

DOCKETED	
Docket Number:	16-AFC-01C
Project Title:	Stanton Energy Reliability Center - Compliance
TN #:	241946
Document Title:	Response Letter to Stanton Energy's 12-21-21 Application for Confidential Designation
Description:	N/A
Filer:	Patty Paul
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	2/24/2022 10:49:01 AM
Docketed Date:	2/24/2022



February 24, 2022

Via Email

Kara Miles
Stanton Energy Reliability Center, LLC
650 Bercut Drive, Suite A
Sacramento, California 95811

**APPLICATION FOR CONFIDENTIAL DESIGNATION:
UL 9540A Test Report for a Battery Energy Storage System
Stanton Energy Reliability Center, Docket No. 16-AFC-01C**

Dear Kara Miles:

The California Energy Commission (CEC) has received Stanton Energy Reliability Center, LLC's application for confidential designation, dated December 21, 2021, for site-specific drawings, photographs, reports, and system descriptions related to the fire protection and suppression systems contained in the following UL 9540A Test Report for a Battery Energy Storage System Documents and Hazard Mitigation Analysis (collectively, Test Report Documents):

- 1. UL 9540A Test Method for Evaluating Thermal Runaway Fire Propagation in Battery Energy Storage Systems, May 6, 2021.*
- 2. Hazard Mitigation Analysis, December 9, 2021.*

The application states that the Test Report Documents should be kept confidential indefinitely and that any aggregation of the data in the Test Report Documents should not be allowed for public release. The application identifies two primary bases for confidentiality: trade secrets and corporate proprietary information, citing to Government Code sections 6254(k) and 6276.44, Evidence Code section 1060, and Civil Code section 3426.1.

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 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 Test Report Documents contain trade secrets related to the testing results specific to the original equipment manufacturer's (OEM) provided goods, which have been developed, designed, and manufactured at significant cost and time to the OEM. The application states the OEM requires the applicant to ensure the information contained in the Test Report Documents is held confidentially to protect the OEM's trade secret and corporate proprietary information. The application notes the applicant is obligated by the terms of a nondisclosure agreement with the OEM to request the OEM's consent prior to releasing the content of the Test Report Documents to outside parties. Finally, the applicant states that the information is very difficult to be legitimately acquired or duplicated by others as the OEM protects such information from entering the public domain.

The Test Report Documents contain detailed information about the OEM's battery energy storage system that derives independent economic value from not being known to the public or to others and is the subject of reasonable efforts to maintain its secrecy. Based on the applicant's claims and a review of the Test Report Documents, the applicant has made a reasonable claim that the law authorizes the CEC to keep the Test Report Documents confidential as trade secrets and corporate proprietary information indefinitely or until such time as the information is made public.

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

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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 similar to 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, Senior Attorney, at jennifer.baldwin@energy.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to be 'Drew Bohan', written in a cursive style.

Drew Bohan
Executive Director