



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA

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Application of Southern California Edison)
Company (U 338-E) for Authority to Implement)
and Recover in Rates the Cost of its Proposed)
Solar Photovoltaic (PV) Program.)

A.08-03-015
(Filed March 27, 2008)

(NOT CONSOLIDATED)

Order Instituting Rulemaking to Continue)
Implementation and Administration of California)
Renewables Portfolio Standard Program.)

R.11-05-005
(Filed May 5, 2011)

**SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338 E) MOTION FOR LEAVE
TO FILE ITS CONFIDENTIAL SEVENTH ANNUAL COMPLIANCE REPORT ON
THE SOLAR PHOTOVOLTAIC PROGRAM UNDER SEAL**

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Dated: July 1, 2016

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PHOTOVOLTAIC PROGRAM UNDER SEAL**

Pursuant to Rules 11.1 and 11.4 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), Southern California Edison Company (“SCE”) respectfully files this Motion for Leave to File its Confidential Seventh Annual Compliance Report on the Solar Photovoltaic Program (“SPVP”) Under Seal (“Motion”). Concurrently with this Motion, SCE is filing confidential and public versions of its Seventh Annual Compliance Report on the Solar Photovoltaic Program (“Seventh Annual SPVP Report Amendment”). SCE moves the Commission for an order granting leave to file the confidential version of its Seventh Annual SPVP Report under seal.¹

This Motion is made pursuant to Public Utilities Code Sections 394.4(a) and 454.5(g), General Order 66-C, and Decision (“D.”) 90-12-121, D.97-10-031 and D.06-06-066. As explained below, the

¹ As discussed below, the only confidential information included in SCE’s Seventh Annual SPVP Report is included in Attachments A and B to the report. That information is redacted in the public version of SCE’s Seventh Annual SPVP Report.

confidential data included in Attachments A and B of SCE’s Seventh Annual SPVP Report is confidential pursuant to statute and Commission orders and decisions, and is therefore protected from public disclosure. Moreover, the Commission already found that this type of information is entitled to be filed under seal in granting SCE’s motions to file the same information under seal in its first, second, third, fourth, and fifth annual SPVP reports. SCE has included tables identifying the specific data it requests to file under seal and the requested duration of the seal below.

I.

THE CONFIDENTIAL INFORMATION PROVIDED IN SCE’S SEVENTH ANNUAL SPVP REPORT IS PROTECTED BY STATUTE AND COMMISSION ORDERS AND DECISIONS, AND THE COMMISSION HAS ALREADY FOUND THAT IT IS ENTITLED TO BE FILED UNDER SEAL

A. Confidential SPVP RFO Solicitation Data

In D.06-06-066, the Commission set forth the standard for designating information as confidential in Commission proceedings. As part of that decision, the Commission established a Matrix, which identified several categories of data and the level of confidentiality granted to each category. Specifically, the Commission stated that “[w]here a party seeks confidentiality protection for data contained in the Matrix, its burden shall be to prove that the data match the Matrix category. Once it does so, it is entitled to the protection the Matrix provides for that category.”² The Commission clarified how parties should comply with the Matrix in D.08-04-023.³

SCE is requesting to file the confidential version of Attachment A to the Seventh Annual SPVP Report Amendment under seal because it contains confidential bid data regarding the prices and quantities offered by independent power producers (“IPP”) in SCE’s SPVP Request for Offers (“RFO”) solicitation as well as RPS contract terms. This information is confidential pursuant to the Matrix in

² D.06-06-066 at 80 (OP 2).

³ D.08-04-023 at 20-24.

D.06-06-066 and is therefore protected from public disclosure. Moreover, the Commission already found that this type of information is entitled to be filed under seal in granting SCE’s motion to file the same information in its Fifth Annual Compliance Report.⁴

SCE is complying with the limitations on confidentiality specified in the Matrix for this type of data. This information has not been made public and cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure, because the specific information is needed for SCE’s Seventh Annual SPVP Report Amendment.

SCE offers the following table, which identifies the information SCE seeks to file under seal and the basis for SCE’s assertion.

Location/Title of Data	Matrix Category	Period of Confidentiality
Gray highlighted portions of Confidential Attachment A - SPVP RFO Solicitation Data	<p>VII.G RPS Contract Terms and Conditions</p> <p>VIII(A) Bid information</p>	<p>RPS contracts confidential for three years, or until one year following expiration, whichever comes first.</p> <p>For bid information, total number of projects and megawatts bid by resource type public after final contracts submitted to CPUC for approval.</p>

B. Confidential Lease Cost Data Contained in Attachment B

The gray highlighted portions on page 1 of Attachment B in the “CONFIDENTIAL SPVP Site Descriptions” at the column entitled “Annual Lease Costs” contain confidential information regarding the costs of the leases negotiated by SCE and the lessors for roof or other space for SPVP projects. Such information should be filed under seal and protected from public disclosure.

