

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



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Order Instituting Rulemaking to Continue Implementation and Administration, and Consider Further Development, of California Renewables Portfolio Standard Program.

Rulemaking 15-02-020
(Filed February 26, 2015)

**MOTION TO FILE UNDER SEAL CONFIDENTIAL VERSION OF
2016 RENEWABLES PORTFOLIO STANDARD PROCUREMENT PLAN
OF EDF INDUSTRIAL POWER SERVICES (CA), LLC**

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August 8, 2016

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Pursuant to Rule 11.4 of the Commission’s Rules of Practice and Procedure, and in accordance with D.06-06-006 and D.08-04-023, EDF Industrial Power Services (CA), LLC (“EDF”) hereby moves for leave to file under seal the confidential version of its 2016 Renewables Portfolio Standard Procurement Plan (“RPS Plan”).¹

In D.06-06-066, the Commission adopted rules governing the confidentiality of certain categories of electric procurement data that are routinely submitted to the Commission by investor owned utilities (“IOUs”) and electric service providers (“ESPs”). In the same decision, the Commission adopted two “matrices” — one for IOU data (the “IOU Matrix”), and another for ESP data (the “ESP Matrix”) — specifying the confidential treatment to be afforded to the data specified in the applicable matrix. In D.08-04-023, the Commission further clarified the categories of data that are eligible for confidential treatment under D.06-06-066 and made corresponding modifications to the ESP Matrix.² D.08-04-023 also provided that where “[a]

¹ A hard copy of the confidential version of EDF’s RPS Plan was tendered to the Docket Office under seal on August 8, 2016.

² See D.08-04-023, *mimeo*, pp. 11-19 and Appendix B.

party files a pleading in a formal proceeding, including data of the type addressed in the Matrices to D.06-06-066, and seeks confidential treatment of that data,” the party is required to file a motion that complies with the requirements of Rule 11.4 and meets the five required showings specified in Ordering Paragraph 2 of D.06-06-066, which are:

1. That the material constitutes a particular type of data listed in the Matrix;
2. The category or categories in the Matrix to which the data correspond;
3. That the submitting party is complying with the limitations on confidentiality specified in the Matrix for that type of data;
4. That the information is not already public; and
5. That the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.

On August 8, 2016, EDF filed and served the public version of its RPS Plan. To the extent data in EDF’s RPS Plan are covered by one or more of the ESP matrix data categories, such data are eligible for the corresponding confidential treatment specified in the ESP Matrix.³ In addition, the Commission has previously determined that data that does not fall within a matrix data category but which “consists of information from which (Matrix) information may be easily derived” is eligible for the corresponding confidential treatment specified in the matrix.⁴

Certain data contained in the Residual Net Short (“RNS”) Report attached to the RPS Plan, as specified in the table below, is eligible for confidential treatment under the provisions of D.06-06-066 and the ESP Matrix, as modified by D.08-04-023, and the Commission is obligated

³ See D.06-06-066, *mimeo*, p. 23 and Conclusion of Law 6.

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

to protect the confidentiality of data so as to avoid material harm to EDF and its customers. The data EDF requests the Commission keep confidential are substantially the same as data set forth in EDF's 2014 RPS Plan for which EDF requested confidential treatment in a motion for leave to file its 2014 RPS Plan under seal filed in R.11-05-005 on July 14, 2014. The Commission granted EDF's confidentiality requests for its 2014 RPS Plan in D.14-11-024.

EDF seeks confidential treatment for its prior year's retail sales, current year retail sales and the first three years of its forecast retail sales, as well as certain RPS procurement data that could be used to derive such information. Generally speaking, such data are either expressly eligible for confidential treatment under the ESP Matrix or, due to the fact that EDF does not own or control the output of any generation facilities and it generally procures the energy required to meet the demand of its retail customers through short-term transactions, the data could readily be used to derive EDF's "net short" for any given year (which is essentially equivalent to its total retail sales in that year minus any RPS procurement), or could be used to readily derive EDF's RPS "residual net short" for the current compliance period (which is essentially equivalent to its RPS procurement quantity (MWh), as derived from its actual and forecast retail sales, minus any reported RPS procurement already performed in the applicable period and any excess RPS procurement carried over from a previous compliance period).

