

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

**DECLARATION OF PATRICK K. CHARLES REGARDING CONFIDENTIALITY OF
CERTAIN DATA**

I, Patrick Charles, do declare as follows:

1. I am the Origination Analytics Manager within the Electric and Fuel Procurement Department of San Diego Gas & Electric Company (“SDG&E”). I have reviewed SDG&E’s ‘Revised 33% RPS Compliance – IOU_ESP_CCA – 07152016 – FINAL (Confidential).xls’ excel workbook containing twelve individual tabs¹ and SDG&E’s response to question one within the ‘Narrative Reporting Requirements – CONFIDENTIAL_2016_FINAL (September 1, 2016).docx’ word document both dated September 1, 2016 (“the RPS Compliance Report” and “Response to Q1 Narrative Reporting Requirements”, respectively). In addition, I am personally familiar with the facts and representations in this Declaration and, if called upon to testify, I could and would testify to the following based upon my personal knowledge and/or belief.

2. I hereby provide 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 RPS Compliance Report and the Response to Q1 Narrative Reporting Requirements, fall within the scope of data protected pursuant to the IOU Matrix attached to D.06-06-066 (the “IOU Matrix”).^{2/} 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.”³

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

¹ These tabs or individual spreadsheets in this file include: 1 – Title Page, 2 – Instructions, 3 – First Compliance Period Summary, 4 – 33% RPS Progress Summary, 5 – Accounting, 6 – Procurement Detail, 7 – (2011) 36 Month Retirement, 8 – (2012) 36 Month Retirement, 9 - (2013) 36 Month Retirement, 10 – (2014) 36 Month Retirement, 11 - (2015) 36 Month Retirement, and 12 – Officer Verification.

^{2/} The Matrix is derived from the statutory protections extended to non-public market sensitive and trade secret information. (*See* D.06-06-066, *mimeo*, note 1, Ordering Paragraph 1). The Commission is obligated to act in a manner consistent with applicable law. The analysis of protection afforded under the Matrix must always produce a result that is consistent with the relevant underlying statutes; if information is 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, by claiming applicability of the Matrix, SDG&E relies upon and simultaneously claims the protection of Public Utilities Code §§ 454.5(g) and 583, Govt. Code § 6254(k) and General Order 66-C.

³ *See Administrative Law Judge’s Ruling on San Diego Gas & Electric Company’s April 3, 2007 Motion to File Data Under Seal*, issued May 4, 2007 in R.06-05-027, p. 2 (emphasis added).

- 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.⁴

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.06-06-066.⁵

5.

Data at issue	D.06-06-066 Matrix Requirements	How moving party meets requirements
RPS Compliance Report: Tabs/Cells: 33% RPS Progress Summary – H10 - K10, H12 – K12 and F13 – L13; Accounting – H18 - K18 and H21 – K21	Demonstrate that the material submitted constitutes a particular type of data listed in the IOU Matrix	This data is SDG&E's forecast of its bundled customer total energy requirements.
	Identify the Matrix category or categories to which the data corresponds	This information is protected under IOU Matrix category V.C.
	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 the "front three years" of this information be kept confidential.
	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.	The information was provided in the form required by the Energy Division. It would not be possible to provide a complete response if the data were to be aggregated, redacted, summarized or masked.

⁴ D.06-06-066 as amended by D.07-05-032, mimeo, p. 81, Ordering Paragraph 2.

⁵ See *Administrative Law Judge's Ruling on San Diego Gas & Electric Company's Motions to File Data Under Seal*, issued April 30, 2012 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").

<p>RPS Compliance Report: Tabs/Cells:</p> <p>33% RPS Progress Summary – H20-L20</p> <p>Procurement Detail J26 – X26; column AB rows 49-186 highlighted cells only; column AD, rows 49-186 highlighted cells only; column AI, rows 120 – 186 highlighted cells only; J120 – X120 and J121 – X121; J164 – X164; J165 – X165; J180 – X180; J181– X181; J182 – X182; J183 – X183; J184 – X184; J185 – X185; J186 – X186; J605 – X605 and J698 – X698.</p> <p>(2013) 36 Month Retirement – F157- F167 and F375 – F394, F449 and F688- F692;</p> <p>(2014) 36 Month Retirement - column F rows 8 – 291 highlighted cells only;</p> <p>(2015) 36 Month Retirement – column F rows 8 – 153 highlighted cells only</p> <p>And</p> <p>Response to Q1 Narrative Reporting Requirements, far right column, “status</p>	Demonstrate that the material submitted constitutes a particular type of data listed in the IOU Matrix	<p>RPS Compliance Report: These cells contain PCC information that is directly related to contractual terms and analyses related to project deliveries for projects in development.</p> <p>Narrative Report: The status of siting and permitting approval information is considered sensitive information related to the evaluation of RPS projects.</p>
	Identify the Matrix category or categories to which the data corresponds	This information is protected under IOU Matrix category VII. G.
	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.
	Affirm that the information is not already public	SDG&E has not publicly disclosed information regarding aggregate procurement within each content category 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.	The information was provided in the form required by the Energy Division. It would not be possible to provide a complete response if the data were to be aggregated, redacted, summarized or masked.

of siting and permitting approvals”		
RPS Compliance Report: Tabs/Cells: (2013) 36 Month Retirement - column N rows 12-389 highlighted cells only; (2014) 36 Month Retirement – column N rows 8-295 highlighted cells only; (2015) 36 Month Retirement – N8-N153.	Demonstrate that the material submitted constitutes a particular type of data listed in the IOU Matrix	Since MWh REC Quantity Retired provides details of monthly deliveries and utility operation, disclosure would allow interested parties to easily calculate SDG&E’s Monthly Procurement Costs.
	Identify the Matrix category or categories to which the data corresponds	This information is protected under IOU Matrix category XI.
	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.
	Affirm that the information is not already public	SDG&E has not publicly disclosed information regarding details of monthly variable cost and utility operation 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.	The information was provided in the form required by the Energy Division. It would not be possible to provide a complete response if the data were to be aggregated, redacted, summarized or masked.

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, 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."

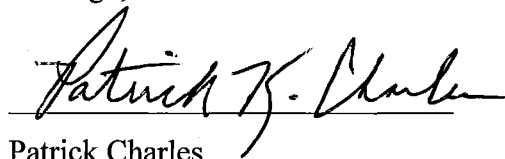
8. Under the Public Records Act, Govt. Code § 6254(k), records subject to the privileges established in the Evidence Code are not required to be disclosed.⁶ Evidence code § 1060 provides a privilege for trade secrets, which Civil Code § 3426.1 defines, in pertinent part, as information that derives independent 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 established a right to confidential treatment of information otherwise protected by law.⁷

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.

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

Executed this 24th day of August, 2016, at San Diego, California.

A handwritten signature in black ink, appearing to read "Patrick K. Charles", is written over a horizontal line.

Patrick Charles
Origination Analytics Manager
San Diego Gas & Electric Company

⁶ See also Govt. Code § 6254.7(d).

⁷ See, D.06-06-066, mimeo, pp. 26-28.