

<b>DOCKETED</b>	
<b>Docket Number:</b>	24-OPT-04
<b>Project Title:</b>	Potentia-Viridi Battery Energy Storage System
<b>TN #:</b>	262321
<b>Document Title:</b>	CEC Response Letter Potentia-Viridi Application for Confidentiality (SocioEco)
<b>Description:</b>	N/A
<b>Filer:</b>	Marianna Brewer
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	3/25/2025 9:31:06 AM
<b>Docketed Date:</b>	3/25/2025



March 25, 2025

**Via Email**

Patrick Leitch  
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**Application for Confidential Designation for Potentia-Viridi BESS Socioeconomic  
Report Docket No. 24-OPT-04**

Dear Patrick Leitch:

The California Energy Commission (CEC) has received an application for confidentiality from Levy Alameda, LLC (applicant) (TN 261463), docketed January 30, 2025, covering the following information:

- Appendix 3.10A: Socioeconomic Analysis
- IMPLAN Data Files

The application states that submitted socioeconomic information should be designated confidential to preserve confidentiality of the applicant's trade secrets and to protect sensitive business information. The application states the documents should be granted confidentiality under the California Public Records Act, referencing Government Code sections 7927.605(a), 7927.705, Evidence Code section 1060, and Civil Code section 3426.1(d). The application also states that the public interest served by not disclosing this information clearly outweighs the public interest served by disclosure. (Gov. Code § 7922.000.) To support this position, the application claims that it is in the public's interest to not disclose this information to protect industry competitiveness and maintain trade secrets. According to the applicant, disclosure of this information, which includes specific project costs, would create a significant market disadvantage for the applicant, compromise the applicant's position during contract negotiations, and negatively impact power consumers.

## Confidentiality Claims

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 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), provides 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.

## Discussion

The application addresses the four elements in California Code of Regulations, title 20, section 2505(a)(1)(D) as follows:

- 1) *The specific nature of the advantage* – The submitted socioeconomic information contains commercially sensitive information on project costs, including construction costs and estimated operations and maintenance costs.
- 2) *How the advantage would be lost* – Disclosure of this information would lead to the applicant’s loss of a competitive advantage by enabling counterparties and industry competitors to reverse-engineer expected returns and cost components; and lessen the applicant’s negotiating power and market competitiveness.
- 3) *The value of the information to the applicant* – Project costs information has independent economic value from not being generally known to the public or

applicant's competitors who can obtain economic value from its disclosure. Release of sensitive costs information could negatively affect the applicant's market standing and negatively impact future contract negotiations.

- 4) *The ease or difficulty with which the information could be legitimately acquired or duplicated by others* – The information could not be legitimately acquired or duplicated by others. The applicant's project costs information for the project's energy infrastructure have not been disclosed publicly.

### **Executive Director's Determination**

The applicant has made a reasonable claim that the socioeconomic information can be maintained as confidential indefinitely. As such, the applicant's request for confidential designation is granted.

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.

If you have questions, please email [confidentialityapplication@energy.ca.gov](mailto:confidentialityapplication@energy.ca.gov).

Sincerely,



Drew Bohan  
Executive Director