

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking to Continue Electric)
Integrated Resource Planning and Related) Rulemaking 20-05-003
Procurement Processes.) (Filed May 7, 2020)
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**SAN JACINTO POWER'S MOTION FOR LEAVE TO FILE THE CONFIDENTIAL
VERSION OF ITS AUGUST 2022 INTEGRATED RESOURCE PLAN PROCUREMENT
UPDATE UNDER SEAL**

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August 1, 2022

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

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Pursuant to the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, Rules 11.1 and 11.4, and in accordance with Decision (“D.”) 06-06-006, D.08-04-023, D.20-07-005, and D.21-11-029 (“Confidentiality Decisions”), San Jacinto Power (“SJP”) hereby files this *Motion for Leave to File the Confidential Version of Its August 2022 Integrated Resource Plan Procurement Update Under Seal* (“Motion”).

On July 1, 2022, Commission staff provided the Resource Data Template Version 3 (“RDTv3”) for load serving entities (“LSEs”) to complete and file by August 1, 2022. The RDTv3 requires information on LSEs’ efforts to meet the incremental capacity procurement obligation required by D.19-11-016, as well as information regarding projects intended to meet the requirements of D.21-06-035 and new projects in the LA Basin local capacity area.

SJP is concurrently filing with this motion the required information in the RDTv3 and Supporting Documentation required by D.20-12-044 (“Supporting Documentation”) (together “Compliance Filing”). Specifically, SJP is publicly filing and serving a redacted, public version

of its RDTv3, without confidential Supporting Documentation.¹ SJP is also submitting the confidential version of its RDTv3 with confidential Supporting Documentation to the Energy Division through the Commission’s secure file transfer protocol (“FTP”) site. SJP moves the Commission to grant SJP leave to file the confidential version of its Compliance Filing under seal and approve the redactions in the public version of SJP’s Compliance Filing.

I. REQUEST FOR CONFIDENTIALITY

a. Confidential Information Protected under the Confidentiality Decisions.

In the Confidentiality Decisions, the Commission set forth the standard for designating certain commonly submitted procurement-related and market-sensitive information as confidential in Commission proceedings, and established a “Matrix,” which identifies several categories of data and the confidential treatment afforded to each. Specifically, the Commission requires a party seeking confidentiality to prove that the data match the Matrix category, and if the party is able to do so, then it is entitled to the protection the Matrix provides for that category. The following table identifies the information SJP requests to be sealed and the basis for SJP’s assertions:

Title/Location of Data	Authority for Confidentiality Request	Justification for Confidential Treatment	Length of Time Data to Be Kept Confidential
Supporting Documentation	CCA/ESP Matrix, Item II(B) – RA Supply Data; Item IV(C) – Bilateral Contracts California Government Code, Section 6255(a)	SJP’s Supporting Documentation includes information required for demonstrating compliance with the Milestones identified in D.20-12-044. These documents are resource adequacy (“ <u>RA</u> ”) supply	Under Item II(B), RA Supply Data is confidential for the first three years of the forecast period. Under Item IV(C), Bilateral

¹ The Supporting Documentation and redactions in RDTv3 are together referred to as “Confidential Information”.

		<p>data, which is a category covered by the Matrix. The Supporting Documentation includes information that could be used by others to gain economic value from its disclosure and disclosure could impact SJP’s negotiating positions as well as compromise the information of third-party developers.</p> <p>These documents should be protected because the public interest in nondisclosure outweighs any public interest in disclosure. Information contained in the Supporting Documentation has the potential to materially affect market prices. Conversely, SJP provides summarized information in the RDTv3, which enables public review of relevant incremental procurement efforts. Thus, the public interest in disclosure of the underlying Supporting Documentation is negligible in comparison to the public interest in nondisclosure.</p>	<p>Contract, “other terms” are protected for three years from the start date of deliveries or one year following expiration.</p>
<p>SJP RDTv3, <i>unique_contracts</i> tab, (Resources Not Used for D.19-11-016 Compliance); Columns I, J, K, L, O, P, Q, R, U, V, W, X, Y, Z, AB, AD, BB, BC,</p>	<p>CCA/ESP Matrix, Item II(B) – RA Supply Data; Item IV(C) – Bilateral Contracts California Government Code, Section 6255(a)</p>	<p>The information redacted in the RDTv3 template consists of data that could reveal or be used to derive SJP’s net short position or otherwise qualifies as market-sensitive information, as it is not generally known</p>	<p>Under Item II(B), RA Supply Data is confidential for the first three years of the forecast period.</p>

BD, BE, BF, BG, BH, BP, BY		and could be used by others to gain economic value from its disclosure and impact SJP's negotiating positions and the energy and capacity market more generally. The public interest in maintaining fair and functional markets by protecting this information outweighs any negligible public interest in publicly disclosing this information.	Under Item IV(C), Bilateral Contract, "other terms" are protected for three years from the start date of deliveries or one year following expiration.
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b. SJP's Confidential Information is Resource Adequacy Supply Data that is protected by the CCA/ESP Matrix.

Under the community choice aggregator ("CCA") and electric service provider ("ESP") Matrix,² non-investor-owned utility ("IOU") LSEs receive confidentiality protections for identified information. Under Item II(B) resource adequacy ("RA") supply data is protected from disclosure and protected for a period of three years from relevant dates. Since the Supporting Documentation relates to RA supply data and could be used to determine SJP's net short position in relation to its integrated resource plan ("IRP") procurement obligations, the Supporting Documentation should be protected by the Matrix. Furthermore, the information redacted from the RDTv3 could also reveal SJP's net short position and should be treated similarly. Thus, SJP's Confidential Information should be protected by Item II(B) of the CCA/ESP Matrix.

