

DOCKETED	
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Project Title:	Los Esteros Phase II Compliance
TN #:	266601
Document Title:	LECEF Tanager BESS_Application for Confidential Designation_Worker Safety and Fire Protection
Description:	LECEF Tanager BESS_Application for Confidential Designation_Worker Safety and Fire Protection
Filer:	Jeffery D. Harris
Organization:	Climate Edge Law Group
Submitter Role:	Applicant Representative
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Docketed Date:	10/15/2025

October 14, 2025

E-Filed

Drew Bohan
Executive Director
California Energy Commission
715 P Street
Sacramento, CA 95814

RE: Los Esteros Critical Energy Facility (03-AFC-02C): Application for Confidential Designation for Confidential UL9540A Test Reports: Worker Safety and Fire Protection

Dear Mr. Bohan:

Pursuant to Sections 2505 et seq., of Title 20 of the California Code of Regulations, Los Esteros Critical Energy Facility, LLC, on behalf of Tanager Power, LLC (the “Applicant”) hereby submits this *Application for Confidential Designation* for the following information submitted in support of the *Petition for Modification: Tanager Battery Energy Storage System Project*:

- Confidential UL9540A Test Reports

Please contact me at samantha@celawgroup.com should you have any questions or require additional information.

Thank you.

Sincerely,

/s/

Samantha G. Neumyer
Jeffery D. Harris

Attorneys for Applicant

APPLICATION FOR CONFIDENTIAL DESIGNATION
Los Esteros Critical Energy Facility (03-AFC-02C)
Worker Safety and Fire Protection

1. *Specifically indicate those parts of the record which should be kept confidential.*
 - a. *Title, date, and description (including number of pages) of the information or data for which you request confidential designation.*

Los Esteros Critical Energy Facility, LLC, on behalf of Tanager Power, LLC (“Applicant”) seeks confidential designation for the Confidential UL9540A Test Reports (the “Information”) submitted in support of the of the *Petition for Modification: Tanager Battery Energy Storage System Project*.

- b. *Parts of the information or data for which you request confidential designation.*

The Information should be confidential in its entirety.

2. *State the length of time the record should be kept confidential, and provide justification for the length of time.*

The Information should be kept confidential for the operating life of the Tanager BESS Project, unless otherwise indicated by the Applicant. As explained below, the information constitutes a confidential trade secret of the technology vendor for the project, which the vendor has maintained as confidential information. The Applicant will notify the Commission if the vendor provides notice that the Information is no longer protected (for example, in the event that the Information is otherwise made publicly available or is superseded and no longer requires safeguards).

3. *Cite and discuss:*
 - (a) *the provisions of the Public Records Act or other law that allow the Commission to keep the information or data confidential, and explain why the provision applies to the material.*
 - (b) *the public interest in nondisclosure of the material submitted for confidential designation. If the material contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please state how it would be lost, the value of the information to the applicant and the ease or difficulty with which the information could be legitimately acquired or duplicated by others.*

The Public Records Act exempts “trade secrets” from public disclosure, including “any formula, plan,...production data, or compilation of information”, which is “known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value”, is not patented, and which “gives its user

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an opportunity to obtain a business advantage over competitors who do not know or use it.” (See, Govt. Code § 7924.510(f); see also, Govt. Code § 7927.605.)

The Information includes commercially sensitive information that was provided to the Applicant in accordance with a non-disclosure agreement. Consistent with that agreement, the Applicant understands that the UL9540A Reports are considered proprietary and confidential by the equipment manufacturer. The report gives the manufacturer a business advantage over competitors who do not know or use it, consistent with the definition of trade secret in applicable law and regulation. Confidential designation should be granted by the Commission in recognition of the equipment manufacturer’s designation of the information as confidential and proprietary, and to prevent potential use of the information by competitors and economic loss to the manufacturer.

Moreover, the Commission has previously granted confidential designation for UL9540A Test Reports to other similarly situated applicants in other proceedings¹. Accordingly, the same designation should be granted here.

4. *State whether the information may be disclosed if it is aggregated with other information or masked to conceal certain portions, and if so the degree of aggregation or masking required.*

The Applicant considered whether it would be possible to aggregate or mask portions of the Information. The information cannot be aggregated, given the information is product specific. It may be possible to redact certain portions of the information, though the required redactions to protect commercially sensitive information may result in the remaining information being misunderstood or even misleading without the important context of the redacted, sensitive information. If, however, the Commission insists on such redactions, the entirety of the Information should be returned to the Applicant and copies destroyed, and thereafter such redactions for resubmission should be done in coordination with the Applicant to protect any sensitive information contained therein.

5. *State whether and how the information is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant, and if so under what circumstances.*

The Information includes commercially sensitive information that was provided to the Applicant in accordance with a non-disclosure agreement, as discussed in response to Question 3 above. The Applicant retains the information on a secured, company website or server, or the website of its contractors and agents, which are only accessible by employees with proper credentials. The

¹ See, for example, TN#: 265576.

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Information is accessible to authorized and credentialed employees or consultants working on behalf of the Applicant. Where authorized by applicable law, certain regulatory agencies that have regulatory oversight or other responsibilities would have access to the Information if they made such inquiry and request, though in this case, LECEF and the Tanager BESS Project are unaware of any agencies seeking such information to date.

I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge and belief. I am authorized to make this Application and Certification on behalf of the Applicant.

Dated: October 14, 2025

CLIMATE EDGE LAW GROUP

/s/

Samantha G. Neumyer
Jeffery D. Harris

Attorneys for Applicant