

## DOCKETED

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February 17, 2017

Robert P. Oglesby  
Executive Director  
California Energy Commission  
1516 Ninth Street  
Sacramento, CA 95814

Re: Mission Rock Energy Center (15-AFC-02)  
Application for Confidential Designation  
CAISO Queue Cluster 9 Phase I Report- Mission Rock Energy Center, LLC

Dear Mr. Oglesby:

Pursuant to Sections 2501 *et seq.*, of Title 20 of the California Code of Regulations, Mission Rock Energy Center, LLC (the "Applicant") hereby submits this *Application for Confidential Designation* for the California Independent System Operator *Queue Cluster 9 Phase I Report Appendix A-Q1334, Attachment 3* for the Mission Rocker Energy Center.

Please feel free to contact us at (916) 447-2166 should you have any questions or require additional information. Thank you.

Sincerely,



Samantha G. Neumyer  
Greggory L. Wheatland  
Ellison, Schneider, Harris & Donlan L.L.P.  
Attorneys for Applicant

# APPLICATION FOR CONFIDENTIAL DESIGNATION

## Mission Rock Energy Center (15-AFC-02) Mission Rock Energy Center, LLC (the “Applicant”)

1. *Specifically indicate those parts of the record which should be kept confidential.*

The California Independent System Operator *Queue Cluster 9 Phase I Report Appendix A Q1334, Attachment 3* (“Phase I Report Attachment”) for the Mission Rock Energy Center should be kept confidential in its entirety.

2. *State the length of time the record should be kept confidential, and provide justification for the length of time.*

The Phase I Report Attachment should be held confidential for the life of the Mission Rock Energy Center project in order to protect the information contained therein.

3. *Cite and discuss (i) the provisions of the Public Records Act or other law which allow the commission to keep the record confidential and (ii) the public interest in nondisclosure of the record.*

The Phase I Report Attachment contains trade secrets related to the specific technologies employed and the commercially valuable information related to Applicant’s interconnection queue. The Public Records Act exempts “trade secrets” from public disclosure, including “any formula, plan, ... production data, or compilation of information ..., which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service ... and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.” (Govt. Code § 6254.7(d).)

The California Civil Code Section 3426.1(d) defines a “trade secret” as follows:

(d) “Trade secret” means information, 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.

The Commission’s regulations also provide for information to be designated as confidential if it “contains a trade secret or its disclosure would otherwise cause a loss of a competitive advantage.” (20 C.C.R. § 2505(a)(1)(D).)

The Phase I Report Attachment is a non-public document that includes commercially

sensitive, transmission planning and cost information that fall within the definitions of “trade secret” for the purposes of the Government Code, California Civil Code, and the Commission’s regulations. The Phase I Report Attachment has independent economic value from not being generally known to the public or to the Applicant’s competitors who can obtain economic value from its disclosure or use. Disclosure may cause a loss of competitive advantage to the Applicant, as competitors could ascertain transmission planning and cost information that may affect bids in competitive solicitations.

The Phase I Report Attachment also constitutes “Confidential Information” as defined by the CAISO Tariff, Appendix DD, sections 15.1 et seq., which includes “all information relating to a Party’s technology, research and development, business affairs, and pricing.” The Phase I Report Attachment is part of the Phase I Report, which the Applicant previously submitted an application for confident designation, and which is clearly designated in writing as confidential on the face of the document. Therefore the Applicant is obligated under the CAISO Tariff not to disclose Confidential Information to persons not employed or retained by the Applicant, except as may be permitted under certain circumstances required by law or provided for under the Tariff.

4. *State whether the information may be disclosed if it is aggregated with other information or masked to conceal certain portions, and if so the degree of aggregation or masking required.*

The Applicant considered whether it would be possible to aggregate or mask the information. However, as stated above, the Phase I Report Attachment has been designated as confidential by the CAISO, and no feasible method of aggregating or masking the information could be identified that would not either disclose the information or render the information provided useless.

5. *State whether and how the information is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant, and if so under what circumstances.*

The Applicant has not disclosed any of the subject information to anyone other than its employees, attorneys and consultants working on the project and to CEC Staff working on the Mission Rock Energy Center who requested the information. This information has not been disclosed to persons employed by, or working for, the Applicant except on a confidential, “need-to-know” basis.

*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 belief. I am authorized to make this Application and Certification on behalf of the Applicant.*

Dated: February 17, 2017

ELLISON, SCHNEIDER & HARRIS L.L.P.

By:



Samantha G. Neumyer  
Ellison, Schneider, Harris & Donlan L.L.P.

Attorneys for the Applicant