



San Diego Gas & Electric Company
San Diego, California

Original Cal. P.U.C. Sheet No. 16567-E*

Canceling _____ Cal. P.U.C. Sheet No. _____

SAMPLE FORMS
FORM 142-05212

Sheet 1 N
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DEMAND BIDDING PROGRAM NON-DISCLOSURE AGREEMENT

(07/03)

(See Attached Form)

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Advice Ltr. No. 1507-E-A

Decision No. 03-06-032

Issued by
Lee Schavrien
Vice President
Regulatory Affairs

Date Filed Jul 11, 2003

Effective Aug 8, 2003

Resolution No. _____

ATTACHMENT D
(For Schedule DBP Applicants Only)

**NON-DISCLOSURE AGREEMENT REGARDING CONFIDENTIALITY OF CERTAIN
SAN DIEGO GAS AND ELECTRIC COMPANY PRICE DATA**

This Non-Disclosure Agreement (Agreement) is entered into between San Diego Gas and Electric Company (SDG&E), a California Corporation, and _____
(Customer).

1. This Agreement shall govern access to and the use by Customer of all SDG&E power price forecast data ("Protected Data" as more fully defined herein) provided to Customer in connection with Customer's participation in SDG&E's Demand Bidding Program (DBP). Notwithstanding any termination of the DBP, this Protective Order shall remain in effect until it is specifically modified or terminated by SDG&E.
 - (a) The term "Protected Data" means the day-ahead forecast of SDG&E's hourly power prices and/or price offer provided to Customer as part of Customer's participation in the DBP. Protected Data includes all copies of the hourly power prices, and all notes or analyses incorporating, containing, or derived from the hourly power prices. Protected Data includes, but is not limited to, information created, stored, or transmitted in electronic form.
 - (b) Protected Materials shall not include: (i) any information or document contained in the public files of the California Public Utilities Commission (CPUC) or any other state or federal agency, or in any state or federal court, unless such information or document has been determined to be protected by such agency or court; or (ii) information that is public knowledge, or which becomes public knowledge, other than through disclosure in violation of this Agreement.
 - (c) The term "Non-Disclosure Certificate" shall mean the certificate annexed hereto as Attachment G by which persons who have been granted access by Customer to the Protected Data shall, as a condition of such access, certify their understanding that such access is provided pursuant to the terms and restrictions of this Agreement, and that such persons have read such Agreement and agree to be bound by it. All Non-Disclosure Certificates shall be retained by Customer and made available to SDG&E upon request.
 - (d) A Reviewing Representative shall mean any person, including any employee or consultant of Customer, who is engaged in activities (including the direct supervision of a person so engaged) relating to advising Customer or preparing Customer in connection with Customer's participation in the DBP and who is not a Market Participation Representative as defined below.
 - (e) A Market Participation Representative shall include any person, including any employee or consultant of Customer, who is engaged in activities (including the direct supervision of a person so engaged), for Customer or others, relating to the purchase, sale or marketing of energy or capacity, or the bidding on or purchasing of power plants or consulting on such matters, but shall explicitly exclude the activities of advising customers on utility rates, Direct Access transactions, and/or demand response programs.
2. Access of Reviewing Representatives to Protected Data shall be granted only pursuant to the terms of this Agreement. Any person who is a Market Participation Representative shall not be granted access to Protected Data.

3. Within thirty (30) days after receiving Protected Data, Customer shall return or destroy the Protected Data. Upon request by SDG&E, an officer of customer shall also submit to SDG&E an affidavit stating that, to the best of declarant's knowledge, all Protected Data have been returned or destroyed. To the extent Protected Data is not returned or destroyed pursuant to this paragraph, it shall remain subject to this Agreement.
4. In the event Customer receives a request from a state or federal governmental agency or via a judicial subpoena for the production of the Protected Data in Customer's possession, the Customer will immediately notify SDG&E of such request. Customer and SDG&E shall cooperate in opposing the request or requiring the continued confidential treatment of the requested data by the requesting agency.
5. Protected Data shall be treated as confidential by Customer and each Reviewing Representative in accordance with the certificate executed pursuant to Paragraph 2(c) hereof. Protected Materials shall not be used except as necessary for the purpose of assisting in Customer's effective participation in the DBP and shall not be disclosed in any manner to any person except other Reviewing Representatives who are engaged in Customer's participation in DBP and who need to know the information in order to carry out their responsibilities.
6. In the event that a Reviewing Representative to whom Protected Data is disclosed ceases to be engaged in activities concerning SDG&E's DBP, access to Protected Data by that person shall be terminated. Even if no longer engaged in such reviews, every such person shall continue to be bound by the provisions of this Agreement and the Non-Disclosure Certificate. No Reviewing Representative may engage in any activities which would define him or her as a Market Participation Representative for a period of 30 days after ceasing his or her Reviewing Representative duties. Customer agrees to use best efforts to inform SDG&E immediately, in writing, if Customer becomes aware that a former Reviewing Representative has engaged in Market Participation Representative activities sooner than 30 days after ceasing his or her Reviewing Representative activities.
7. All disputes arising under this Agreement shall be presented for resolution to the CPUC in the first instance. Prior to presenting any such dispute to the CPUC, the parties to the dispute shall use their best efforts to resolve it informally. Neither SDG&E nor the Customer waives its right to seek additional administrative or judicial remedies in the event the CPUC acts or declines to act regarding the dispute.
8. Neither SDG&E nor Customer waives its right to pursue any other legal or equitable remedy that may be available in the event of actual or anticipated disclosure of Protected Data.
9. SDG&E and Customer may agree at any time to remove the "Protected Data" designation from any material if, in their mutual opinion, its confidentiality is no longer required.
10. SDG&E shall not be liable to Customer for any liability or damage, of any kind, incurred or sustained by Customer, including for claims against Customer by third parties, as a result of use by Customer of the Protected Data.
11. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California.
12. This Agreement contains the entire understanding between the parties with respect to the Protected Data. No change or modification shall be made effective unless in writing and signed by an authorized representative of each party.
13. This Agreement is subject to change or modification by the CPUC.

IN WITNESS WHEREOF, the parties have executed this Agreement by their authorized representatives as of the date set forth above.

SAN DIEGO GAS AND ELECTRIC COMPANY

CUSTOMER

By: _____
Signature

By: _____
Signature

Print

Print

Title

Title

Date

Date

**ATTACHMENT E
(For Schedule DBP Applicants Only)**

NON-DISCLOSURE CERTIFICATE

I, _____ (individual's name), have been retained or designated by _____ (Customer) to review certain materials that have been designated as "Protected Data" under the terms of the **NON-DISCLOSURE AGREEMENT REGARDING CONFIDENTIALITY OF CERTAIN SAN DIEGO GAS AND ELECTRIC COMPANY PRICE DATA** entered into between _____ (Customer) and San Diego Gas and Electric Company on _____ (date). (the Agreement).

1. I hereby certify my understanding that access to Protected Data is provided to me pursuant to the terms and restrictions of the Agreement, that I have been given a copy of and have read the Agreement, and that I agree to be bound by it. I understand that the Protected Data, any notes or other memoranda, or any other form of information that copies or discloses Protected Data shall not be disclosed to anyone other than in accordance with the Agreement. I acknowledge that a violation of the terms of the Agreement also constitutes a violation of an order of the California Public Utilities Commission.

2. I understand that my review of Protected Data is solely for the purpose of assisting Customer in participating in SDG&E's Demand Bidding Program, and that any other use or disclosure of Protected Data by me is a violation of the Agreement.

Dated: _____

BY: _____

TITLE : _____