

DOCKETED	
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Document Title:	CEC Response to Potentia-Viridi's Application for Confidentiality
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Via Email

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**Application for Confidential Designation: Potentia-Viridi Battery Storage Energy
Storage System Project
Docket No. 24-OPT-04**

Dear Mr. Leitch and Ms. Strain:

The California Energy Commission (CEC) has received an Application for Confidentiality from Levy Alameda, LLC (Applicant), docketed August 5, 2025, (TN 265246) covering the following records:

- Entire response to CEC Data Request – Air Quality and Public Health, Data Request DR 2 (Section 2.1.2) and the entire response to Data Request DR 5 (Section 2.1.5) Follow-Up Response Responses to the CEC's July 17, 2025, email requesting additional information related to air quality and public health.

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 this information should be designated confidential to preserve confidentiality of the Applicant's trade secrets and commercially sensitive information related to manufacturer's battery energy storage and equipment; to prevent loss of competitive advantage to the Applicant from disclosure of its trade secrets and commercially sensitive information; and to protect energy infrastructure from vandalism, terrorism, or other bad acts. The application states the documents should be granted confidentiality under California Public Records Act, referencing provisions that allow for the non-disclosure of trade secrets including, among others, those records exempt from disclosure under the Uniform Trade Secrets Act, Government Code sections 7927.605(a), 7927.705, 7930.005, 7930.205, Evidence Code section 1060, and Civil Code section 3426.1(d). The application also states that the public interest served by not disclosing this information clearly outweighs the public interest served by disclosure. (Gov. Code, § 7922.000.)

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) by asserting the following:

1. *The specific nature of the advantage* –Trade secrets and commercially sensitive information of one or more battery energy storage system equipment manufacturers that was provided to the Applicant pursuant to nondisclosure or confidentiality agreements. The manufacturer(s) require non-disclosure/confidentiality agreements to protect the economic value that they derive from the proprietary information about the design of their battery energy storage system equipment.
2. *How the advantage would be lost* –The information contains trade secrets of the battery energy storage system equipment manufacturers and the Applicant. Disclosing the information would reveal proprietary information about the design of the battery energy storage system equipment. The Applicant has a competitive advantage in that this information is not known and cannot be legitimately acquired by other parties, including counterparties with whom it is negotiating and industry competitors. Disclosure of such information would put the Applicant at a significant market disadvantage, compromise the Applicant's position during contract negotiations, and provide an advantage to industry competitors and potential commercial partners. Disclosure of such information also could put the Applicant at risk of violating its obligations under non-disclosure/confidentiality agreements with the equipment manufacturer(s) who provided such information to the Applicant.
3. *The value of the information to the applicant* – Design information has independent economic value from not being generally known to the public or Applicant's competitors who can obtain economic value from its disclosure. In addition, revealing the names of the battery products that the Applicant is considering will provide a competitive advantage to other battery manufacturers with whom the Applicant may negotiate.

4. *The ease or difficulty with which the information could be legitimately acquired or duplicated by others* –The information could not be legitimately acquired or duplicated by others. This information has been kept confidential by the Applicant and has not been disclosed to a person other than an employee, attorney, or consultant working on behalf of the Applicant under confidentiality agreements and/or duties of confidentiality. The Applicant states that other battery manufacturers take efforts to maintain secrecy of the reports by requiring buyers to sign confidentiality and/or nondisclosure agreements. The Applicant is obligated to keep this information confidential pursuant to non-disclosure/confidentiality agreements with the battery energy storage system manufacturers who provided this information to the Applicant.

Executive Director's Determination

The Applicant has made a reasonable claim that information can be maintained as confidential for the life of the facility. As such, the Applicant's request for confidential designation is granted.

Be advised that persons 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.

Sincerely,



Drew Bohan
Executive Director