⁴ See E-Mail Ruling Granting Southern California Edison Company's Motion To File Its Confidential Fifth Annual Compliance Report On The Solar Photo Voltaic Program Under Seal (November 14, 2014).

In particular, Public Utilities Code Section 454.5(g) requires the Commission to maintain the confidentiality of “market sensitive information.” Similarly, General Order 66-C requires the Commission to protect confidential information that would place a utility at an “unfair business disadvantage” if it were publicly disclosed. It categorizes as information that is “not open to Public inspection,” those “[r]eports, records, and information requested or required by the Commission which, if revealed, would place the regulated company at an unfair business disadvantage.”⁵

The confidential lease cost data contained in Attachment B to SCE’s Seventh Annual SPVP Report Amendment is subject to confidentiality protection pursuant to the lease agreements between SCE and the lessors. SCE and the lessors negotiated the confidentiality provisions to preclude market manipulation; disclosure of such information could cause the parties to the lease agreements to suffer adverse financial consequences.

Moreover, lease cost data is market sensitive and disclosure of it would place SCE at an unfair business disadvantage. If the Commission mandates the release of this information, it will essentially “set the floor” for all future lease negotiations. Market participants will know what SCE has paid for leases in the past, and current leaseholders may seek to renegotiate the terms of their leases based on the information that is released. Thus, the release of this non-public, confidential information will allow market participants to utilize this information to SCE’s business disadvantage.

This information is also market sensitive from the perspective of the lessors. To the extent a lessor may be seeking to negotiate a similar lease with another third party or an independent power producer, the release of this information could weaken the lessor’s bargaining position.

For these reasons, SCE maintains that the information concerning lease costs is market sensitive information which should remain confidential. The Commission agreed with SCE in ruling on the confidentiality of SCE’s first annual SPVP report. Specifically, in granting SCE’s motion for reconsideration of her prior ruling on the confidentiality of SCE’s first annual SPVP report, Administrative Law Judge (“ALJ”) Ebke found that cost information regarding the SPVP project leases

⁵ General Order 66-C § 2.2(b).

should remain confidential.⁶ ALJ Ebke again held such information to be confidential for the Third Annual SPVP Report⁷ and in the Fifth Annual SPVP Report.⁸ In this Motion, SCE is seeking confidential treatment for the same type of lease cost information contained in its Seventh Annual SPVP Report. Accordingly, the Commission should again find that such information may be filed under seal.

C. Confidential Customer Load Data Contained in Attachment B

The customer load data for sites used in the utility-owned generation portion of the SPVP that is contained in gray highlighted portions on page 2 of Attachment B in the “CONFIDENTIAL SPVP Site Specific On-Site Load” is confidential pursuant to statute and Commission decisions. Such data must therefore be submitted confidentially.⁹ The information being provided contains confidential customer and business proprietary information, and therefore public disclosure is restricted. Further, obligations to maintain customer information as confidential are codified in Public Utilities Code Section 394.4(a), D.90-12-121 and D.97-10-031, and the Affiliate Transaction Rules, among other decisions. Specifically, Section 394.4(a) states, “[c]ustomer information shall be confidential unless the customer consents in writing. This shall encompass confidentiality of customer specific billing, credit, or usage information.”¹⁰ This is precisely the type of information that was requested by the Commission in Resolution E-4299, and that SCE now files under seal as part of its Seventh Annual SPVP Report.

Additionally, ALJ Ebke found that this same type of information is entitled to be filed under seal in ruling on the confidentiality of SCE’s first annual SPVP Report. In particular, SCE sought to file the same type of customer load data under seal in its first annual SPVP Report,¹¹ and ALJ Ebke granted

⁶ Administrative Law Judge’s Ruling Granting Motion for Reconsideration of Confidential Material and Placing Additional Material Under Seal, A.08-03-015, R.08-08-009, and R.11-05-005, at 2-3 (May 18, 2011).

⁷ Administrative Law Judge’s Ruling Granting SCE Motion to File Confidential Version of Third Annual SPVP Report Under Seal, A-08-03-015, R.11-05-005 (August 30, 2012).

