, was bilaterally negotiated and agreed upon to address local capacity requirements within the San Diego Sub-Area during 2014.

A. BACKGROUND

CVEC is a natural gas-fired power plant utilizing a Pratt & Whitney FT-4 aero-derivative combustion turbine peaking unit. Although the unit currently is over forty years old, during the California energy crisis it was relocated from the east coast and installed at its current San Diego location. Since then CVEC has contracted with the California Independent System Operator ("CAISO") and Load Serving Entities ("LSE"), including SDG&E, as part of meeting local and regional grid reliability needs.

B. CONTRACT SUMMARY

This Confirmation, which contemplates an RA-only transaction for compliance year 2014, will cost-effectively keep CVEC available to the CAISO for another year as a generation resource supporting grid reliability in a local area fraught with capacity deficiency in the wake of the San Onofre Nuclear Generating Station ("SONGS") closure.

¹ The filing of this advice letter does not constitute waiver of SDG&E's right to assert that it is authorized under its Long-Term Procurement Plan to enter into a transaction such as that described herein without the need to seek Commission approval through an advice letter or application filing.

Below is a summary of key aspects from the proposed transaction:

Key Aspect	Description
Counterparty	W Power, LLC (a Diverse Business Enterprise, DBE)
Resource type	Natural Gas fired combustion turbine
Location	Chula Vista, CA
Capacity	35.5 MW
Expected Deliveries	Resource Adequacy Capacity (no energy or ancillary services)
Delivery Point	CAISO Balancing Authority Area / Local Capacity Area within which the CVEC unit is electrically interconnected: San Diego IV / San Diego Sub-Area
Length of Contract	One-Year: January 1, 2014 – December 31, 2014

C. THE SDG&E-WP POWER NEGOTIATIONS

The substance of the negotiations conducted between SDG&E and W Power for the 2014 CVEC RA capacity and a pricing analysis are provided in Confidential Attachment A to this advice letter. Confidential Attachment B contains a full copy of the executed Confirmation. SDG&E believes the contents of both Attachment A & B should be protected from public disclosure and requests that the Commission treat the information provided in those Attachments as confidential. Accompanying this Advice Letter is a Declaration in support of this request to preserve the confidentiality of the information provided in Attachments A & B.

D. RESOURCE ADEQUACY PROGRAM

This section provides an overview of key components of the annual Resource Adequacy process which have come together to establish the circumstances that lead to the current need for the RA transaction described in this advice letter.

1. RESOURCE ADEQUACY PROCUREMENT PRINCIPLES: Aside from the RA program the Commission has always directed utilities to act reasonably and responsibly.² Additionally, early on in the RA program development phase several principles were established for utilities to follow when making resource procurement decisions:³

- a) *“Each utility is responsible for...procuring sufficient and appropriate resources...to meet its customers’ needs, and to permit CAISO to maintain reliable grid operations.”*
- b) *“...utility resource...procurement...that focuses solely on least cost...without regard to...local reliability, is not in compliance with our prior decisions....”*
- c) *“When making resource...procurement decisions, each utility shall incorporate all CAISO-related forward commitment costs that result from the utility’s decisions, including all known and reasonably anticipated CAISO-related costs....”*

The implication for SDG&E as an LSE is that there may be circumstances where certain procurement strategies are more reasonable & responsible than others at balancing ratepayer costs and reliability concerns.

