

**DOCKETED**

<b>Docket Number:</b>	03-AFC-02C
<b>Project Title:</b>	Los Esteros Phase II Compliance
<b>TN #:</b>	267113
<b>Document Title:</b>	California Energy Comission's Response Letter to Los Esteros App for Confidentiality
<b>Description:</b>	N/A
<b>Filer:</b>	Kasey Sinclair
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Energy Commission
<b>Submission Date:</b>	11/10/2025 11:28:23 AM
<b>Docketed Date:</b>	11/10/2025



November 10, 2025

**Via Email**

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**Application for Confidential Designation: Los Esteros Critical Energy Facility  
Docket No. 03-AFC-02C**

Dear Samantha Neumyer:

The California Energy Commission (CEC) has received an Application for Confidentiality from Los Esteros Critical Energy Facility, LLC (Applicant), docketed October 15, 2025, (TN 266601) covering the following records:

- UL9540A Reports, Battery energy storage system fire test reports.

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 UL9540A Reports should be designated confidential to preserve confidentiality of trade secrets and commercially sensitive information related to the manufacturer's battery energy storage system and equipment. Additionally, the Applicant is seeking confidentiality to prevent loss of competitive advantage to the manufacturer from disclosure of its trade secrets and commercially sensitive information. The application further states that the documents should be granted confidentiality under the California Public Records Act, referencing Government Code sections 7924.510(f) and 7927.605.

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* – Trade secrets and commercially sensitive information of one or more battery energy storage system equipment manufacturers. With respect to battery manufacturers, the UL9540A reports are trade secrets because they contain confidential test results with proprietary information about the manufacture and performance of their respective battery products.
- 2) *How the advantage would be lost* – The UL9540A Reports contain trade secrets of battery manufacturers. Disclosing the information would reveal to the public and industry competitors proprietary information about such equipment. There is a competitive advantage in that this information is not known and cannot be legitimately acquired by other parties. Disclosure of such information would result in a significant market disadvantage and provide an advantage to industry competitors. 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* – Engineering information has independent economic value from not being generally known to the public or competitors who can obtain economic value from its disclosure.
- 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 credentialed employees or consultants working on behalf of the Applicant. 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 UL9540A Reports 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](mailto:confidentialityapplication@energy.ca.gov).

Sincerely,

A handwritten signature in dark ink, appearing to read 'Drew Bohan', with a stylized, sweeping underline.

Drew Bohan  
Executive Director