APPENDIX A
Procurement Documents
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There are many categories of information the electric utilities must produce in the procurement context. The proceedings that most directly trigger confidentiality concerns focus on how much electricity the utilities will require in the future, how and where the utilities will obtain needed electricity, and utility cost information. Based on motions already filed with the Commission, we expect these issues to arise in 1) the procurement proceeding itself, R.04-04-003, 2) the Avoided Cost and Qualifying Facility (QF) Pricing proceeding, R.04-04-025,[17] and 3) the Renewables Portfolio Standard (RPS) proceeding, R.04-04-026.[18]

a.) Price Forecast and Cost Data

1. Forecasts of annual average natural gas price.
2. Forecasts of annual average on-peak and off-peak electricity price (system average and customer class).
3. Forecasts of annual average of new generation cost (including URG, bilateral contracts, spot market, etc.)
4. Projections of total- and customer class- revenue requirements.
5. Historical monthly and annual cost of gas.
6. Cost projections of Demand Side Management (DSM) and Energy Efficiency (EE) program administration, utility incentives, and lost revenues.

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[17] Avoided costs have been part of this Commission's regulatory landscape since the late 1970's. The term refers to the incremental costs avoided by the investor-owned utility (IOU) when it purchases power from qualifying facilities (QFs), implements energy efficiency or demand-response programs, or otherwise defers or avoids generation from existing/new IOU supply-side investments or IOU energy purchases in the market. The avoided cost proceeding seeks to establish "apples to apples" comparisons across resource options to the greatest extent possible.

[18] In R.04-04-026, we are implementing the Legislature's directive to increase the renewable energy used in California to 20% of the energy sold at retail to end-user customers.

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b.) Resource Planning Data

1. Individual resources – projections of capacity energy
   a. Utility-Owned Generation
   b. Qualifying Facilities
   c. Hydro resources grouped into >30MW & <30MW
   d. Generic renewable resources disaggregated by location and technology type
2. "Old-World" and "New-World" Contracts – including price, other key terms and descriptive information for each contract or aggregations of contracts with the same supplier
   a. Individual DWR contracts – projections of capacity and energy
   b. Individual renewable contracts
   c. Contracts with resources owned by affiliates
   d. Power purchase agreements including those between utilities and their affiliates
   e. Expired PPAs
3. Spot and short-term market purchases
4. Interruptible tariff and other dispatchable Demand Response programs
5. Other Resource Attributes
   a. The quantity of the natural gas used to generate power
   b. Annual and monthly residual net short for energy and capacity

c.) Details for each competitive solicitation

1. Participating bids, counter party names, price, quantities offered, description of bid screening, and evaluation process
2. The specific quantitative analysis involved in scoring and evaluation of participating bids.

d.) Load Data

1. Hourly, monthly, annual energy sales forecasts, including losses, in aggregate and by customer class. Also, net energy forecasts bundled by distribution service area or disaggregated by retail provider

2. Hourly, monthly, and annual peak load forecasts, including losses, aggregated and by customer class. Peak forecasts by distribution service area or disaggregated by retail provider

3. Incremental peak load from 1:5, 1:10 and 1:20 weather compared to 1:2 peak weather

4. Projections of Distributed Generation energy production and peak output reducing energy sales to end-users

5. Energy and peak impacts of energy efficiency programs

6. Peak demand impacts of demand response programs

7. LSE demand forecasting methodology

8. Annual historical peak demand and energy sales in aggregate and by customer class

9. Energy sales to the wholesale market

e.) Strategic Procurement Information:

1. Qualitative identification of specific uncertainties leading to risks

2. Reliance on various types of resources, such as energy efficiency, demand reduction, shaped energy contracts, capacity contracts, new utility power plants, and purchases from California Independent System Operator (CAISO) markets expressed as annual percentages.

3. Qualitative description of risk management plans with use of hedging instruments, including gas supply purchases, tolling arrangements, financial arrangements.

4. Procurement incentive mechanisms including principles underlying incentive mechanisms, formulas to allocate cost responsibility relative to reference levels or benchmarks, and escape conditions.

