

DOCKETED

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July 5, 2022

E-Filed

Drew Bohan
Executive Director
California Energy Commission
1516 Ninth Street, MS-2000
Sacramento, CA 95814

**RE: RUSSELL CITY ENERGY CENTER (01-AFC-07C):
Repeated Application for Confidential Designation (Supplemental) and
Application for Confidential Designation for Attachment A to the
Investigation Report Calpine Russell City Steam Turbine/Generator Event May
27, 2021 and Bay Valve Report**

Dear Mr. Bohan:

Per direction from the Chief Counsel's Office of the California Energy Commission, Russell City Energy Company, LLC hereby submits this Repeated Application for Confidential Designation (Supplemental) for specific photographs and locational information contained in Attachment A to the *Investigation Report Calpine Russell City Steam Turbine/Generator Event May 27, 2021* ("Investigation Report Attachment A") and information contained in reports from the Bay Valve Service center ("Bay Valve Report") prepared for the Russell City Energy Center ("RCEC").

Please contact me at 916-447-2166 or jdh@eslawfirm.com should you have any questions or require additional information. Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Jeffery D. Harris".

Jeffery D. Harris
Ellison Schneider Harris & Donlan LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816
Tel: (916) 447-2166
Email: jdh@eslawfirm.com
Attorneys for Russell City Energy Company, LLC

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(SUPPLEMENTAL)
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1. *Specifically indicate those parts of the record which should be kept confidential.*
 - a. *Title, date, and description (including number of pages) of the information or data for which you request confidential designation.*

Russell City Energy Company, LLC (“Applicant”) is supplementing its request for confidential designation of the photographs and information described in Section 1.b below (collectively, the “Information”) contained in Attachment A to the *Investigation Report Calpine Russell City Steam Turbine/Generator Event May 27, 2021* (“Investigation Report Attachment A”) and Bay Valve Service center report (“Bay Valve Report”) prepared for the Russell City Energy Center (“RCEC”).¹

- b. *Parts of the information or data for which you request confidential designation.*

Document	Photograph/Page Number
Investigation Report Attachment A	Figure 3 (lower image) through Figure 7, Figure 9, Figures 10-16, Figure 17, Figure 22, Figure 23, Figures 25-37
Bay Valve Report	All photos, with the exception of those depicted on PDF pp. 46, 47, and 49.

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

The Information should be kept confidential for the operating life of the RCEC.

3. *Cite and discuss:*
 - (a) *the provisions of the Public Records Act (“PRA” or other law that allow the Commission to keep the information or data confidential, and explain why the provision applies to the material; and*
 - (b) *the public interest in nondisclosure of the material submitted for 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.*

¹ As stated in the Repeated Application for Confidential Designation submitted on May 6, 2022, the information below is either identical, or substantially similar, to information that was previously granted confidential designation, and all facts and circumstances relevant to the confidentiality of the information remain unchanged.

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I. All Bases For Confidential Designation Must Be Considered Equally

As a threshold matter, we note that prior determinations on Applications for Confidential Designation have tended to emphasize site security, predominately or exclusively, in granting confidential designation. Site security is, of course, paramount – a shared interest of the Applicant and the Commission precisely because site security advances the public interest. Of significance to the consideration of the Application here, site security is only one, and not the only, basis for confidential designation.

All applicable exemptions from disclosure must be considered. For example, for site security, the Commission must also provide protection to certain records, including, “[r]ecords, the disclosure of which is exempted or prohibited pursuant to federal or state law.” (Govt. Code § 6254(k)) In this connection, as discussed below, applicable law includes both state law cited herein and federal law and regulations, enforced primarily by the North American Electric Reliability Corporation (“NERC”). NERC is the “not-for-profit international regulatory authority whose mission is to assure the effective and efficient reduction of risks to the reliability and security of the grid.”²

Similarly, applicable law, including California Evidence Code Section 1060, provides that “the owner of a trade secret has a privilege to refuse to disclose the secret, and to prevent another from disclosing it, if the allowance of the privilege will not tend to conceal fraud or otherwise work injustice.” Trade secrets is broadly defined as information which provides “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...” (Civ. Code § 3426.1(d)) In addition, corporate proprietary information, including trade secrets, is similarly exempted from public disclosure pursuant to the Public Records Act (“PRA”). (For example, see Govt. Code §§ 6254.7(d), 6254.15)

None of these bases for protecting information occupies a superior legal status; that is, no applicable legal authorities support any scheme that prioritizes site security -- or other individual bases for protection -- over, or to the exclusion of, other bases in applicable law. Instead, each state and federal law basis for confidential treatment claimed must be considered and afforded its own full weight.

