

**DOCKETED**

<b>Docket Number:</b>	21-AFC-02
<b>Project Title:</b>	Willow Rock Energy Storage Center
<b>TN #:</b>	256366
<b>Document Title:</b>	CEC response letter re confidentiality application - March 4, 2024
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May 13, 2024

**Via Email**

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**Application for Confidential Designation: Willow Rock Energy Storage Center  
Docket No. 21-AFC-02**

Dear Samantha G. Neumyer:

The California Energy Commission (CEC) has received an application for confidential designation from Willow Rock Energy Storage Center (applicant), docketed March 4, 2024 (TN 254786). The applicant requests confidential designation for the following data:

- Heat and Mass Balance Diagrams, located in Appendix 2C of the Supplemental Application for Certification

The applicant states that the documents listed above, related to project description, qualify as proprietary information including trade secrets. The application states that the documents include commercially sensitive project design information related to siting for the Willow Rock Energy Storage Center. The applicant states that the documents should be kept confidential for the entirety of the operating life of the facility. According to the application, the documents contain trade secrets related to generation from the facility which can be used to obtain commercially valuable cost information. The application also states that the documents are accessible only to employees or consultants providing essential services to the project, and to certain entities such as the California Energy Commission (CEC) that have responsibilities relating to the Willow Rock Energy Storage Center. The applicant seeks confidentiality for the data pursuant to California Code of Regulations, title 20, section 2505 et. seq.

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."

## Trade Secret Exemption

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), 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 competitive 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) by stating:

- 1) *The specific nature of the competitive advantage* – The documents include commercially sensitive project design and cost information that have independent economic value from not being generally known to the public or to the applicant’s competitors.
- 2) *How the advantage would be lost* – Disclosure of the information may result in competitors ascertaining project design and cost information that may affect bids in competitive solicitations.
- 3) *The value of the information to the applicant* – The documents include commercially sensitive project design and cost information related to the siting of a compressed air storage energy storage facility.
- 4) *The ease or difficulty with which the information could be legitimately acquired or duplicated by others* – The information is accessible only to employees or consultants providing essential services to the applicant and has been disclosed to certain entities such as the CEC that have responsibilities relating to siting for the project.

## Executive Director’s Determination

The applicant has made a reasonable claim that the Heat and Mass Balance Diagrams contained in Appendix 2C of the Supplemental Application for Certification of the Willow

Rock Energy Storage Center contain commercially sensitive project design and cost information related to siting of the Willow Rock Energy Storage Center. Therefore, the applicant's request for confidential designation is granted. The documents will be maintained as confidential for the life of the facility.

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

Drew Bohan  
Executive Director