5. Procurement mechanics including number, type, and design of Requests for Offers (RFO) proposed to secure bilateral bids, and contract oversight appropriate to ex-ante review in lieu of prudency review.

f.) Avoided cost information

g.) Other records

1. Specifics of any transaction with duration less than five years contained in the Quarterly Transaction Reports

2. Monthly procurement costs (Energy Resource Recovery Account [ERRA] filings)

3. Monthly portfolio risk assessment

4. Monthly DWR gas position updates, including information about hedging activities

5. Updates (on the monthly/weekly on/off-peak procurement cost, procurement cost categorized by transaction type, monthly energy and capacity forecast, monthly residual net short (RNS) forecast for a rolling 12-month, the number of hours the utility is expecting to be short or long, the nature of the long position (physical vs. economic), monthly electric and gas price forecast) filed in response to the Energy Division's monthly data request.

Type of documents	CPUC's determination (current)	*(Staff Proposal)* Market sensitive – need for confidentiality (Y/N)?	Timeframe for maintaining confidential	Specify ratepayer harm if released sooner than specified timeframe	Procedure(s) other than sealing that will protect documents
Price Forecast and Cost Data					
Forecasts of annual average natural gas price.	Confidential for three years	Confidential for three years			
Forecasts of annual average on-peak and off-peak electricity price (system average and customer class).	Confidential for three years	Confidential for three years			
Forecasts of annual average cost of new generation (including URG, bilateral contracts, spot market, etc.)	Confidential for three years	Confidential for three years			
Projections of total- and customer class-revenue requirements. (CEC includes projections of major categories of generation costs)	No determination	Public			
Historical monthly and annual cost of gas.		Confidential for one year			
Cost projections of Demand Side Management (DSM) and Energy Efficiency (EE) program administration, utility incentives, and lost revenues.	No determination	Public			
Resource Planning Data					
Individual resources (projections of capacity & energy)					
IOU Generation	Confidential. Aggregation of resources into major categories (URG, QF, PPAs, DWR, Old/New Contracts) as % of total projections of capacity and energy are Public. Quarterly QF forecasts aggregated by gas-fired and renewable are public. PPAs with affiliates are fully public. Individual PPAs' terms/conditions are confidential for term of contract. Individual contracts with lengths 6 months or longer are public 2 years after contract expiration date. Expired capacity contracts are public.	Confidential. Aggregation of resources by major category type made public.			
Qualifying Facilities					
Hydro resources grouped into >30MW & <30MW					
Generic renewable resources disaggregated by location and technology type					
"Old-World" and "New-World" Contracts – including price, other key terms and descriptive information for each contract or aggregations of contracts with the same supplier		Price & capacity kept confidential for term of the contract, public one year after expiration. All other terms of contract are made public.			
DWR contracts – projections of capacity and energy					

Type of documents	CPUC's determination (current)	*(Staff Proposal)* Market sensitive – need for confidentiality (Y/N)?	Timeframe for maintaining confidential	Specify ratepayer harm if released sooner than specified timeframe	Procedure(s) other than sealing that will protect documents
Individual renewable contracts					
Contracts with resources owned by affiliates		Same as "old" and "new" world contracts			
Power purchase agreements including those between utilities and their affiliates		Same as "old" and "new" world contracts			
Expired PPAs		Public 1 year after expiration			
Spot and short-term market purchases		Individual purchases are confidential, public release in aggregate 6 months after expiration.			
Interruptible tariff and other dispatchable Demand Response programs		Public			
Other Resource Attributes					
The quantity of the natural gas used to generate power	Confidential	Confidential			
Monthly, Annual Residual Net Short for energy	Confidential	Confidential for Monthly and Annual RNS			
Hourly, Monthly, Annual Residual Net Short for capacity	Confidential	Confidential			
Details for each competitive solicitation					
Participating bids, counter party names, price, quantities offered, description of bid screening, and evaluation process	No determination	Confidential			
The specific quantitative analysis involved in scoring and evaluation of participating bids	No determination	Confidential			
Load Data					
Monthly, annual energy sales forecasts, including losses.	Public	Public			
Monthly, annual energy sales forecasts by customer class.	Not specified (but assumed to be public)	Public			
Net energy forecasts bundled by distribution service area	No determination	Public			
Net energy forecasts by retail provider	No determination	Public			