II. Applicable State and Federal Laws Confirm that Nondisclosure Is In the Public Interest

The Public Records Act exempts from disclosure “[r]ecords, the disclosure of which is exempted or prohibited pursuant to federal or state law.” (Govt. Code § 6254(k)) Moreover, in considering the public interest, the PRA provides a specific exclusion from disclosure where “...on the facts

² <https://www.nerc.com/AboutNERC/Pages/default.aspx>

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of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.” (Govt. Code § 6255(a))

In this case, and in the current geopolitical setting, the public interest served by not disclosing the photographs and information shared with the agencies’ staff for their legitimate purposes clearly outweighs the public interest in disclosure. In this case, nondisclosure will protect against potential misuse of the information for illicit purposes, such as potential vandalism, tampering, or other third-party imposed damages gained from insights gleaned from vulnerabilities that can be deduced from close-up photographs and other detailed Information.

NERC requirements and state law considerations must be properly weighted, independent of site security. (Govt. Code § 6254(k).) For example, pursuant to the NERC Rules of Procedure, “Confidential Information” is defined to include the following:

Confidential Information means (i) **Confidential Business and Market Information**³; (ii) **Critical Energy Infrastructure Information**⁴; (iii) personnel information that identifies or could be used to identify a specific individual, or reveals personnel, financial, medical, or other personal information; (iv) work papers, including any records produced for or created in the course of an evaluation or audit; (v) investigative files, including any records produced for or created in the course of an investigation; or (vi) Cyber Security Incident Information; provided, that public information developed or acquired by an entity shall be excluded from this definition. (Rules of Procedure of the NERC, Section 1501; emphasis added)

The Information at issue in this Repeated Application falls squarely within these categories of protected Confidential Information.

Moreover, as the Applicant has explained in detail in recent applications, the terrorism and security threats posed to the energy sector must be weighed heavily, particularly given the recent geopolitical climate.⁵ Attacks on energy infrastructure are a real, contemporary threat. In recent

³ “Confidential Business and Market Information means any information that pertains to the interests of any entity, that was developed or acquired by that entity, and that is proprietary or competitively sensitive.” (Rules of Procedure of the NERC, Section 1501.)

⁴ “Critical Energy Infrastructure Information means specific engineering, vulnerability, or detailed design information about proposed or existing Critical Infrastructure that (i) relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person in planning an attack on Critical Infrastructure; and (iii) does not simply give the location of the Critical Infrastructure.” (Rules of Procedure of the NERC, Section 1501.)

⁵ See, TN#: 242288, 242644, 242694. The legal arguments and positions raised in those prior applications are incorporated herein by reference.

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years, high-powered rifles were used to destroy power transformers at a substation in California, and attacks to physical electric infrastructure, such as power plants, remain a concern.⁶

The photographs and other Information, “created in the course of an evaluation or audit” and “produced for or created in the course of an investigation,” could be used by those who would do harm to pinpoint potential vulnerabilities shown from the close-up views.

Further, as documented in the most recent National Terrorism Advisory System (“NTAS”) Bulletin published on February 7, 2022:

While the conditions underlying the heightened threat landscape have not significantly changed over the last year, the convergence of the following factors has increased the volatility, unpredictability, and complexity of the threat environment: (1) the proliferation of false or misleading narratives, which sow discord or undermine public trust in U.S. government institutions; (2) continued calls for violence directed at U.S. critical infrastructure...⁷

The NTAS Bulletin further explains that “Domestic violent extremists have also viewed attacks against U.S. critical infrastructure as a means to create chaos and advance ideological goals and have recently aspired to disrupt U.S. electric and communications critical infrastructure, including by spreading false or misleading narratives about 5G cellular technology.”⁸ The close-up photos and other Information provide insights not otherwise available to those seeking to interrupt electric service to the detriment of the general public.

Attacks are not limited to direct physical attacks but can involve cyber attacks and influence operations. On February 18, 2022, the Cybersecurity & Infrastructure Security Agency (“CISA”) released information describing the increasing “risk and potency of influence operations to U.S. critical infrastructure” that have the specific goal of disrupting U.S. critical infrastructure and undermining U.S. interests and authorities.⁹ Hacking and other cyber activities may be used to attack infrastructure.¹⁰ Again, the Information could be used toward such illicit ends.

⁶ U.S. Department of Homeland Security and Cybersecurity & Infrastructure Security Agency, *Energy Sector-Specific Plan*, pp. 15-16 (2015), available at: <https://www.cisa.gov/sites/default/files/publications/nipp-ssp-energy-2015-508.pdf>.