2. ANNUAL GRID TECHNICAL STUDY PROCESS: CAISO’s *2014 Local Capacity Technical Analysis–Final Report and Study Results* (“2014 LCT Study”) was completed on April 30, 2013.⁴ Published annually, these technical analyses generally accomplish the following purposes:⁵

- a) Determining minimum quantities of local generation capacity necessary, the Local Capacity Requirement (“LCR”), to ensure reliable grid operations in transmission-constrained load pockets with limited power-import capability, Local Capacity Areas (“LCA”)⁶
- b) Serving as a basis for the local procurement obligations issued by the CPUC to Load Serving Entities under its resource adequacy program⁷
- c) Assisting in cost allocation regarding any CAISO backstop capacity procurement needed to achieve grid reliability⁸, and
- d) Providing additional information on LCA sub-area needs and effectiveness factors in order to allow LSEs to engage in more informed capacity procurement⁹

² D.04-07-028, *Interim Opinion Regarding Electricity Reliability Issues*, July 8, 2004, second to last sentence, p. 10 (sec. 3.1.1)

³ Ibid, p. 31-32 (OP 1)

⁴ Filed with the CPUC on May 1, 2013;

⁵ 2014 LCT Study, p. 1, second paragraph

⁶ Ibid., p. 5, *Objectives* (sec. II.A); CAISO Final Manual–2014 Local Capacity Area Technical Study, January 2013, p. 3, first sentence; and Ibid., p. 4, *Study Objectives*

⁷ D.13-06-024, *Decision Adopting Local Procurement Obligations For 2014, A Flexible Capacity Framework, and Further Refining The Resource Adequacy Program*, June 27, 2013 (“2014 RA Decision”), p. 6 (sec. 3.1)

⁸ CAISO tariff (the “Tariff”), *Allocation of CPM Capacity Payment Costs* (sec. 43.8);

3. EVOLVING LOCAL CAPACITY AREAS: For the 2014 RA planning cycle there are eleven (11) primary LCAs within the CAISO Balancing Authority Area each of which can have further refined LCA sub-areas. For SDG&E there has always been just one primary LCA, the San Diego local capacity area (“SD Area”), extending as far east as the Miguel and Sycamore Canyon substations, along with 5 to 10 LCA sub-areas (these may change year-to-year based on load growth, new & retiring generation, and transmission grid enhancements). The LCR for the traditional SD Area has historically been the basis for the CPUC in assigning local RA procurement obligations to LSEs in the San Diego region.

Over the last couple years several factors combined to necessitate the creation of a new and expanded primary LCA for the San Diego region. These events included (i) placing into service of the 500 KV Sunrise Powerlink transmission line resulting in grid constraints shifting significantly, (ii) elimination of the WECC¹⁰ 1,000 MW Sunrise Powerlink path rating limitation, and (iii) modifications to certain WECC regional reliability criteria involving adjacent transmission lines. This new and expanded primary LCA extends out to the Imperial Valley Substation and thus is referred to as the Greater San Diego-Imperial Valley Area (“SD-IV Area”) and encompasses the former SD Area.

This LCA evolution in the San Diego region has significantly impacted RA capacity procurement. As a result (i) the former SD Area is now considered a sub-area (“SD Sub-Area”), albeit a sub-area that contains SDG&E’s entire load, (ii) SDG&E’s local procurement obligation is now based on the new broader SD-IV Area, and (iii) although the Local RA procurement obligations established by the CPUC are not set relative to sub-areas¹¹ the CAISO, as discussed in Section D.3 below, has the backstop authority to procure capacity needed to meet grid reliability criteria even down to the sub-area level. It is important to note that not all SD-IV Area generation resources (e.g., those interconnecting at the Imperial Valley Substation) satisfy SD Sub-Area local capacity requirements. The reverse though is acceptable, i.e., SD Sub-Area generation satisfies SD-IV Area local capacity requirements.

4. CAISO BACKSTOP CAPACITY PROCUREMENT: The CAISO is under statutory and contractual obligation¹² to ensure efficient use and reliable operation of the transmission grid by complying with a body of reliability standards & regional criteria set forth by NERC¹³, and WECC. The FERC¹⁴-approved CAISO Tariff further gives it the authority to (i) establish additional reliability planning guidelines and standards for the CAISO grid that will maintain or improve transmission system reliability to a level appropriate for the California system¹⁵, and (ii) engage in reliability-based backstop procurement to maintain the integrity of the interconnected transmission grid under both steady-state and contingency conditions.¹⁶

