

DOCKETED

Docket Number:	21-AFC-02
Project Title:	Willow Rock Energy Storage Center
TN #:	259126
Document Title:	Applicant's Notice Pursuant to 20 CCR § 1716(f) Regarding CURE Data Requests Set 1
Description:	N/A
Filer:	Amanda Cooley
Organization:	Ellison Schneider Harris & Donlan LLP
Submitter Role:	Applicant Representative
Submission Date:	9/11/2024 12:19:11 PM
Docketed Date:	9/11/2024

**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 CURE DATA REQUESTS SET 1**

Jeffery D. Harris
Samantha G. Neumyer
Ellison, Schneider Harris & Donlan LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816
(916) 447-2166 (Phone)

Attorneys for Applicant

**STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission**

In the Matter of:)
)
Application for Certification for the) Docket No. 21-AFC-02
Willow Rock Energy Storage Center)
)
_____)

**APPLICANT’S NOTICE PURSUANT TO 20 C.C.R. § 1716(f)
REGARDING CURE DATA REQUESTS SET 1**

Pursuant to Section 1716(f) of the California Energy Commission’s (“CEC”) regulations, GEM A-CAES LLC (“the Applicant”) hereby provides this notice of its objection to certain data requests set forth in the California Unions for Reliable Energy’s (“CURE”) *CURE Data Requests Set 1* 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

¹ TN#: 258660.

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).

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 provide the data.⁴

The Applicant objects to those data requests that request information that is not reasonably available to the Applicant, or which ask the Applicant to prepare analyses or conduct research on behalf of CURE. The Applicant also objects to those data requests that are neither relevant to the proceeding nor reasonably necessary to make any decision on the Application for Certification (“AFC”). The Applicant objects to the data requests below as not meeting the requirement of Section 1716(b).

A. DATA REQUEST 99

Data Request 99 asks the Applicant to provide the data and calculations for CO₂ emissions from charging the system. As explained in the Supplemental Application for Certification (“SAFC,” *passim*) and as recognized in the “Background” section of CURE’s Data Requests 99-102, the Project will be charged by grid power: “The SAFC states that the electric power necessary for system charging will be drawn from the electrical grid, along with additional power for the auxiliaries. (*Id.* at p. 2-19).”⁵

The Applicant objects to Data Request 99 as irrelevant and because the information requested is not reasonably necessary for the CEC to make a decision in this proceeding. Applicant further objects because Data Request 99 calls for speculation. The Applicant further objects to Data Request 99 as it may be requesting information that is confidential, trade secret, privileged, or constitutes critical energy/electrical infrastructure information. Applicant further objects because Data Request 99 is overly broad and burdensome because Section 1716 does not require that an applicant “perform research or analysis on behalf of the requesting party.”⁶

B. DATA REQUEST 100

Data Request 100 asks the Applicant to “Discuss how frequently the system will charge.”⁷ The SAFC already provides a clear description of the time required for each charging

⁴ *Id.*

⁵ *CURE Data Requests Set 1*, p. 24.

⁶ *Id.*, Footnote 3, *supra*.

⁷ *Id.*, Footnote 5, *supra*.

and discharging cycle.⁸ The frequency of charging will depend on a myriad of unknown and unknowable future conditions including: the reliability needs of the grid; the commercial requirements of potential off takers; the development (or lack thereof) of other generation and storage facilities; and a host of other commercial and market conditions, thus requiring the Applicant's response to Data Request 100 to be based in speculation, without any degree of certainty, as to how frequently the system will charge.

The Applicant objects to Data Request 100 as irrelevant and because the information requested is not reasonably necessary to any decision the CEC must make on this Application. The Applicant further objects to Data Request 100 as it may be requesting information that is confidential, trade secret, privileged, or constitutes critical energy/electrical infrastructure information. The Applicant further objects because Data Request 100 is overly broad and burdensome because Section 1716 does not require that an applicant "perform research or analysis on behalf of the requesting party."⁹

C. DATA REQUESTS 101 AND 102

Data Request 101 asks the Applicant to speculate as to the percentage of fossil fuel energy that will be used from the grid to charge the system during "Charging Mode." Similarly, Data Request 102 asks the Applicant to speculate as to the percentage of renewable energy that will be used from the grid to charge the system during "Charging Mode." It is not possible to forecast, with any degree of certainty, the likely mix of renewable versus nonrenewable energy serving demand at any one date or hour in the future.

The Applicant further objects because Data Requests 101 and 102 call for speculation. The Applicant objects to Data Requests 101 and 102 as irrelevant and because the information requested is not reasonably necessary for the CEC to make a decision in this proceeding. The Applicant further objects to Data Requests 101 and 102 as they may be requesting information that is confidential, trade secret, privileged, or constitutes critical energy/electrical infrastructure information. Applicant further objects because Data Requests 101 and 102 are overly broad and

⁸ See, for example, SAFC, Sections 2.1.2 to 2.1.6.

⁹ *Id.*, Footnote 3, *supra*.

burdensome because Section 1716 does not require that an applicant “perform research or analysis on behalf of the requesting party.”¹⁰

Dated: September 11, 2024

Respectfully submitted,

ELLISON SCHNEIDER HARRIS & DONLAN LLP

By  _____

Jeffery D. Harris
Samantha G. Neumyer
2600 Capitol Avenue, Suite 400
Sacramento, California 95816
Telephone: (916) 447-2166
Facsimile: (916) 447-3512

Attorneys for Applicant

¹⁰ *Id.*, Footnote 3, *supra*.