⁸ E-Mail Ruling Granting Southern California Edison Company’s Motion To File Its Confidential Fifth Annual Compliance Report On The Solar Photo Voltaic Program Under Seal (November 14, 2014).

⁹ See Cal. Pub. Util. Code § 583; General Order 66-C.

¹⁰ Cal. Pub. Util. Code § 394.4(a).

¹¹ Southern California Edison Company’s (U 338-E) Motion for Confidentiality and Leave to File Confidential Materials in its Annual Compliance Report on the Solar Photovoltaic Program Under Seal, A.08-03-015 and R.08-08-009, at 6-8 (July 1, 2010).

SCE’s motion to file such data under seal.¹² ALJ Ebke again held such information to be confidential for the Third Annual SPVP Report¹³ and for the Fifth Annual SPVP Report.¹⁴ The Commission should grant SCE’s Motion and find this information is entitled to be filed under seal again here.

SCE offers the following table, which identifies the information SCE seeks to file under seal and the requested duration of the seal.

Specific Information For Which Seal is Requested	Requested Duration of Seal
Confidential lease cost data, contained in Attachment B	Lease cost information is to remain confidential for the term of the leases.
Confidential customer data for sites used in the utility-owned generation portion of the SPVP, contained in Attachment B	Confidential customer and business proprietary data is confidential pursuant to statute.

II.

CONCLUSION

For all the foregoing reasons, SCE respectfully moves the Commission for an order directing that the confidential, market sensitive information appearing in the confidential version of SCE’s Seventh

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¹² Administrative Law Judge’s Ruling on Motions for Confidentiality, A.08-03-015 and R.08-08-009, at 2-4 (April 4, 2011).

¹³ Administrative Law Judge’s Ruling Granting SCE Motion to File Confidential Version of Third Annual SPVP Report Under Seal, A-08-03-015, R.11-05-005 (August 30, 2012).

¹⁴ E-Mail Ruling Granting Southern California Edison Company's Motion To File Its Confidential Fifth Annual Compliance Report On The Solar Photo Voltaic Program Under Seal (November 14, 2014).

Annual SPVP Report, which has been redacted in the public version, shall be placed under seal and shall not be made accessible or disclosed to anyone other than Commission staff.

Respectfully submitted,

JANET S. COMBS
CAROL SCHMID-FRAZEE

/s/ Carol Schmid-Fraze

By: CAROL SCHMID-FRAZEE

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**ADMINISTRATIVE LAW JUDGE’S [PROPOSED] RULING ON SOUTHERN
CALIFORNIA EDISON COMPANY’S MOTION FOR LEAVE TO FILE ITS
CONFIDENTIAL SEVENTH ANNUAL COMPLIANCE REPORT ON THE SOLAR
PHOTOVOLTAIC PROGRAM UNDER SEAL**

On July 1, 2016, Southern California Edison Company (“SCE”) filed a Motion for Leave to File its Confidential Seventh Annual SPVP Report Amendment on the Solar Photovoltaic Program Under Seal (“Motion”), seeking an order granting leave to file the confidential version of its concurrently filed Seventh Annual SPVP Report for the Solar Photovoltaic Program (“Confidential Information”) under seal. In accordance with the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, the Commission has considered SCE’s Motion. This ruling grants SCE’s Motion.

Accordingly, it is ORDERED that:

1. SCE’s Motion is granted. The Confidential Information that SCE seeks to protect is protected by Public Utilities Code Sections 394.4(a) and 454.5(g), General Order 66-C, and Decision (“D.”) 90-12-121, D.97-10-031 and D.06-06-066.

2. Public disclosure of the Confidential Information that SCE seeks to protect would cause imminent and direct harm to SCE and its customers, and therefore, the Confidential Information must be protected.

3. The Confidential Information, which confidential version has been submitted under seal, shall remain under seal and shall not be made accessible or disclosed to anyone other than Commission staff except pursuant to protective order or on the further order or ruling of the Commission, the assigned Administrative Law Judge (“ALJ”) or the ALJ then designated as Law and Motion Judge.

Dated _____, 2016, at San Francisco, California.

Administrative Law Judge

VERIFICATION

I am a Manager in Power Supply Compliance and Safety, of Southern California Edison Company, and am authorized to make this verification on its behalf. I am informed and believe that the matters stated in the foregoing pleading are true.

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

Executed this **1st day of July, 2016**, at Rosemead, California.

/s/ Tom G. Ware

By: Tom G. Ware

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