⁹ CAISO *2012 Local Capacity Technical Analysis–Final Report and Study Results*, April 29, 2011, p. 1, last sentence

¹⁰ Western Electricity Coordinating Council

¹¹ D.12-06-025, *Decision Adopting Local Procurement Obligations For 2013 and Further Refining The Resource Adequacy Program*, June 21, 2012 (“2013 RA Decision”), p. 9 (sec. 3.1)

¹² 2014 LCT Study, p. 7, first paragraph

¹³ North American Electric Reliability Council

¹⁴ Federal Energy Regulatory Commission

¹⁵ *California ISO Planning Standards*, June 23, 2011, p.3, first paragraph;

¹⁶ *Tariff, Procurement Of RMR Generation* (sec. 41), *CAISO To Take Necessary Steps To Ensure Criteria Compliance* (sec. 42.1.5), and *Capacity Procurement Mechanism* (sec. 43)

With the Commission's stated policy of minimizing the use of Reliability Must Run ("RMR") contracts¹⁷, CAISO primarily relies on the newer Capacity Procurement Mechanism ("CPM") provisions in its Tariff for both the authority to engage in such backstop procurement¹⁸ and the allocation of those procurement costs.¹⁹ According to the CAISO's Reliability Requirements Business Practices Manual²⁰, within a local capacity area CAISO operationally engages in reliability-based backstop capacity procurement under the following two basic circumstances:

- One or more LSEs fail to demonstrate LCA Resources equivalent to their assigned LCR responsibility and the deficiencies lead to an aggregate capacity deficiency in a Local Capacity Area
- Despite all LSEs having met their assigned LCR so that sufficient MW are available, the LCA portfolio overall may fail to comply with reliability criteria because particular units needed to resolve specific contingencies were not procured by the LSEs

Avoidance of this second circumstance of CAISO backstop authority is an example of why CAISO's annual LCA technical analysis also provides sub-area information (see Section D.1.d above) including capacity deficiencies and generator unit effectiveness factors.

Clearly, by its obligations, its authority, and its formal business practices CAISO is empowered to and capable of engaging in reliability-based backstop capacity procurement. Additionally, CAISO has made it clear in public forums that it intends to implement such capability at the Category-C sub-area level should the need arise despite the fact that procurement obligations are issued at the LCA area level. Below are a couple examples:

Backstop at the Category-C Level: (emphasis added)

*"The CAISO applies Option 2 [i.e., NERC Category C] for its purposes of identifying necessary local capacity needs **and the corresponding potential scope of its backstop authority.**"²¹*

Backstop at the LCA Sub-Area Level: (emphasis added)

*"Setting an artificially low [San Diego] sub-area local capacity requirements may result in the ISO having to use its back stop authority to procure the additional resource adequacy capacity needed. **This [sub-area] backstop procurement through the ISO's capacity procurement mechanism may result in higher costs to ratepayers.**"²²*

However, the Commission has noted that an over-reliance on backstop procurement is fundamentally at odds with the LSE-based procurement objective of the RA program.²³

¹⁷ D.10-06-018, *Decision On Phase 2-Track 2 Issues: Adoption Of A Preferred Policy For Resource Adequacy*, June 3, 2010, last paragraph, p. 17 (sec. 3.3)

¹⁸ Tariff, *Capacity Procurement Mechanism Designation* (sec. 43.2.1 and 43.2.2)

¹⁹ *Ibid.*, *Allocation Of CPM Capacity Payment Costs* (sec. 43.8)

²⁰ *Conditions under which ISO will Engage in Reliability Procurement* (sec. 7.2.3)

²¹ 2014 LCT Study, second sentence, p. 14 (sec. 2F); Note: Option 2 is based on the NERC Reliability Standard, Category-C (double contingency) and results in a higher LCR level than Category-B (single contingency)

²² CAISO Reply-Comments to the CPUC in R.11-10-023 regarding 2013 LCT Study, May 24, 2012, p. 2

²³ *Ibid.* 17

E. 2014 LOCAL CAPACITY REQUIREMENTS

This section discusses outcomes of the 2014 resource adequacy compliance year planning cycle and publicly available information regarding local capacity requirements in the San Diego region. SDG&E specific information is provided in the Confidential Attachment A.

