

DOCKETED

Docket Number:	16-ENFORCE-02
Project Title:	Confidential Designation Applications + Miscellaneous Documents
TN #:	217632
Document Title:	BSH Home Appliances Corp.'s Application for Confidentiality
Description:	Confidential Business Information
Filer:	Patty Paul
Organization:	Morgan Lewis on behalf of BSH Home Appliances Corp.
Submitter Role:	Applicant Representative
Submission Date:	5/17/2017 4:01:33 PM
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Morgan Lewis

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May 12, 2017

Paul E. Jacobs, Director
Office of Compliance Assistance and Enforcement
Assistant Executive Director
California Energy Commission
151 Ninth Street - MS 25
Sacramento, CA 95814-5512

Re: Reference Number ENF-44

Dear Mr. Jacobs:

The attached data is being provided on behalf of BSH Home Appliances Corporation ("BSH") in response to a request from Mr. David Ismailyan. The information contained herein is both commercially sensitive and a confidential settlement communication. Accordingly BSH is submitting this letter, with attachments, under an Application for Confidential Designation in accordance with Title 20 Cal. Code Regs, § 2505 et seq.

Sincerely,



F. Jackson Stoddard
Attorney for BSH Home Appliances Corporation

Enclosure

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APPLICATION FOR CONFIDENTIAL DESIGNATION
(Title 20 Cal. Code. Regs., § 2505 et seq.)

CEC-13 (Revised 03/17)

CALIFORNIA ENERGY COMMISSION

All confidential filings: Individual documents may not exceed 30 MB¹ or be password protected.² The application must be a separate document from the confidential materials. The application itself is not confidential and is a public record. The application will be reviewed and acted upon by the Executive Director in consultation with the Chief Counsel of the Energy Commission. (§ 2505, subd. (a))

If you have questions, contact the Docket Unit at (916) 654-5076 or email: docket@energy.ca.gov.

Existing proceedings: Applications for confidentiality and the confidential documents must be uploaded directly to the Docket Unit through the e-filing system. Paper copies or CDs do not need to be submitted. Links to the e-filing system are provided on most proceeding webpages labeled "Submit e-filing." Alternatively, go to: <http://www.energy.ca.gov/e-filing/index.html>. Registration is necessary the first time documents are uploaded. Once registration is complete, to submit a confidential filing click on **Quick Actions** from the **DASHBOARD** and select **Submit Confidential e-filing** from the dropdown list. The application must be uploaded first followed by one or more confidential files.

Filings not associated with any proceeding: Applications for confidentiality and the confidential materials must be submitted directly to the **Docket Unit** in paper form or on a CD, but not by email. Two copies must be submitted, on separate media if electronic, each marked with a descriptive title and "Confidential." (§ 1208.1)

TO: Energy Commission Docket Unit

Applicant: BSH Home Appliances Corporation ("BSH")

Address: 1901 Main Street, Suite 600, Irvine CA 92614

Phone and E-mail: (949) 724-3597, tim.harvey@bshg.com

Proceeding or Project Name: Appliance Efficiency Reference ENF-44

Docket Number: NA

1(a). Title, date, and description (including number of pages) of the information or data for which you request confidential designation. **Information or data seeking a designation of confidentiality must be included with this application.**

Confidentiality is requested for all pages of the attached letter dated May 8, 2017, from F. Jackson Stoddard of Morgan Lewis, on behalf of BSH, to Paul Jacobs and the attachments thereto. The letter, together with attachments, is referred to as the "Submittal" below.

1(b). Specify the part(s) of the information or data for which you request confidential designation.

BSH requests that all of the Submittal be designated confidential.

¹ Contact the Docket Unit if you cannot reduce the size of your file.

² If you wish to protect the files while in transit, you may combine them in a password-protected .zip file..



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CALIFORNIA ENERGY COMMISSION

2. State and justify the length of time the Energy Commission should keep the information or data confidential.

The Submittal should be designated confidential permanently as it is a confidential settlement communication and contains confidential business information. Both settlement communications and confidential business information are entitled to protection under the California Public Records Act ("CPRA")

3(a). State the provision(s) of the Public Records Act (Gov. Code, § 6250 et seq.) or other law that allows the Energy Commission to keep the information or data confidential, and explain why the provision(s) apply to that material.

The Energy Commission is entitled to keep the Submittal confidential under several sections of the Public Records Act which include, but are not limited to, Government Code Section 6924 (b) and 6924(k), which incorporates the exemptions from disclosure under the Evidence Code.

3(b). Discuss the public interest in nondisclosure of the material submitted for a confidential designation. If the material contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please 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.

Granting the request is in the public interest since it will facilitate settlement and avoid costs unnecessary litigation. BSH is not willing to provide this information without Confidential designation since it contains commercially sensitive information the disclosure of which could harm BSH's business interests and which is not otherwise publicly available.

4. State whether the information or data can 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 information in the Submittal could be disclosed only if (1) aggregated with data and information from all other manufacturers of like products, and (2) masked to conceal any connection to or identifying information for BSH.

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

The Submittal has only been seen by employees of BSH and counsel to BSH.

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

Dated: May 12, 2017

Signed: *Jackson Stoddard*



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CEC-13 (Revised 03/17)

CALIFORNIA ENERGY COMMISSION

Name (print or type): F. Jackson Stoddard

Title: (print or type) Attorney

Representing: BSH Home Appliances Corporation

Include additional signature blocks if there are multiple partners in the project with shared responsibilities for making the request.