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January 26, 2022

David King
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**APPLICATION FOR CONFIDENTIAL DESIGNATION:
Appendix A-Q1745, Queue Cluster 13 Phase II Study, Final Report
Sunrise Energy Center, Docket No. 98-AFC-04C**

Dear David King:

The California Energy Commission (CEC) has received Sunrise Power Company, LLC's application for confidential designation, dated December 15, 2021, covering Appendix A-Q1745, Queue Cluster 13 Phase II Study, Final Report (Appendix A-Q1745), dated November 22, 2021.

The application states that Appendix A-Q1745 should be kept confidential, as trade secrets and business proprietary information for the operating life of the project, estimated by the applicant to be completed no later than June 2024.

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." The California Public Records Act allows for the non-disclosure of corporate financial records, corporate proprietary information, and ". . . information relating to siting within the state furnished to a government agency by a private company for the purpose of permitting the agency to work with the company in retaining, locating, or expanding a facility within California." (Gov. Code section 6254.15.)

In addition, 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 sections 6254(k), 6276, 6276.44; Evid. Code section 1061(a); Civ. Code section 3426.1(d)) 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, 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.

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 section 3426.1(d); *See also* Gov. Code sections 6254(k), 6276, 6276.44; Evid. Code section 1061(a); *Uribe v. Howie* (1971) 19 Cal. App. 3d 194, 207.)

The application states the Appendix A-Q1745 contains trade secrets and business proprietary information related to the specific technologies employed and information related to the applicant's interconnection queue. The application also notes that disclosure may cause a loss of competitive advantage to the applicant as competitors could ascertain transmission planning and cost information. Finally, the applicant notes Appendix A-Q1745 has been shared only internally and with the California Independent System Operator (California ISO).

Appendix A-Q1745 includes data provided to and reports generated by California ISO. CEC staff has previously contacted California ISO to confirm how it treats information in Appendix A, which includes Appendix A-Q1745, under its public access requirements. The California ISO legal office indicated that, under its large generator interconnection agreement for interconnection requests, California ISO maintains as confidential all commercially sensitive information relating to a submitter's technology, research and development, business affairs, and pricing contained in Appendix A for the term of the interconnection agreement.

Based on the above, the applicant has made a reasonable claim that the law authorizes the CEC to keep Appendix A-Q1745 confidential as trade secrets and business proprietary information consistent with California ISO's confidential designation. The applicant's request for confidential designation for Appendix A-Q1745 is granted for the operating life of the project, estimated to be completed no later than June 2024.

Be advised that under California Code of Regulations, title 20, section 2506, one may petition to inspect or copy records that the CEC has designated as confidential. A decision on a petition to inspect or copy records is issued by the CEC's Chief Counsel.

Under California Code of Regulations, title 20, section 2507, 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 for acting on a petition and criteria for disclosing or releasing records previously designated as confidential are set forth in California Code of Regulations, title 20, sections 2506-2507.

You may seek a confidential designation for information that is substantially like information for which an application for confidential designation was granted by the executive director by following the procedures set forth in California Code of Regulations, title 20, section 2505(a)(4).

If you have any questions concerning this matter, please contact Jennifer Baldwin at jennifer.baldwin@energy.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Drew Bohan', with a long horizontal stroke extending to the right.

Drew Bohan
Executive Director