1. SD-IV AREA 2014 LCR: Following CAISO's completion of the 2014 LCT Study in late April 2013, the Commission, in late June, issued its 2014 RA Decision determining that the SD-IV Area, Category-C, "no SONGS" scenario would be the basis for establishing 2014 local procurement obligations. This amounted to a **4,063 MW Total LCR** which is almost 1,000 MW higher than the 2013 SD-IV Area Total LCR (w/ SONGS). This **increase of nearly a third**, while slightly due to electrical load growth, was significantly contributed to by the absence of SONGS.²⁴ In contrast, the 2014 LCT Study determined that the Local Capacity Requirement for the overall CAISO system-wide grid increased by only 6%.²⁵

2. SD SUB-AREA DEFICIENCIES: Adjusting for 458 MW of resource deficiency in the region leaves a 2014 SD-IV Area "**Existing Capacity Needed**" LCR of **3,605 MW** — considerably higher than last year's <3,000 MW figure. This is the value to be used in determining local procurement obligations; it will be load-share split among all LSEs operating within the San Diego region.

Notably, the 458 MW of resource deficiency within the San Diego region is ALL attributable to the SD Sub-Area. A resource deficient sub-area implies that in order to comply with the reliability criteria load may be shed immediately after the first contingency occurs.²⁶ To partially address this larger LCR need and associated generation deficiency the CAISO recommended in the 2014 LCT Study that the Cabrillo II units (all in the SD Sub-Area) remain in service until the most limiting contingencies are mitigated in certain sub-areas.²⁷

3. LOOKING AHEAD: The CAISO acknowledges that the LCR needs for the SD-IV Area will decrease as additional transmission is constructed between the IID/CFE systems and Imperial Valley and more power is flowing in real-time from these control areas into the CAISO control area.²⁸ This has the potential to again shift, between the SD Sub-Area and the broader SD-IV Area, the local capacity area upon which the NERC Category-C reliability standard is based. If that were to happen the current dilemma of cost effectively and reliably meeting procurement obligations would be resolved since local procurement obligations and reliability criteria would again be aligned.

F. PROCUREMENT REVIEW GROUP (PRG) INVOLVEMENT

Much like the situation the previous year, shortly following issuance of the final 2014 LCT Study, SDG&E began a dialogue with and sought feedback from its PRG regarding concerns over the emerging 2014 Resource Adequacy complexities. These discussions included the bilateral CVEC RA offer and pending plans for a 2014 Resource Adequacy Request-for-Proposals.

²⁴ 2014 LCT Study, p. 3, last sentence in first paragraph

²⁵ Ibid., first sentence in first paragraph

²⁶ Ibid., Asterisk ("*") note at top of page

²⁷ Ibid., mentioned four times, p. 98, p., 100, p. 101, and p. 103

²⁸ Ibid., p. 103

As favorable negotiations progressed with CVEC this bilateral offer was specifically presented at both the May and September 2013 PRG Meetings. There appearing to be a general consensus among the PRG members that the transaction proposed herein is in the best overall interest of SDG&E's ratepayers, SDG&E executed the RA Confirmation on September 20, 2013.

G. EFFECTIVE DATE

Pursuant to the direction provided by the Energy Division staff, SDG&E submits this filing as a Tier 2 Advice Letter (effective after Energy Division approval). SDG&E respectfully requests that this filing be approved no later than **December 31, 2013** to comply with the CPUC approval condition precedent contained in the RA Confirmation. This date is critical to SDG&E's ability to cost-effectively meet known and anticipated grid reliability needs during 2014.