Type of documents	CPUC's determination (current)	*(Staff Proposal)* Market sensitive – need for confidentiality (Y/N)?	Timeframe for maintaining confidential	Specify ratepayer harm if released sooner than specified timeframe	Procedure(s) other than sealing that will protect documents
Hourly, monthly, and annual peak load forecasts, including losses.	Confidential	Confidential for 3 years			
Hourly, monthly, and annual peak load forecasts by customer class.	Not specified (but assumed to be confidential)	Confidential for 3 years			
Peak forecasts by distribution service area.	No determination	Confidential for 3 years			
Peak forecasts by retail provider.	No determination	Confidential for 3 years			
Incremental peak load from 1:5, 1:10 and 1:20 compared to 1:2 peak.	No determination	Confidential			
Projections of Distributed Generation energy production and peak output reducing energy sales to end-users	No determination	Public			
Energy and peak impacts of energy efficiency programs		Public			
Peak demand impacts of demand response programs		Confidential. Data presented as a % will be made public.			
LSE demand forecasting methodology	No determination	Public			
Annual historical peak demand	Historic Hourly Loads - Confidential (No determination for Annual)	Public for annual peak demand. Confidential for hourly demands			
Annual historical peak demand by customer class	No determination (assumed to be same as above)	Public for annual peak demand. Confidential for hourly demands			
Annual historical energy sales	Public	Public			
Annual historical energy sales by customer class	No determination (assumed to be public)	Public			
Energy sales to the wholesale market	No determination	Public			
Strategic Procurement Information:					
Qualitative identification of specific uncertainties leading to risks		Detailed level of specific uncertainties and analysis will be kept confidential. General descriptions of uncertainties will be public.			

Type of documents	CPUC's determination (current)	*(Staff Proposal)* Market sensitive – need for confidentiality (Y/N)?	Timeframe for maintaining confidential	Specify ratepayer harm if released sooner than specified timeframe	Procedure(s) other than sealing that will protect documents
Reliance on various types of resources, such as energy efficiency, demand reduction, shaped energy contracts, capacity contracts, new utility power plants, and purchases from California Independent System Operator (CAISO) markets expressed as annual percentages.		Public			
Qualitative description of risk management plans with use of hedging instruments, including gas supply purchases, tolling arrangements, financial arrangements.		Public			
Procurement incentive mechanisms including principles underlying incentive mechanisms, formulas to allocate cost responsibility relative to reference levels or benchmarks, and escape conditions.		Public			
Procurement mechanics including number, type, and design of Requests for Offers (RFO) proposed to secure bilateral bids, and contract oversight appropriate to ex-ante review in lieu of prudency review.		Public			
Avoided cost information					
Other records					
Specifics of any transaction with duration less than five years contained in the Quarterly Transaction Reports		Confidential			
Monthly procurement costs (Energy Resource Recovery Account [ERRA] filings)		Confidential			
Monthly portfolio risk assessment		Confidential			
Long-term fuel buying and hedging plans	Gas supply plans are confidential	Confidential			

Type of documents	CPUC's determination (current)	*(Staff Proposal)* Market sensitive – need for confidentiality (Y/N)?	Timeframe for maintaining confidential	Specify ratepayer harm if released sooner than specified timeframe	Procedure(s) other than sealing that will protect documents
Monthly DWR gas position updates, including information about hedging activities		Confidential			
Updates (on the monthly/weekly on/off-peak procurement cost, procurement cost categorized by transaction type, monthly energy and capacity forecast, monthly residual net short (RNS) forecast for a rolling 12-month, the number of hours the utility is expecting to be short or long, the nature of the long position (physical vs. economic), monthly electric and gas price forecast) filed in response to the Energy Division's monthly data request.		Confidential			

(END OF APPENDIX A)

APPENDIX B
Temporary Service List Links:
(See Ordering Paragraph 6)

http://www.cpuc.ca.gov/published/service_lists/R0404003_63347.htm

http://www.cpuc.ca.gov/published/service_lists/R0310003_58447.htm

http://www.cpuc.ca.gov/published/service_lists/R0404025_67109.htm

http://www.cpuc.ca.gov/published/service_lists/R0404026_63527.htm

http://www.cpuc.ca.gov/published/service_lists/R0403017_64987.htm

http://www.cpuc.ca.gov/published/service_lists/R0108028_57647.htm

http://www.cpuc.ca.gov/published/service_lists/I0011001_20507.htm

http://www.cpuc.ca.gov/published/service_lists/R0401026_60927.htm

http://www.cpuc.ca.gov/published/service_lists/R0401025_62047.htm

(END OF APPENDIX B)

APPENDIX C
PROCUREMENT RELATED QUESTIONS

1. May different members or sectors of the public acquire various levels of information in order to participate in Commission proceedings meaningfully? Does SB 1488 require that all parties in our proceedings necessarily have equal information?

