

**DOCKETED**

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<b>Project Title:</b>	Soda Mountain Solar
<b>TN #:</b>	259878
<b>Document Title:</b>	Application for Confidential Designation - Appendix P
<b>Description:</b>	Application for Confidential Designation - Appendix P
<b>Filer:</b>	Hannah Arkin
<b>Organization:</b>	Resolution Environmental
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## Confidential Docket Request

November 4, 2024

Via Docket Unit E-Filing System  
California Energy Commission  
715 P Street  
Sacramento, CA 95814

### RE: Soda Mountain Solar Project Application for Confidential Designation

To whom it may concern:

Soda Mountain Solar LLC, as applicant for the Soda Mountain Solar Project (Project), requests that the attached information be designated as confidential pursuant to 20 California Code of Regulations (CCR) Section 2505. This information is being supplied to the California Energy Commission (CEC) in the appendices listed below in support of the Applicant's Opt-In Application for the project.

To support the Application for Confidential Designation, the following information has been provided and is consistent with the information requested in the Application for Confidential Designation (20 CCR § 2505 et seq.)

**Applicant:** Soda Mountain Solar LLC

**Address:** 110 Edison Place, Suite 312, Newark, New Jersey, 07102

#### **1(a). Title, date and description (including number of pages) of the record for which you request confidential designation.**

- Appendix P, Socioeconomic Impacts on San Bernardino County of the Proposed Soda Mountain Project:  
All project specific financial information and economic values identified within pages 1-70. The requested confidential pages and information includes worker compensation estimates, annual economic impact estimates, local, county and state tax revenue estimates, construction and operations cost information.

#### **1(b) Specify the parts of the record for which you request confidential designation.**

All sections referenced in 1(a).

#### **2. State and justify the length of time the Commission should keep the record confidential.**

It is requested that Appendix P, Socioeconomic Impacts on San Bernardino County of the Proposed Soda Mountain Project, in its portions identified in 1(a) be kept confidential indefinitely. We believe this is justified due to confidential agreements between the Applicant and third parties, and the competitive nature of the renewable development industry, where public disclosure of estimated capital cost(s) and/or pricing would negatively impact our competitive advantage to negotiate and secure agreements with contractors, financiers, offtakers, and other industry parties. An indefinite length of time is needed to ensure that Soda Mountain LLC is not in violation of any of its non-disclosure agreements with its commercial partners and to ensure Soda Mountain LLC's estimated capital and operational cost estimates, pricing information and forecasted economic standing remains secure from market participants who could otherwise make competitive use of this information to the detriment of Soda

Mountain Solar LLC and Soda Mountain Solar's current of future negotiations with contractors, financiers, offtakers or other industry parties.

**3(a). State the provisions of the Public Records Act or other law that allows the Commission to keep the record confidential, and explain why the provision(s) apply to the record.**

Under the California Code of Regulations, Title 20, Section 2505(a)(3)(A), a properly filed Application for Confidentiality shall be granted "... if the applicant makes a reasonable claim that the [California] Public Records Act or other provision of law authorizes the [California Energy] Commission to keep the record confidential." Soda Mountain Solar LLC has established a reasonable claim under the California Public Records Act that information identified within 1(a) and included within Appendix P contains trade secrets and public disclosure of this information will cause Soda Mountain Solar LLC a loss of competitive advantage under Cal. Code Regs., Title 20 Section 2505(a)(1)(D) in its Application.

Under "Cal. Code Regs. Tit. 20, § 2505 - Designation of Confidential Records" (a)(1)(D) it states: "If the applicant believes that the record should not be disclosed because it contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, the application shall also state the specific nature of that advantage and how it would be lost, including the value of the information to the applicant, and the ease or difficulty with which the information could be legitimately acquired or duplicated by others." Pursuant to 20 C.C.R. § 2505(a)(1)(D), information identified within 1(a) and included within Appendix P includes estimates for the taxes generated during the construction and operational year of the Project, which include estimated capital and/or operational cost(s) and/or pricing information and reflect Soda Mountain Solar LLC's forecasted economic standing, all of which is commercially sensitive information, trade secrets and other information that, if disclosed publicly, would cause loss of a competitive advantage.

Soda Mountain Solar LLC meets the criteria for this Regulation through granting custody of its record through the CEC application process.

**3(b). Discuss the public interest in nondisclosure of the record. If the record contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please also state how it would be lost, the value of the information to the applicant, and the ease or difficulty with which the information could be legitimately acquired or duplicated by others.**

It is in the public's interest to have nondisclosure of this record to ensure industry competitiveness and trade secrets are maintained, therefore maintaining the competitiveness of the CASIO power market and consumer energy prices to competitive levels. Disclosure of the information contained in Appendix P and identified in 1(a) would create a significant market disadvantage for Soda Mountain Solar LLC, compromise Soda Mountain Solar LLC's bargaining position during contract negotiations, provide competitors an advantage, and compromise Soda Mountain Solar's competitive position in the CAISO power market, potentially resulting in higher energy prices for consumers.