H. PROTEST

Anyone may protest this Advice Letter to the Commission. The protest must state the grounds upon which it is based, including such grounds as financial and service impact, and should be submitted expeditiously. Such protest must be made in writing and must be received no later than **December 26, 2013**. There is no restriction on who may file a protest. The address for mailing or delivering a protest to the Commission is:

CPUC Energy Division
Tariff Files, Room 4004
505 Van Ness Avenue
San Francisco, California 94102
Facsimile: (415) 703-2200
E-mail: EDTariffUnit@cpuc.ca.gov

Copies of protests also should be mailed to the attention of the Director, Energy Division, Room 4004, at the address shown above. The protest also should be sent via U.S. mail (and by facsimile and electronically, if possible) to SDG&E at the address shown below on the same date it is mailed or delivered to the Commission:

Attn: Megan Caulson
Regulatory Tariff Manager
8330 Century Park Court, Room 32C
San Diego, CA 92123-1548
Facsimile No. 858-654-1879
E-Mail: MCaulson@semprautilities.com

I. NOTICE

A copy of this filing has been served on the utilities and interested parties shown on the attached list including parties in R.12-03-014 and R.11-10-023 by either providing them a copy electronically or by mailing them a copy hereof, properly stamped and addressed.

Address changes should be directed to SDG&E Tariffs by facsimile at (858) 654-1879 or by e-mail at SDG&ETariffs@semprautilities.com.

CLAY FABER
Director - Regulatory Affairs

(cc list enclosed)

CALIFORNIA PUBLIC UTILITIES COMMISSION

ADVICE LETTER FILING SUMMARY ENERGY UTILITY

MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No. **SAN DIEGO GAS & ELECTRIC (U 902)**

Utility type:

ELC GAS
 PLC HEAT WATER

Contact Person: Joff Morales

Phone #: (858) 650-4098

E-mail: jmorales@semprautilities.com

EXPLANATION OF UTILITY TYPE

ELC = Electric GAS = Gas
 PLC = Pipeline HEAT = Heat WATER = Water

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: 2548-E

Subject of AL: Request for Approval of a Resource Adequacy Contract between SDG&E and W Power For the Chula Vista Energy Center

Keywords (choose from CPUC listing): Resource Adequacy

AL filing type: Monthly Quarterly Annual One-Time Other _____

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution #:

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: None

Summarize differences between the AL and the prior withdrawn or rejected AL¹: N/A

Does AL request confidential treatment? If so, provide explanation: See confidential declaration

Resolution Required? Yes No

Tier Designation: 1 2 3

Requested effective date: 12/31/2013

No. of tariff sheets: 0

Estimated system annual revenue effect (%): N/A

Estimated system average rate effect (%): N/A

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: None

Service affected and changes proposed¹: N/A

Pending advice letters that revise the same tariff sheets: None

Protests and all other correspondence regarding this AL are due no later than 20 days after the date of this filing, unless otherwise authorized by the Commission, and shall be sent to:

CPUC, Energy Division
Attention: Tariff Unit
505 Van Ness Ave.,
San Francisco, CA 94102
EDTariffUnit@cpuc.ca.gov

San Diego Gas & Electric
Attention: Megan Caulson
8330 Century Park Ct, Room 32C
San Diego, CA 92123
mcaulson@semprautilities.com

¹ Discuss in AL if more space is needed.

General Order No. 96-B
ADVICE LETTER FILING MAILING LIST

cc: (w/enclosures)

Public Utilities Commission

DRA

Y. Schmidt
W. Scott

Energy Division

P. Clanon
S. Gallagher
H. Gatchalian
D. Lafrenz
M. Salinas

CA. Energy Commission

F. DeLeon
R. Tavares

Alcantar & Kahl LLP

K. Harteloo

American Energy Institute

C. King

APS Energy Services

J. Schenk

BP Energy Company

J. Zaiontz

Barkovich & Yap, Inc.

B. Barkovich

Bartle Wells Associates

R. Schmidt

Braun & Blaising, P.C.