2. Consistent with SB 1488, may different parties have access to information under different restrictions? For example, while ORA or another consumer group may have unrestricted access to documents, it may be necessary to craft protective orders or other limitations on disclosure for documents produced to utility competitors. Such procedures might include partial sealing of documents; redaction; aggregation of data to mask individualized, sensitive information; delayed information release (after documents are no longer market sensitive); restriction on personnel with access to documents, and the like. Does SB 1488 allow such distinctions?

3. In civil litigation, parties alleging privilege must provide a privilege log containing identifying information about withheld documents. Is a similar procedure for confidential documents appropriate here?

4. Under Evidence Code § 1060, the owner of a trade secret has a privilege against disclosure so long as allowance of the privilege "will not tend to conceal fraud or otherwise work an injustice." The party claiming the privilege must establish that the information is a trade secret and that the party is its owner. Thereafter, the party seeking discovery must show that the information is "relevant and necessary to proof of . . . a material element of a cause of action" and essential to resolution of the case. Then the party claiming privilege must demonstrate the disadvantages of alternatives to full disclosure, such as a protective order.[19] We seek comment on whether we should apply the Evidence Code § 1060 framework here

[19] Weil & Brown, *Civil Procedure Before Trial,* Scope of Discovery, Ch. 8C, at 8C-24–8C-24.1.

to parties claiming their documents are confidential in Commission procurement proceedings.

5. Pub. Util. Code § 454.5(a) focuses on "the date that the electric corporation intends to resume procurement of electricity for its retail customers ...." Is it appropriate to apply the statute's requirement that we protect "market sensitive" information only to procurement plans enabling electric utilities to "resume procurement"? Once these utilities resume procurement, will the requirements of § 454.5(g) continue to apply?

6. Pub. Util. Code § 454.5(b)(9)(A) requires the procurement plans to achieve certain long-term goals, including acquisition of 20 percent of the utility's electricity through renewable sources. Does this provision suggest that the protection of "market sensitive" information should continue indefinitely?

7. Are there other provisions in the Public Utilities Code that provide adequate protection for confidential information into the future without the need to construe § 454.5(g) to apply for years to come?

8. Does § 454.5(g) apply to all of the listed proceedings under the R.04-04-003 "umbrella" or only documents at issue in R.04-04-003?

9. Is there any legislative history to guide us in defining the universe of "procurement" documents? Is the term limited to procurement plans and data requests/consultant reports directly related to those plans, or does it include all of the inputs into procurement plans?

10. In Appendix A to this OIR, we list the types of documents about which there have been confidentiality disputes to date in R.04-04-003 and a few of the other proceedings listed above. Must we apply § 454.5(g) to all such documents or is the list too broad?

11. Is it more effective for the Commission to define certain specific categories of documents that should and should not be treated as confidential, or is a less specific process more prudent? If § 454.5(g) is construed to require protection of procurement plans well into the future, a more general approach may make most sense. If we are too specific about the types of documents deserving protection, our decision may not be a living document with applicability over time.

If, on the other hand, it is appropriate to construe §454.5(g) to apply for a limited period, a more specific approach may be feasible. We invite comment on both approaches.

12. We ask the parties to identify the problems, if any, with the process we have already developed in the procurement proceedings to protect confidential documents, especially our initial determination to create a distinction between market participants and non-market participants.

13. Parties should comment on the following process: We propose to require the utilities to comment on the Energy Division's proposed matrix for procurement documents using the data categories listed in Appendix A. If they disagree with Energy Division's proposal, the utilities should accompany each category with the following information, at a minimum:

Type of documents	**Short description of document type**	**Market sensitive – need for confidentiality (Y/N)?**	**Timeframe for maintaining confidential**	**Specify ratepayer harm if released sooner than specified timeframe**	**Procedure(s) other than sealing that will protect documents**

In completing this matrix, each electric utility should list the category, using the list in Appendix A. (If the list contains duplicates, the utilities may combine categories, but should state they are doing so. Utilities may also add data categories to the list.) Each utility should then give a brief description of the category. It should next state whether the data is "market sensitive" and also confidential.