**Specific Nature of Competitive Advantage:** The information identified in 1(a) and contained in Appendix P contains commercially sensitive data and trade secrets. Soda Mountain Solar LLC's competitive advantage is established through successful negotiations and agreements with a multitude of counterparties, competing developers, and other industry parties, including but not limited to offtake contracts, financing agreements, and capital purchase agreements for technology and equipment. These agreements establish the Project's legitimacy and enable the

progression of the Project through key milestones, eventually leading to successful financing, construction, and commercial operations. Favorable terms are achieved through the negotiation process during which counterparties are only made aware of specific Project and cost details that are applicable to that counterparty. Soda Mountain Solar LLC naturally does not disclose the details of the entire Project's costs to such counterparties. Soda Mountain Solar LLC takes several steps to ensure this information is preserved through agreements with these counterparties, including executing NDAs regarding its agreements with key partners that are integral to the Project's success and with whom IP Darden maintains strong business relationships.

**How Competitive Advantage Would Be Lost Through Disclosure:** Disclosure of any of the cost information identified in 1(a), or derivatives of this cost information, would enable counterparties to reverse-engineer expected returns, capital cost components, or other key details of the Project that would lessen Soda Mountain Solar LLC's negotiating power. If counterparties were internally estimating a materially different amount than what is disclosed, this information would impact and inform their negotiation strategy going forward. Competitors could also leverage this information to secure more favorable agreements for themselves by leveraging the results that Soda Mountain Solar LLC has achieved, further harming Soda Mountain Solar LLC's competitive advantage in the renewable energy development industry given the commercial terms already achieved privately. Disclosing these trade secrets and commercially sensitive data would lead to Soda Mountain Solar's loss of a competitive advantage.

**The Value of the Information to Soda Mountain Solar LLC:** Public disclosure of the information identified in 1(a) and contained within Appendix P could harm Soda Mountain Solar's existing and future commercial opportunities. Preventing public disclosure of this information would ensure counterparties are not able to reverse-engineer any conclusions about the Project's viability and/or progress that Soda Mountain Solar LLC has not previously disclosed. The confidentiality of the select portions of Appendix P as requested herein would allow Soda Mountain Solar LLC to continue to negotiate commercially favorable agreements with a number of counterparties and to operate the Project in the most commercially competitive manner possible. Soda Mountain Solar LLC is currently engaged in contract negotiations with potential Project partners and anticipates additional negotiations to continue in the near term. For each of these negotiations, it is paramount that Soda Mountain Solar LLC is able to maintain its advantage over competitors and that its position is not compromised by making public its key Project costs. Maintaining confidentiality also ensures that no existing agreements are violated due to disclosure of information in violation of an existing NDA or confidentiality agreement, thus avoiding any contractual liability to and/or damage to business relationships with counterparties with whom Soda Mountain Solar LLC has executed NDAs.

**The Ease or Difficulty With Which the Information Could Be Legitimately Acquired or Duplicated by Others:** The information set forth in Appendix P and identified in 1(a) could not be legitimately acquired or duplicated by others. Soda Mountain Solar LLC's estimates for taxes include capital and operational cost figures that have been carefully assembled, leveraging myriad internal resources, including commercial partnerships, existing agreements, proprietary in-house knowledge, and prior project experience. This information is not publicly available and has not been disclosed to anyone other than employees, attorneys or consultants working with Soda Mountain Solar LLC, and only once such parties have executed confidentiality agreements

or NDAs, because Soda Mountain Solar LLC considers such information to be commercially sensitive, proprietary information, and trade secrets. Soda Mountain Solar LLC has taken reasonable steps to preserve this information. The information set forth in Appendix P and identified in 1(a) is subject to confidentiality agreements. Soda Mountain Solar LLC ensures that the select information contained in 1(a), and all other similar information of commercial value, is kept strictly confidential in perpetuity.

Public disclosure of information identified within 1(a) would negatively impact Soda Mountain Solar LLC competitive ability to negotiate with third parties on an ongoing basis given the pricing that has been secured and reflected in our estimates. Industry competitors would be able to utilize this information to further their own negotiations with third parties with our data as leverage, enhancing their competitiveness and therefore negatively impacting Soda Mountain Solar LLC.

**4. State whether the record may be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identity of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why.**

The data cannot be disclosed even if aggregated or masked due to the nature of capital and operational costs included in estimated taxes. Any and all details pertaining to capital and operational costs are considered a trade secret and a significant component of Soda Mountain Solar LLC competitive advantage in the industry.

**5. State how the record is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant. If it has, explain the circumstances under which disclosure occurred.**

The record is kept only for internal budgeting and forecasting purposes and is not ever disclosed to a person other than an employee or contractor(s) working on behalf of the company.

I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge and I am authorized to make the application and certification on behalf of the applicant.

Signature:



Michael Cocchimiglio

CEO & Head of Development