² See D.21-11-029, Attachment 2, Appendix 2.

c. The Commission should protect the redacted and withheld information because the public interest in non-disclosure of market sensitive information in this instance clearly outweighs the public interest in disclosure.

When considering claims of confidentiality, the Commission has described its role as trying to strike a “key balance” in evaluating whether “specific risk[s] to customers in having certain information disclosed” outweigh the “general public interest in making all information publicly accessible.”³ Protecting SJP’s Confidential Information from disclosure protects customers from risk while also providing relevant procurement information in the unredacted portions of the RDTv3, thus striking the right balance between disclosure and non-disclosure.

SJP’s Supporting Documentation consists of market sensitive documents related to SJP’s efforts to procure incremental capacity and/or develop generation projects. Requiring public release of these documents, which may include business sensitive terms and price, could have wide-ranging repercussions on LSEs and resource developers. These impacts have the potential to materially affect market prices of electricity and undermine procurement efforts.

In contrast, the public interest in disclosure of the Supporting Documentation is negligible. As described, SJP is publicly providing the relevant procurement information in the RDTv3. Thus, the public will have access to relevant information regarding SJP’s incremental procurement in meeting the requirements of D.19-11-016, as well as other updated electricity procurement data. There appears to be little public interest served by disclosure of specific terms contained in the Supporting Documentation.

Finally, protecting the Supporting Documentation from disclosure would be consistent with prior Commission action. In the prior IRP proceeding, the administrative law judge

³ See Rulemaking 16-02-007, *Joint Ruling of Assigned Commissioner and Administrative Law Judge Granting 29 Motions to File Under Seal, Seeking Comment on Future Confidentiality Treatment, and Confirming No Evidentiary Hearings Will Be Held on Individual Integrated Resource Plans* at 7 (October 5, 2018) (hereinafter “Confidentiality Ruling”).

(“ALJ”) and assigned commissioner protected resource procurement information similar to the Supporting Documentation SJP seeks to protect here.⁴ The Confidentiality Ruling granted motions to file under seal seeking to protect specific details of contracted resources and procurement related information for numerous LSEs’ IRPs.⁵ The Confidentiality Ruling concluded there was a “reasonable risk” of anti-competitive behavior from the release of this information, but determined that data aggregation could reduce risks while also allowing individual LSEs to maintain confidentiality for market sensitive information.⁶ Similarly, SJP’s Supporting Documentation should be protected here, since SJP seeks to protect market sensitive information that if disclosed has the potential to affect market prices while also providing non-protected, summarized information in the RDTv3. Additionally, the ALJ in this proceeding granted motions to file under seal to SJP, among several other LSEs, seeking to protect the same confidential information as is requested in this motion.⁷ Thus, protecting the Supporting Documentation while also providing summarized information strikes the correct balance, is in the public interest, and is consistent with the Commission’s prior practice.

As discussed above in the Table, the information redacted from the RDTv3 should also be afforded protection for similar reasons. Even if protection were not provided by the CCA/ESP Matrix, LSEs’ net position, information regarding project viability, and other sensitive terms are not generally publicly disclosed information and public disclosure has the potential to undermine LSEs’ negotiating position, negatively impacting the energy market in general. As recognized in the authorities cited above, the market sensitive nature of this information deserves

⁴ See *Confidentiality Ruling*.

⁵ *Confidentiality Ruling* at 3.

⁶ *Confidentiality Ruling* at 7.

⁷ Rulemaking 20-05-003, *Administrative Law Judge’s Ruling Granting Motions to File Under Seal for Portions of Individual Integrated Resource Plans and Requiring Re-filing of Certain Related Information* (September 23, 2021).

protection in its own right under the Matrix; however, the market sensitivity of this information also establishes that the public interest in nondisclosure outweighs any conceivable public interest in disclosure.

In the public version of its RDTv3, SJP withheld the Supporting Documentation and redacted portions of the RDTv3 template. Through this motion, SJP requests the Commission grant an order approving these redactions and granting leave to submit the unredacted, confidential version of its RDTv3 under seal.

II. CONCLUSION

For the reasons set forth above, SJP respectfully requests that the Commission approve SJP's motion to submit the confidential version of its RDTv3 and Supporting Documentation under seal. A proposed order is included as Attachment A to this Motion.

Dated: August 1, 2022

Respectfully submitted,

/s/ Josh Stoops

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ATTACHMENT A

**BEFORE THE PUBLIC UTILITIES COMMISSION
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Order Instituting Rulemaking to Continue Electric)	
Integrated Resource Planning and Related)	Rulemaking 20-05-003
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**[PROPOSED] ADMINISTRATIVE LAW JUDGE’S RULING GRANTING
SAN JACINTO POWER’S MOTION FOR LEAVE TO FILE THE CONFIDENTIAL
VERSION OF ITS AUGUST 2022 INTEGRATED RESOURCE PLAN PROCUREMENT
UPDATE UNDER SEAL**

On August 1, 2022, San Jacinto Power (“SJP”) filed a motion for leave to file the confidential version of its Resource Data Template Version 3 (“RDTv3”) and associated supporting documentation under seal and for approval of the redactions to the public version of SJP’s RDTv3.

Good cause appearing, IT IS RULED that:

The information SJP seeks to seal is eligible for confidentiality protection pursuant to Decision (“D.”) 06-06-066, D.08-04-023, D.20-07-005, and D.21-11-029. The redactions applied to the public version are approved, and the confidential, unredacted version of this information shall not be made accessible or disclosed to anyone other than the California Public Utilities Commission (“Commission”) and its staff except on the further order or ruling of the Commission, the Assigned Commissioner, the Assigned Administrative Law Judge (“ALJ”), or the ALJ then designated as Law and Motion Judge.

Dated: _____, at San Francisco, California.