In light of the above, and in accordance with the aforesaid requirements, EDF hereby affirms that the data specified in the table below are either Matrix data or consist of information from which Matrix data may be easily derived. (The cell numbers listed in the table refer to the cells in the Excel version of the RNS Report template used to present the data.)

TABLE OF CONFIDENTIAL DATA

Description of Data	Spreadsheet Location	Matrix Category	Explanation
Annual Retail Sales (MWh)	RNS Report cells L6 through O6	I.A and I.B	Because EDF procures all or nearly all of its energy requirements for a given year through transactions completed shortly before and during that year, EDF's "net short" for any given year is nearly identical with its annual retail sales in that year.
RPS Procurement Targets (MWh)	RNS Report cells L8 through O8, and L10 through O10	I.A and I.B	Because EDF's Procurement Quantity Targets ("PQTs") and Procurement Quantity Requirements ("PQRs") for a given compliance period are derived from its annual retail sales during that compliance period using a published formula, disclosure of its PQT and PQR data (MWh) would reveal its "net short" for the compliance period and annual retail sales.
RPS-Eligible Procurement Data (MWh)	RNS Report cells L24 through O24, and L25 through O25	I.A and I.B	Disclosure of EDF's procurement/supply data (MWh) would reveal its PQT and PQR data (MWh), which in turn would reveal EDF's "net short" and annual retail sales.

In addition, EDF requests confidential treatment for the RPS-related procurement banking data and derivative information designated by the Energy Division as being subject to confidential treatment by being set forth in the RNS Report in cells with gray-shading (for example, cells L40 through O40 and cells L41 through O41).

EDF affirms that the data for which it is seeking confidentiality treatment are not already public, and that the redacted data could be made public without the risk of harm to EDF and its customers if and only if the data were aggregated with that of all ESPs.

Respectfully submitted,



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Attorney for
EDF INDUSTRIAL POWER SERVICES (CA), LLC

August 8, 2016

VERIFICATION

I, Gregory Klatt, am authorized to make this verification on the behalf of EDF Industrial Power Services (CA), LLC. I declare under penalty of perjury that the statements in the foregoing *Motion to File Under Seal Confidential Version of 2016 Renewables Portfolio Standard Procurement Plan of EDF Industrial Power Services (CA), LLC* are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

Executed on August 8, 2016, at Arcadia, California.



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PROPOSED ORDER

Pursuant to Rule 11.4 of the Commission’s Rules of Practice and Procedure, and in accordance with Decision (D.) 06-06-006 and D.08-04-023, EDF Industrial Power Services (CA), LLC (“EDF”), a registered electric service provider (“ESP”), filed a motion on August 8, 2016, for leave to file under seal the confidential version of EDF’s 2016 Renewables Portfolio Standard Procurement Plan (“RPS Plan”). The motion requests confidential treatment of specified data set forth in the Residual Net Short (RNS”) Report attached to the RPS Plan, which data have been redacted in the public version of the RPS Plan filed with the Commission on August 8, 2016.

The data for which EDF requests confidential treatment are protected under the ESP Matrix adopted in D.06-06-066, as modified in D.08-04-023. In addition, the motion complies with the limitations on confidentiality specified in the ESP Matrix, and the data in question are not already public. EDF reasonably claims that the data can be made public without risking material harm to it and its customers only if the data are aggregated with that of all ESPs.

Therefore, it is ordered that:

1. The confidential version of EDF's RPS Plan shall remain sealed and is not to be disclosed to anyone other than Commission staff, the Assigned Commissioner, the assigned Administrative Law Judge ("ALJ") or an ALJ designated to decide this motion.

2. Further proceedings, if any, held with respect to matters contained in the confidential data shall be conducted in a manner the assigned ALJ deems reasonably necessary to protect the confidentiality of the data described herein;

3. Non-market participants may request access to the confidential information pursuant to applicable rules; and

4. All additional documentary evidence in this proceeding that addresses or relates to the confidential data must be treated in the confidential manner described in paragraphs 1 and 2, above.

Dated: _____

Administrative Law Judge