⁷ U.S. Department of Homeland Security, National Terrorism Advisory System Bulletin (February 7, 2022), available at: https://www.dhs.gov/sites/default/files/ntas/alerts/22_0207_ntas-bulletin.pdf.

⁸ *Id.*

⁹ CISA, *Preparing for and Mitigating Foreign Influence Operations Targeting Critical Infrastructure* (February 2022), https://www.cisa.gov/sites/default/files/publications/cisa_insight_mitigating_foreign_influence_508.pdf.

¹⁰ CISA, *Preparing for and Mitigating Foreign Influence Operations Targeting Critical Infrastructure* (February 2022), https://www.cisa.gov/sites/default/files/publications/cisa_insight_mitigating_foreign_influence_508.pdf.

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In January 2022 and in a March 2022 update, CISA reported on Russian-based hackers targeting the energy sector.¹¹ “These Russian state-sponsored advanced persistent threat (“APT”) actors conducted a multi-stage intrusion campaign in which they gained remote access to U.S. and international energy sector networks, deployed ICS-focused malware, and collected and exfiltrated enterprise and ICS-related data.”¹² CISA reports “The threat actors in this campaign employed a variety of [tactics, techniques, and procedures] TTPs, including: spear-phishing emails (from compromised legitimate account), watering-hole domains, credential gathering, open-source and network reconnaissance, host-based exploitation, and targeting industrial control system (ICS) infrastructure.”¹³

As CISA explained, “In multiple instances, the threat actors accessed workstations and servers on a corporate network that contained data output from control systems within energy generation facilities. The threat actors accessed files pertaining to [industrial control system] ICS or supervisory control and data acquisition (SCADA) systems. Based on DHS analysis of existing compromises, these files were named containing ICS vendor names and ICS reference documents pertaining to the organization (e.g., “SCADA WIRING DIAGRAM.pdf” or “SCADA PANEL LAYOUTS.xlsx”).”¹⁴ These threats are not hypothetical or amorphous, but are a real, contemporary concern. At best, public disclosure of the information could confirm the methods to be employed by such threats. At worst, the close-up materials could expose vulnerabilities to be exploited by bad actors.

Title 6, section 131 of the U.S. Code defines “critical infrastructure information” as “information not customarily in the public domain and related to the security of critical infrastructure or protected systems,” such as information relating to the “ability of any critical infrastructure or protected system to resist such interference, compromise, or incapacitation,” and including security testing, risk evaluation, risk management planning, or risk audit, or information relating to “any planned or past operational problem or solution regarding critical infrastructure or protected systems, including repair, recovery, reconstruction, insurance, or continuity, to the extent it is related to such interference, compromise, or incapacitation.” Section 131 also defines the term “protected systems” to include “any service, physical or computer-based system, process, or procure that directly or indirectly affects the viability of a facility of critical structure.” The PRA exempts from disclosure “[r]ecords, the disclosure of which is exempted or prohibited pursuant to federal or state law,” like those sources cited above. (Govt. Code §

¹¹ CISA, *Understanding and Mitigating Russian State-Sponsored Cyber Threats to U.S. Critical Infrastructure* (March 1, 2022), <https://www.cisa.gov/uscert/ncas/alerts/aa22-011a>.

¹² CISA, *Alert (AA22-011A), Understanding and Mitigating Russian State-Sponsored Cyber Threats to U.S. Critical Infrastructure*, (Original release date: January 11, 2022; last revised: March 01, 2022), <https://www.cisa.gov/uscert/ncas/alerts/aa22-011a>.

¹³ CISA, *Alert (TA18-074A) Russian Government Cyber Activity Targeting Energy and Other Critical Infrastructure Sectors* (Original release date, March 15, 2018, Last revised: March 16, 2018), <https://www.cisa.gov/uscert/ncas/alerts/TA18-074A>.

¹⁴ *Id.*

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6254(k)) The Information, especially the high resolution, close-up photos, could bring such dangers into play.

Publicly available operational information and Critical Energy Infrastructure Information can facilitate attacks on energy infrastructure, such as the RCEC, by providing access to known or potential vulnerabilities that are depicted in the Information. And, as in this case, close up photographs of equipment and systems, even those photographed off site, can provide insights into potential vulnerabilities. These photos, showing close up views of parts and systems, can compromise the “ability of any critical infrastructure or protected system to resist such interference, compromise, or incapacitation” and affect “protected systems, including repair, recovery, reconstruction, insurance, or continuity of such systems,” per Title 6, section 131 of the U.S. Code.