Importantly, each utility should explain how long the data category should remain confidential, or identify the timeframe (*e.g.*, hourly, daily) of information that requires protection. Equally important, the utilities should explain with specificity the ratepayer harm that may result from release of the information. It will not help us for parties to provide only general allegations about ratepayer harm. Rather, utilities should describe how one might use the data to unfairly affect electricity market prices or cause other harm.

Finally, for each category of confidential information, the utilities should identify how we might allow other parties access to the information in summary, aggregate, percentage-based, or partially redacted form, or via delayed release. That is, they should balance the harm they allege with procedures designed to maximize open decisionmaking. They should provide alternatives to full redaction or sealing for each type of data.

14. We believe Appendix A is sufficiently broad to include documents that might be at issue in future procurement proceedings, but we wish the parties' analysis of this conclusion.

15. Are records pertaining to procurement of natural gas as fuel pursuant to electric procurement contracts governed by SB 1488?

16. Is the Commission required or allowed to consider potential ratepayer harm in making confidentiality determinations or interpreting SB 1488?

17. Need one be an actual party to a Commission proceeding in order to be covered by SB 1488's requirement that the Commission provide for meaningful public participation? If non-parties are covered, how should the Commission implement SB 1488?

(END OF APPENDIX C)

APPENDIX D
ENERGY SERVICE PROVIDERS

ENERGY AMERICA, LLC (1341)
263 TRESSER BLVD., ONE STAMFORD PLAZA
8TH FLOOR
STAMFORD, CT 06901

BP ENERGY COMPANY (1366)
501 WESTLAKE PARK BLVD.
HOUSTON, TX 77079

APS ENERGY SERVICES COMPANY, INC. (1361)
CORPORATION (1092)
400 E. VAN BUREN STREET, SUITE 750
PHOENIX, AZ 85004

NEW WEST ENERGY CORPORATION (1063)
NEW WEST ENERGY
PO BOX 61868, MAILING STATION ISB 665
PHOENIX, AZ 85082-1868

CONSTELLATION NEW ENERGY, INC. (1359)
350 SOUTH GRAND AVENUE, SUITE 2950
LOS ANGELES, CA 90071

MICHAEL MAZUR (1350)
3 PHASES ELECTRICAL CONSULTING
2100 SEPULVEDA BLVD., SUITE 15
MANHATTAN BEACH, CA 90266

QUIET LLC (1368)
QUIET ENERGY
3311 VAN ALLEN PL.
TOPANGA, CA 90290

AMERICAN UTILITY NETWORK (A.U.N.) (1158)
10705 DEER CANYON DRIVE
ALTA LOMA, CA 91737

STRATEGIC ENERGY, L.L.C. (1351)
7220 AVENIDA ENCINAS, SUITE 120
CARLSBAD, CA 92009

SEMPRA ENERGY SOLUTIONS (1364)
101 ASH STREET, HQ09
SAN DIEGO, CA 92101-3017

CORAL POWER L.L.C. (1360)
4445 EASTGATE MALL, SUITE 100
SAN DIEGO, CA 92121

PILOT POWER GROUP, INC. (1365)
9320 CHESAPEAKE DRIVE, SUITE 112
SAN DIEGO, CA 92123

COMMONWEALTH ENERGY

ELECTRICAMERICA
600 ANTON BOULEVARD, SUITE 2000
COSTA MESA, CA 92626

AOL UTILITY CORP. (1355)
12752 BARRETT LANE
SANTA ANA, CA 92705

CITY OF CORONA DEPARTMENT OF (1367)
WATER AND POWER
730 CORPORATION YARD WAY
CORONA, CA 92880

CALPINE POWERAMERICA-CA, LLC (1392)
4160 DUBLIN BLVD.
DUBLIN, CA 94568

MODESTO IRRIGATION DISTRICT (1151)
MODESTO IRRIGATION DIST. MID. WATER
1231 ELEVENTH STREET
P.O. BOX 4060-95352
MODESTO, CA 95354

END OF APPENDIX D)