

**DOCKETED**

<b>Docket Stamp Updated:</b>	8/18/2025 2:20:53 PM
<b>Docket Number:</b>	24-OPT-03
<b>Project Title:</b>	Soda Mountain Solar
<b>TN #:</b>	265627
<b>Document Title:</b>	CEC Response to Soda Mountain Solar Project's Application for Confidentiality - Worker Safety
<b>Description:</b>	Response for applications docketed on: July 21 - TN 264955 July 30 - TN 265167
<b>Filer:</b>	Marianna Brewer
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Energy Commission
<b>Submission Date:</b>	8/18/2025 9:50:35 AM
<b>Docketed Date:</b>	8/18/2025

<b>DOCKETED</b>	
<b>Docket Number:</b>	24-OPT-03
<b>Project Title:</b>	Soda Mountain Solar
<b>TN #:</b>	265627
<b>Document Title:</b>	the CEC Response to Soda Mountain Solar Project's Application for Confidentiality - Worker Safety
<b>Description:</b>	Response for applications docketed on: July 21 - TN 264955 July 30 - TN 265167
<b>Filer:</b>	Marianna Brewer
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Energy Commission
<b>Submission Date:</b>	8/18/2025 9:48:01 AM
<b>Docketed Date:</b>	8/18/2025



August 18, 2025

**Via Email**

Hannah Arkin and David Velasco  
Soda Mountain Solar, LLC  
110 Edison Place, Suite 312  
Newark, New Jersey, 07102  
[hannah@resolutionenvironmental.com](mailto:hannah@resolutionenvironmental.com)

**Application for Confidential Designation: Soda Mountain Solar Project  
Docket No. 24-OPT-03**

Dear Ms. Arkin and Mr. Velasco:

The California Energy Commission (CEC) has received two Applications for Confidentiality from Soda Mountain Solar, LLC (Applicant), docketed July 21 and 30, 2025, (TN 264955 and 265167) covering the following records:

- Test Report ANSI/CAN/UL 9540A:2019 Test Method for Evaluating Thermal Runaway Fire Propagation in Battery Energy Storage Systems. All information in pages 1-29.
- Unit Test Report UL 9540A Test Method for Evaluating Thermal Runaway Fire Propagation in Battery Energy Storage Systems (AACD). Issued October 27, 2023. All information in pages 1-44.
- Tesla Megapack 2XL Fire Protection Engineering and UL 9540A Interpretation Report. All information in pages 1-33.
- Responses to CEC Data Requests WS-1 through WS-4. All information in pages 1-10.
- Appendix C, Air Quality and Greenhouse Gas Technical Report, July 2025. BESS Refrigerant Section, pages 45-46.
- Appendix Q, Worker Safety Plan, July 2025. Selected text within Section 1.2.4.5.2, BESS Hazard Mitigation Analysis and Fire Suppression.

A properly filed application for confidentiality shall be granted under California Code of Regulations, title 20, section 2505 (a)(3)(A), "if the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the Commission to keep the record confidential."

**Discussion**

The application states that the records should be designated as confidential to preserve the Applicant's trade secrets and commercially sensitive information related to the manufacturer's battery energy storage system. The Applicant states that designating the

records as confidential would prevent loss of competitive advantage to the Applicant. The Applicant requests that the information be kept confidential indefinitely.

The California Public Records Act allows for the non-disclosure of trade secrets including, among others, those records exempt from disclosure under the Uniform Trade Secrets Act. (Gov. Code, §§ 7927.705, 7930.005, 7930.205; Civ. Code, § 3426.1; Evid. Code, § 1060.)

Civil Code section 3426.1(d) defines “trade secret” as:

[I]nformation, including a formula, pattern, compilation, program, device, method, technique, or process, that: (1) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and (2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. (Civ. Code, § 3426.1(d); See also Gov. Code, §§ 7927.705, 7930.005, 7930.205; Evid. Code, § 1061(a); *Uribe v. Howie* (1971) 19 Cal.App.3d 194, 207.)

California Code of Regulations, title 20, section 2505 (a)(1)(D), provides that if an applicant for confidential designation believes that the record should not be disclosed because it contains trade secrets, the application shall state: (1) the specific nature of the advantage, (2) how the advantage would be lost, (3) the value of the information to the applicant, and (4) the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

The application addresses the four elements in California Code of Regulations, title 20, section 2505 (a)(1)(D) as follows:

- 1) *The specific nature of the advantage* –The reports contain commercially sensitive information of the battery energy storage system that will be used by the Applicant. The competitive advantage is established through negotiations and agreements with multiple counterparties and competing developers. The Applicant does not disclose the details of the project’s technology and costs to such counterparties.
- 2) *How the advantage would be lost* – Disclosure of the information would enable counterparties to reverse-engineer technology, capital cost components, or other key details of the project components that would lessen the applicant’s negotiating power.
- 3) *The value of the information to the Applicant* – Granting confidentiality would allow the Applicant to continue to negotiate commercially favorable agreements with a number of counterparties and to operate the project in the most commercially competitive manner possible. The applicant is currently engaged in contract negotiations with potential partners and anticipates additional negotiations to continue. Maintaining confidentiality also ensures that existing non-disclosure agreements (NDAs) are not violated, thus avoiding any contractual liability or damage to business relationships.

- 4) *The ease or difficulty with which the information could be legitimately acquired or duplicated by others* – The information is not publicly available and has not been disclosed to anyone other than employees, attorneys, or consultants working with the Applicant and only once such parties have executed confidentiality agreements or NDAs.

### **Executive Director's Determination**

The applicant has made a reasonable claim that the UL9540A Test Reports can be maintained as confidential indefinitely. As such, the Applicant's request for confidential designation for the UL9540A Test Reports is granted. However, the Tesla Megapack 2XL Fire Protection Engineering and UL 9540A Interpretation Report, which is an analysis of the data from the UL 9540A Test Report but does not include the raw data, is publicly available on the CEC's website in another siting proceeding's docket. Therefore, confidentiality for the Interpretation Report is denied. In addition, the information that is from the Interpretation Report and contained in the following documents is also denied confidentiality. The remainder of the documents will be granted confidentiality.

- Responses to CEC Data Requests WS-1 through WS-4
- Appendix C, Air Quality and Greenhouse Gas Technical Report, July 2025
- Appendix Q, Worker Safety Plan, July 2025

Be advised that individuals may petition to inspect or copy records that have been designated as confidential, the executive director may disclose, or release records previously designated as confidential in certain circumstances, and the CEC may hold a hearing to determine the confidentiality of its records on its own motion or on a motion by CEC staff. The procedures and criteria for disclosing or releasing, filing, reviewing, and acting upon such petitions or motions are set forth in the California Code of Regulations, title 20, sections 2506 through 2508.

Any related subsequent submittals can be deemed confidential, without the need for an application, by following the procedures set forth in California Code of Regulations, title 20, section 2505(a)(4).

If you have questions, please email [confidentialityapplication@energy.ca.gov](mailto:confidentialityapplication@energy.ca.gov).

Sincerely,



Drew Bohan  
Executive Director