

DOCKETED

Docket Number:	17-AAER-06
Project Title:	Commercial and Industrial Fans & Blowers
TN #:	224996
Document Title:	Trane U.S. Inc. Application for Confidentiality and CEC Letter Approving Confidentiality
Description:	N/A
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Submitter Role:	Commission Staff
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Docketed Date:	10/16/2018



APPLICATION FOR CONFIDENTIAL DESIGNATION

(Title 20 Cal. Code. Regs., § 2505 et seq.)

CEC-13 (Revised 03/17)

CALIFORNIA ENERGY COMMISSION

All confidential filings: Individual documents may not exceed 30 MB¹ or be password protected.² The application must be a separate document from the confidential materials. The application itself is not confidential and is a public record. The application will be reviewed and acted upon by the Executive Director in consultation with the Chief Counsel of the Energy Commission. (§ 2505, subd. (a))

If you have questions, contact the Docket Unit at (916) 654-5076 or email: docket@energy.ca.gov.

Existing proceedings: Applications for confidentiality and the confidential documents must be uploaded directly to the Docket Unit through the e-filing system. Paper copies or CDs do not need to be submitted. Links to the e-filing system are provided on most proceeding webpages labeled "Submit e-filing." Alternatively, go to: <http://www.energy.ca.gov/e-filing/index.html>. Registration is necessary the first time documents are uploaded. Once registration is complete, to submit a confidential filing click on **Quick Actions** from the **DASHBOARD** and select **Submit Confidential e-filing** from the dropdown list. The application must be uploaded first followed by one or more confidential files.

Filings not associated with any proceeding: Applications for confidentiality and the confidential materials must be submitted directly to the **Docket Unit** in paper form or on a CD, but not by email. Two copies must be submitted, on separate media if electronic, each marked with a descriptive title and "Confidential." (§ 1208.1)

TO: Energy Commission Docket Unit

Applicant: Jill Hootman

Address: 2701 Wilma Rudolph Blvd., Clarksville, TN 37040

Phone and E-mail: (931) 648-5296; jill.hootman@trane.com

Proceeding or Project Name: 2017 Appliance Efficiency - Phase 2 Pre-Rulemaking Commercial and Industrial Fans and Blowers

Docket Number: 17-AAER-06

- 1(a). Title, date, and description (including number of pages) of the information or data for which you request confidential designation. **Information or data seeking a designation of confidentiality must be included with this application.**

Unitary Embedded Fan Cost Assessment, September 21 2018

Presentation, 14 pages

- 1(b). Specify the part(s) of the information or data for which you request confidential designation.

Pages 6-12

¹ Contact the Docket Unit if you cannot reduce the size of your file.

² If you wish to protect the files while in transit, you may combine them in a password-protected .zip file..



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2. State and justify the length of time the Energy Commission should keep the information or data confidential.

This information must be kept confidential until January 1, 2024.

3(a). State the provision(s) of the Public Records Act (Gov. Code, § 6250 et seq.) or other law that allows the Energy Commission to keep the information or data confidential, and explain why the provision(s) apply to that material.

The California Public Record Act of 2004 provides for the exclusion from disclosure of "trade secrets" under Section 6254(k).

3(b). Discuss the public interest in nondisclosure of the material submitted for a 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.

This material contains trade secrets, which if obtained by a competitor or supplier, would allow such a party to determine material and engineering costs associated with Trane products. This could lead to a loss of competitive advantage of cost-optimization of the products.

4. State whether the information or data can be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identity of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why.

This information can only be disclosed if aggregated as part of an overall cost to all embedded fans of the proposed CEC action. Due to Trane 's market share for these products, any disclosure of the data at the industry cost level for this product will be too similar to the competitive Trane data provided.

5. State how the material is kept confidential by the applicant and whether it has even been disclosed to a person other than an employee of the applicant. If it has, explain the circumstances under which disclosure occurred.

This material is kept confidential to employees of Trane U.S. Inc., its affiliates and ultimate parent company, Ingersoll-Rand plc. Any unauthorized disclosure by of this material by company employees is cause for immediate termination of employment as well as possible legal action against the individual(s).

I certify under penalty of perjury under the laws of the State of California that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge and that I am authorized to make the application and certification on behalf of the applicant.

Dated: *Jim C. Hood*

Signed: 10-3-18



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CEC-13 (Revised 03/17)

CALIFORNIA ENERGY COMMISSION

Name (print or type): Jill Hootman

Title: (print or type) Commercial Unitary Product Planning Leader

Representing: Trane U.S. Inc.

Include additional signature blocks if there are multiple partners in the project with shared responsibilities for making the request.

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

October 15, 2018

Jill Hootman
Trane, Inc.
2701 Wilma Rudolph Blvd.
Clarksville, TN 37040**RE: Application for Confidential Designation Docket Number 17-AAER-06**

Dear Ms. Hootman:

The California Energy Commission (Commission) is in receipt of an Application for Confidentiality submitted on behalf of Trane, Inc. (Applicant). The application seeks confidential designation for pages 6-12 of a presentation titled "Unitary Embedded Fan Cost Assessment" dated September 21, 2018, (Presentation).

The application states that confidentiality is sought for the data which, if disclosed, could allow for the determination of material and engineering costs associated with Trane products. This could lead to a loss of competitive advantage of cost-optimization of the products.

A properly filed Application for Confidentiality shall be granted under the 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." The California Public Records Act allows for the non-disclosure of trade secrets. (Gov. Code, § 6254(k); Evid. Code, § 1060.) California courts have traditionally used the following definition of trade secret:

A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. . . .

(*Uribe v. Howe* (1971) 19 Cal.App.3d 194, 207, citing the Restatement of Torts, vol. 4, § 757, comment b, p.5.)

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

Ms. Jill Hootman
October 15, 2018
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The application addresses these four elements: (1) the Presentation has not been publicly disclosed; (2) the Presentation contains data which provides the Applicant with a competitive advantage over competitors; (3) disclosure of the data would eliminate the competitive advantage; and (4) the data is not easily acquired or duplicated.

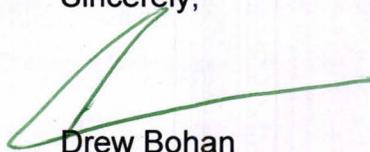
The Applicant has made a reasonable claim that the law allows the Commission to keep pages 6-12 of the presentation from public disclosure. Applicant requests that the information be kept confidential until January 1, 2024.

For the reasons stated above, the request for confidential designation for the Presentation is granted. The information will remain confidential until January 1, 2024 but can be disclosed if aggregated as part of an overall cost to all embedded fans from all manufacturers.

Be advised that a petition may be filed to inspect or copy records that I have designated as confidential. The procedures and criteria for filing, reviewing, and acting upon such petitions are set forth in the California Code of Regulations, title 20, section 2506.

If you have any questions concerning this matter, please contact Jared Babula, senior attorney, at (916) 651-1462.

Sincerely,



Drew Bohan
Executive Director

cc: Docket Unit
Jared Babula, Senior Attorney
Kristen Driskell, Manager, Appliances Office