S. Blaising

California Energy Markets

S. O'Donnell
C. Sweet

California Farm Bureau Federation

K. Mills

California Wind Energy

N. Rader

CCSE

S. Freedman
J. Porter

Children's Hospital & Health Center

T. Jacoby

City of Chula Vista

M. Meacham
E. Hull

City of Poway

R. Willcox

City of San Diego

J. Cervantes
G. Lonergan
M. Valerio

Commerce Energy Group

V. Gan

Constellation New Energy

W. Chen

CP Kelco

A. Friedl

Davis Wright Tremaine, LLP

E. O'Neill
J. Pau

Dept. of General Services

H. Nanjo
M. Clark

Douglass & Liddell

D. Douglass
D. Liddell
G. Klatt

Duke Energy North America

M. Gillette

Dynegy, Inc.

J. Paul

Ellison Schneider & Harris LLP

E. Janssen

Energy Policy Initiatives Center (USD)

S. Anders

Energy Price Solutions

A. Scott

Energy Strategies, Inc.

K. Campbell
M. Scanlan

Goodin, MacBride, Squeri, Ritchie & Day

B. Cragg
J. Heather Patrick

J. Squeri

Goodrich Aerostructures Group

M. Harrington

Hanna and Morton LLP

N. Pedersen

Itsa-North America

L. Belew

J.B.S. Energy

J. Nahigian

Luce, Forward, Hamilton & Scripps LLP

J. Leslie

Manatt, Phelps & Phillips LLP

D. Huard
R. Keen

Matthew V. Brady & Associates

M. Brady

Modesto Irrigation District

C. Mayer

Morrison & Foerster LLP

P. Hanschen

MRW & Associates

D. Richardson

OnGrid Solar

Andy Black

Pacific Gas & Electric Co.

J. Clark
M. Huffman
S. Lawrie
E. Lucha

Pacific Utility Audit, Inc.

E. Kelly

R. W. Beck, Inc.

C. Elder

School Project for Utility Rate
Reduction

M. Rochman
Shute, Mihaly & Weinberger LLP

O. Armi

Solar Turbines

F. Chiang

Sutherland Asbill & Brennan LLP

K. McCrea

Southern California Edison Co.

M. Alexander

K. Cini

K. Gansecki

H. Romero

TransCanada

R. Hunter

D. White

TURN

M. Florio
M. Hawiger

UCAN

M. Shames

U.S. Dept. of the Navy

K. Davoodi

N. Furuta

L. DeLacruz

Utility Specialists, Southwest, Inc.

D. Koser

Western Manufactured Housing
Communities Association

S. Dey

White & Case LLP

L. Cottle

Interested Parties

R.12-03-014

R.11-10-023

San Diego Gas & Electric Advice Letter 2548-E
December 6, 2013

CONFIDENTIALITY DECLARATION

**BEFORE THE PUBLIC UTILITIES
COMMISSION OF THE STATE OF CALIFORNIA**

**DECLARATION OF THOMAS C. SAILE REGARDING CONFIDENTIALITY OF
CERTAIN DATA**

I, Thomas C. Saile, do declare as follows:

1. I am an EnergyContracts Originator for San Diego Gas & Electric Company (“SDG&E”). I have reviewed Advice Letter 2548-E, requesting approval of a Resource Adequacy Confirmation with W Power, LLC for the Chula Vista Energy Center (with attached confidential and public attachments), dated December 6, 2013 (“Advice Letter”). I am personallyfamiliar with the facts and representations in this Declaration and, if called upon to testify, I could and would testifyto the following based upon mypersonal knowledge and/or belief.