In some cases, the photographs provide specific locational information of where critical facility components are located, or how such equipment might be exploited. Other photographs depict the location of fire system piping, and where such fire system piping is located in relation to critical plant components. In addition to the independent economic value they provide the Applicant, the Information are visual depictions of the specific engineering and detailed design information used to generate electricity at the RCEC shown at close range.

As with other information for which the Applicant has sought confidential designation, there are some photographs, which, while standing alone, may not pose a concern if publicly disclosed. However, in conjunction with other photographs contained within the Information subject to this Application, in addition to the narrative descriptions accompanying the photographs, a comprehensive picture regarding the design and operation of the RCEC can be created. Disaggregated, the close-up photographs and other Information may have less potential to be used for harm; aggregated, they present a greater potential for misuse by malevolent actors.

Further, the Bay Valve Report photographs do not just depict “a single dismantled valve.” In some cases, the photographs contain identifying information that has been previously granted confidential designation by the Commission. In other cases, the photographs depict equipment designs that are proprietary to the original equipment manufacturer (“OEM”). In all cases, they show the parts and systems and a vantage point into vulnerabilities of a disassembled critical component that cannot otherwise be gained by merely viewing the component. The photographs depict the valve that has been subject to extreme scrutiny by the JAIT, the failure of which was a contributing factor to the steam turbine event at the RCEC. Providing extensive, close-up photographs of such a crucial valve could be useful to a person planning an attack on critical infrastructure and searching for vulnerabilities that can be exploited.

III. Trade Secrets, Protection of Proprietary Information, and Consumer Protections Weighed Against Disclosure

Evidence Code section 1060 provides that “the owner of a trade secret has a privilege to refuse to disclose the secret, and to prevent another from disclosing it, if the allowance of the privilege

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will not tend to conceal fraud or otherwise work injustice.” Trade secrets is defined as “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.” (Civ. Code § 3426.1(d))

In enacting this California statute, the Legislature’s mandate is highly protective of trade secrets. The legal question presented is whether the Applicant derives independent economic value -- *actual or potential* – from the Information not being generally known to the public or competitors in California’s highly-competitive energy markets. These qualifiers, actual or potential, were selected purposefully by the Legislature, and the Commission must give the Legislature’s words their full force and effect. The Applicant has presented information to support that independent economic value, and there is no evidence to the contrary. The statute leaves no discretion for determining whether the potential economic value is large, small, realized or unrealized. On the record, nondisclosure is warranted for this protected Information.

The PRA also recognizes that corporate proprietary information, including trade secrets, should be exempted from public disclosure. (For example, see Govt. Code §§ 6254.7(d), 6254.15) Here, the Information illustrates the specific equipment, components, and plant layout employed at the RCEC, including in some cases the location and equipment for RCEC’s fire system, drains, and access points to the generating equipment.

The Applicant has invested significant resources in the design, construction, and maintenance of the RCEC. The Applicant derives “independent economic value,” to use the statutory formulation, from the Information not being generally known to either the public or to competitors. The specific equipment and facility configuration affects the maintenance and operational costs of the facility, which in turn directly correlates to economic value for the Applicant. Disclosure may enable competitors to “reverse engineer” potential capital, operation, and maintenance costs for the Applicant and use this currently undisclosed information to fashion a competitive advantage. Not only does the possibility of these costs being reverse engineered serve no public benefit, it arguably induces a harm, allowing a competitor to offer a winning bid that is not the lowest possible price, to the detriment of California consumers.

If made publicly available, the Applicant’s competitors would have access to specific details regarding the design, equipment, plant layout, and generating processes employed at the RCEC, in addition to the status and condition of facility equipment visible from the photographs. Competitors can obtain economic value from the disclosure of the Information as competitors would have access to information that can be used to ascertain facility operational and maintenance needs, which in turn affects operational and maintenance costs. Furthermore, disclosure would allow competitors to utilize, for free, information regarding power plant operations and processes that the Applicant has invested a significant amount of time and resources into developing. This would put the RCEC at a further competitive disadvantage as the Applicant would not have access to similar levels of information regarding its competitors

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because such detailed photographs of the internal processes of operational power plants such as that contained in the Information are not typically made public.

Furthermore, the Information depicts the design, inner workings, and components of critical facility equipment. These details are typically considered to be proprietary information of the OEM. For example, the manuals for this equipment that similarly explain and depict the design, inner workings, and components of critical facility equipment cannot be disclosed by the Applicant without the consent of the OEM.

In summary, several federal and state laws exempt from disclosure the Information. Table 1 also provides a brief description of the legal basis for confidential designation and rationale for why each individual photograph should be designated as confidential.

