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Project Title:	Willow Rock Energy Storage Center
TN #:	259124
Document Title:	Applicant's Notice Pursuant to 20 CCR § 1716(f) Regarding CEC Staff's Data Requests Set 2
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**STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission**

In the Matter of:)
)
Application for Certification for the)
Willow Rock Energy Storage Center)
_____)

Docket No. 21-AFC-02

**APPLICANT’S NOTICE PURSUANT TO 20 C.C.R. § 1716(f)
REGARDING STAFF’S DATA REQUESTS SET 2**

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**APPLICANT’S NOTICE PURSUANT TO 20 C.C.R. § 1716(f)
REGARDING STAFF’S DATA REQUESTS SET 2**

Pursuant to Section 1716(f) of the California Energy Commission’s (“CEC”) regulations, GEM A-CAES LLC (“the Applicant”) hereby provides this notice of objection to certain data requests set forth in CEC Staff’s *Data Requests Set 2* issued on August 22, 2024.¹ Without waiving any of these objections, the Applicant reserves the right to provide, and will endeavor to provide, responses in whole, or in part, to some or all of these Data Requests.

I. NOTICE OF OBJECTION

Section 1716(b) of the CEC's regulations provides:

Any party may request from the applicant any information reasonably available to the applicant which is relevant to the . . . application proceedings or reasonably necessary to make any decision on the . . . application.²

Pursuant to Section 1716, a party may request from an applicant information that is *reasonably available* to it. Section 1716 does not require that an applicant “perform research or analysis on behalf of the requesting party.”³ In evaluating whether a data request involves “discoverable information” or “undiscoverable analysis or research,” the CEC typically considers four factors: (1) the relevance of the information; (2) whether the information is available to the applicant, or from some other source, or whether the information has been provided in some other form; (3) whether the request is for data, analysis, or research; and (4) the burden on the applicant to

¹ TN#: 258630.

² 20 C.C.R. § 1716(b).

³ See *Committee Ruling on Intervenor Center for Biological Diversity’s Petition to Compel Data Requests*, Docket No. 07-AFC-6 (Dec. 26, 2008).

provide the data.⁴ The Applicant objects to Data Request 34 as not meeting the requirements of Section 1716(b) as explained below.

A. DATA REQUEST 34

Data Request 34 requests that the Applicant provide a Phase I Environmental Site Assessment (“ESA”) (or equivalent environmental assessment) for areas of ground disturbance along the transmission line.

The Applicant does not have a Phase I ESA or equivalent for areas of ground disturbance along the transmission line. Therefore, the information is not reasonably available to the Applicant. Moreover, the information requested is not required by any applicable laws, ordinances, regulations, or standards. Pole locations within surveyed corridors are selected during detailed design and further relined in the field during construction. Further, the preparation of Phase I ESA’s are time consuming and costly, an expensive outlay of time and money for a desktop product that is of time-limited value as they are considered valid for only one year.

The Applicant objects to Data Request 34 as irrelevant, burdensome, and not reasonably necessary to any decision the Commission must make on this Application. The Applicant objects to Data Request 34 as requiring speculation. The Applicant further objects to Data Request 34 as requesting undiscoverable analysis and research not required by Section 1716.

Dated: September 11, 2024

Respectfully submitted,

ELLISON SCHNEIDER HARRIS & DONLAN LLP

By  _____

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⁴ *Id.*