2. I herebyprovide this Declaration in accordance with D.06-06-066, as modified by D.07-05-032, and D.08-04-023, to demonstrate that the confidential information (“Protected Information”) provided in the Advice Letter submitted concurrentlyherewith, falls within the scope of data protected pursuant to the IOU Matrix attached to D.06-06-066 (the “IOU Matrix”).^{1/} In addition, the Commission has made clear that information must be protected where “it matches a Matrix category exactly or consists of information from which that information may be easily derived.”^{2/}

^{1/} The Matrix is derived fromthe statutoryprotectionsextended to non-public market sensitive and trade secret information.(See D.06-06-066, *mimeo*, note 1, OrderingParagraph1). The Commissionis obligated to act in a manner consistent with applicable law. The analysisof protectionafforded under the Matrix must always produce a result that is consistent with the relevant underlyingstatutes; if informationis eligible for statutory protection, it must be protected under the Matrix. (See *Southern California Edison Co. v. Public Utilities Comm.* 2000 Cal. App. LEXIS 995, *38-39) Thus, byclaimingapplicabilityof the Matrix, SDG&E relies upon and simultaneouslyclaims the protectionof Public Utilities Code §§ 454.5(g) and 583, Govt. Code § 6254(k) and General Order 66-C.

^{2/} See, *AdministrativeLaw Judge’sRuling on San Diego Gas & Electric Company’sApril 3, 2007 Motion to File Data Under Seal*, issued May 4, 2007 in R.06-05-027,p. 2 (emphasisadded).

3. I address below each of the following five features of Ordering Paragraph 2 in D.06-06-066:

That the material constitutes a particular type of data listed in the Matrix,

The category or categories in the Matrix to which the data corresponds,

That it is complying with the limitations on confidentiality specified in the Matrix for that type of data,

That the information is not already public, and

That the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.^{3/}

4. SDG&E's Protected Information: As directed by the Commission, SDG&E demonstrates in table form below that the instant confidentiality request satisfies the requirements of D.06-06-066:^{4/}

Data at issue	D.06-06-066 Matrix Requirements	How moving party meets requirements
1. Confidential Attachment A - Substance of negotiations and pricing analysis	Demonstrate that the material submitted constitutes a particular type of data listed in the IOU Matrix	The data provided is non-public bid data from SDG&E's bilateral negotiation evaluation and contract terms
	Identify the Matrix category or categories to which the data corresponds	This information is protected under IOU Matrix category VIII B. and VII.B.
	Affirm that the IOU is complying with the limitations on	In accordance with the limitations on confidentiality set forth

^{3/} D.06-06-066, as amended by D.07-05-032, *mimeo*, p. 81, Ordering Paragraph 2.

^{4/} See, *Administrative Law Judge's Ruling on San Diego Gas & Electric Company's Motion to File Data Under Seal*, issued April 30 in R.06-05-027, p. 7, Ordering Paragraph 3 ("In all future filings, SDG&E shall include with any request for confidentiality a table that lists the five D.06-06-066 Matrix requirements, and explains how each item of data meets the matrix").

Data at issue	D.06-06-066 Matrix Requirements	How moving party meets requirements
	confidentiality specified in the Matrix for that type of data	in the IOU Matrix, SDG&E requests that this information be kept confidential until one year following the expiration of the confirmation.
	Affirm that the information is not already public	SDG&E has not publicly disclosed this information and is not aware that it has been disclosed by any other party.
	Affirm that the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.	SDG&E cannot summarize or aggregate the bid data while still providing project-specific details. SDG&E cannot provide redacted or masked versions of these data points while maintaining the format requested by the CPUC.
3. Confidential Attachment B -RA Confirmation	Demonstrate that the material submitted constitutes a particular type of data listed in the IOU Matrix	The data provided is non-public bid data from SDG&E's contract terms
	Identify the Matrix category or categories to which the data corresponds	This information is protected under IOU Matrix category VII.B.
	Affirm that the IOU is complying with the limitations on confidentiality specified in the Matrix for that type of data	In accordance with the limitations on confidentiality set forth in the IOU Matrix, SDG&E requests that this information be kept confidential until one year following the expiration of the confirmation.

