

**DOCKETED**

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<b>Docketed Date:</b>	1/20/2021



January 20, 2021

Mr. Jeff Miller  
AES Huntington Beach Energy  
21730 Newland Street  
Huntington Beach, California 92646

**Application for Confidential Designation for Large Generator  
Interconnection Agreement, Docket No. 12-AFC-02C**

Dear Mr. Miller:

The California Energy Commission (CEC) is in receipt of AES' (applicant)  
Application for Confidentiality for the following document:

Huntington Beach Energy Project Executed Large Generator Interconnection  
Agreement (LGIA)

The application notes that the LGIA contains specific information related to the specific technologies employed at the facility, including operations data and protocols, design information, and other commercially valuable information related to the facility. The application further notes that the project owner uses such information for the purposes of electrical generation and derives a business advantage over competitors by virtue of its use and that the LGIA 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. Finally, the application states that the LGIA contains Critical Energy Infrastructure Information, especially given the facility's critical role in Southern California grid reliability and its interconnection to the Bulk Energy System.

A properly filed Application for Confidentiality shall be granted under the 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. (Gov. Code, sections 6254(k), 6254.15; Evid. Code, section 1060.)

California courts have traditionally used the following definition of trade secret:

A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. . . .

(*Uribe v. Howe* (1971) 19 Cal.App.3d 194, 207, citing the Restatement of Torts, vol. 4, section 757, comment b, p.5.)

California Code of Regulations, Title 20, section 2505(a)(1)(D), states that if an applicant for confidential designation believes that the record should not be disclosed because it contains trade secrets, or its disclosure would otherwise cause loss of a competitive advantage, an application shall state: 1) the specific nature of the advantage; 2) how the advantage would be lost; 3) the value of the information to an applicant; and 4) the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

The application addresses these elements, stating that disclosure of the LGIA's contents could otherwise cause a loss of a competitive advantage to the project owner. The application notes that the wholesale generating market in California is extremely competitive, and facility owners limit and control the scope of information made public regarding the configuration, design and status of facilities, their operating and maintenance practices.

The applicant has made a reasonable claim that the law allows the CEC to keep the LGIA from public disclosure.

The applicant requests that the information be kept confidential for the life of the facility and that the information from the LGIA cannot be aggregated in a meaningful way.

For these reasons, the request for confidential designation is granted, the LGIA will be confidential for the life of the facility.

For future reports that are substantially similar, the applicant may follow the simplified process set forth in the California Code of Regulations, Title 20, section 2505(a)(4).

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 2506-2508.

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If you have any questions concerning this matter, please contact Jared Babula, senior attorney, at [jared.babula@energy.ca.gov](mailto:jared.babula@energy.ca.gov) or (916) 651-1462.

Sincerely,

A handwritten signature in black ink, appearing to read "Drew Bohan". The signature is fluid and cursive, with a prominent loop at the end.

Drew Bohan  
Executive Director