Data at issue	D.06-06-066 Matrix Requirements	How moving party meets requirements
	Affirm that the information is not already public	SDG&E has not publicly disclosed this information and is not aware that it has been disclosed by any other party.
	Affirm that the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.	SDG&E cannot summarize or aggregate the bid data while still providing project-specific details. SDG&E cannot provide redacted or masked versions of these data points while maintaining the format requested by the CPUC.

5. As an alternative basis for requesting confidential treatment, SDG&E submits that the Power Purchase Agreement enclosed in the Advice Letter is material, market sensitive, electric procurement-related information protected under §§ 454.5(g) and 583, as well as trade secret information protected under Govt. Code § 6254(k). Disclosure of this information would place SDG&E at an unfair business disadvantage, thus triggering the protection of G.O. 66-C.^{111/}

6. Public Utilities Code § 454.5(g) provides:

The commission shall adopt appropriate procedures to ensure the confidentiality of any market sensitive information submitted in an electrical corporation's proposed procurement plan or resulting from or related to its approved procurement plan, including, but not limited to, proposed or executed power purchase agreements, data request responses, or consultant reports,

^{111/} This argument is offered in the alternative, not as a supplement to the claim that the data is protected under the IOU Matrix. California law supports the offering of arguments in the alternative. *See, Brandolinov. Lindsay*, 269 Cal. App. 2d 319, 324 (1969) (concluding that a plaintiff may plead inconsistent, mutually exclusive remedies, such as breach of contract and specific performance, in the same complaint); *Tanforan v. Tanforan*, 173 Cal. 270, 274 (1916) ("Since . . . inconsistent causes of action may be pleaded, it is not proper for the judge to force upon the plaintiff an election between those causes which he has a right to plead.")

or any combination, provided that the Office of Ratepayer Advocates and other consumer groups that are nonmarket participants shall be provided access to this information under confidentiality procedures authorized by the commission.

7. General Order 66-C protects “[r]eports, records and information requested or required by the Commission which, if revealed, would place the regulated company at an unfair business disadvantage.”

8. Under the Public Records Act, Govt. Code § 6254(k), records subject to the privileges established in the Evidence Code are not required to be disclosed.^{5/} Evidence Code § 1060 provides a privilege for trade secrets, which Civil Code § 3426.1 defines, in pertinent part, as information that derives independent economic value from not being generally known to the public or to other persons who could obtain value from its disclosure.

9. Public Utilities Code § 583 establishes a right to confidential treatment of information otherwise protected by law.^{6/}

10. If disclosed, the Protected Information could provide parties, with whom SDG&E is currently negotiating, insight into SDG&E’s procurement needs, which would unfairly undermine SDG&E’s negotiation position and could ultimately result in increased cost to ratepayers. In addition, if developers mistakenly perceive that SDG&E is not committed to assisting their projects, disclosure of the Protected Information could act as a disincentive to developers. Accordingly, pursuant to P.U. Code § 583, SDG&E seeks confidential treatment of this data, which falls within the scope of P.U. Code § 454.5(g), Evidence Code § 1060 and General Order 66-C.

^{5/} See also Govt. Code § 6254.7(d).


^{6/} See, D.06-06-066, *mimeo*, pp. 26-28.

11. Developers' Protected Information: The Protected Information also constitutes confidential trade secret information of the developer listed therein. SDG&E is required pursuant to the terms of its Resource Adequacy Confirmation to protect non-public information. Some of the Protected Information in the Resource Adequacy Confirmation (including confidential attachments) and my supporting declaration, relates directly to commercial aspects of the respective transaction. Disclosure of this extremely sensitive information could harm the counterparty's ability to negotiate necessary contracts and/or could invite interference from competitors.

12. In accordance with its obligations under its Resource Adequacy Confirmation and pursuant to the relevant statutory provisions described herein, SDG&E hereby requests that the Protected Information be protected from public disclosure.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 6th day of December, 2013, at San Diego, California.


Thomas C. Sulle
Energy Contracts Originator
Electric and Fuel Procurement
San Diego Gas & Electric