TABLE 1		
FIGURE/PHOTO/DESCRIPTION	BASIS FOR CONFIDENTIAL DESIGNATION	RATIONALE
Investigation Report Attachment A		
Investigation Report Attachment A, Figure 3, Bottom photo	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets).</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to</p>	<p>Reveals equipment configuration and piping. Combined with the narrative description of the figure, provides a clear understanding of the installed location of the equipment and facility components.</p>

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TABLE 1		
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	federal or state law)	
Investigation Report Attachment A, Figure 4, Both photos	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p>	<p>Reveals equipment configuration and components, fire system (top photo) and piping. Combined with the narrative description of the figure, provides a clear understanding of the installed location of the equipment and facility components.</p>
Investigation Report Attachment A, Figure 5, Both photos	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p>	<p>Reveals facility layout, protective measures, and piping. Combined with the narrative description of the figure, provides a clear understanding of the installed location of the equipment and facility components.</p>

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	<p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p>	
Investigation Report Attachment A, Figure 6, Both photos	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p>	<p>Reveals equipment configuration of specific generating components used at the RCEC.</p> <p>Reveals OEM proprietary design.</p>
Investigation Report Attachment A,	Gov't Code § 6255 (public interest served by not disclosing clearly	Reveals facility layout, protective measures, and

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Figure 7, Both photos	<p>outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p>	<p>pipng. Combined with the narrative description of the figure, provides a clear understanding of the installed location of the equipment and facility components.</p>
Investigation Report Attachment A, Figure 9, Both photos	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to</p>	<p>Reveals equipment configuration and components, fire system (bottom photo) and piping. Combined with the narrative description of the figure, provides a clear understanding of the installed location of the equipment and facility components.</p>

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TABLE 1		
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	<p>disclose certain records, including corporate proprietary information including trade secrets)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p>	
<p>Investigation Report Attachment A, Figure 10, Both photos</p>	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p>	<p>Reveals equipment configuration of specific generating components used at the RCEC.</p> <p>Reveals OEM proprietary design.</p>
<p>Investigation Report Attachment A, Figure 11, Both photos</p>	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of</p>	<p>Reveals equipment configuration of specific generating components used at the RCEC.</p> <p>Reveals OEM proprietary</p>

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TABLE 1		
FIGURE/PHOTO/DESCRIPTION	BASIS FOR CONFIDENTIAL DESIGNATION	RATIONALE
	<p>trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p>	design.
Investigation Report Attachment A, Figure 12, Both photos	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p>	<p>Reveals equipment configuration of specific generating components used at the RCEC.</p> <p>Reveals OEM proprietary design.</p>

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FIGURE/PHOTO/DESCRIPTION	BASIS FOR CONFIDENTIAL DESIGNATION	RATIONALE
	Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)	
Investigation Report Attachment A, Figure 13, Both photos	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p>	<p>Reveals facility layout.</p> <p>Reveals equipment configuration of specific generating components used at the RCEC.</p> <p>Reveals OEM proprietary design.</p>
Investigation Report Attachment A, Figure 14, Both photos	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets</p>	<p>Reveals facility layout.</p> <p>Reveals equipment configuration of specific generating components used at the RCEC.</p> <p>Reveals OEM proprietary design.</p>

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TABLE 1		
FIGURE/PHOTO/DESCRIPTION	BASIS FOR CONFIDENTIAL DESIGNATION	RATIONALE
	<p>are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p>	
<p>Investigation Report Attachment A, Figure 15, Both photos</p>	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p>	<p>Reveals equipment configuration of specific generating components used at the RCEC.</p> <p>Reveals OEM proprietary design.</p>

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TABLE 1		
FIGURE/PHOTO/DESCRIPTION	BASIS FOR CONFIDENTIAL DESIGNATION	RATIONALE
Investigation Report Attachment A, Figure 16, Both photos	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p>	<p>Reveals equipment configuration of specific generating components used at the RCEC.</p> <p>Reveals OEM proprietary design.</p>
Investigation Report Attachment A, Figure 17, Both photos	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section</p>	<p>Reveals equipment configuration of specific generating components used at the RCEC.</p> <p>Reveals OEM proprietary design.</p>

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TABLE 1		
FIGURE/PHOTO/DESCRIPTION	BASIS FOR CONFIDENTIAL DESIGNATION	RATIONALE
	<p>1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p>	
Investigation Report Attachment A, Figure 22	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p>	Reveals equipment configuration, facility layout protective measures, fire system (top photo), and piping. Combined with the description, it provides a clear understanding of the installed position of the equipment.
Investigation Report Attachment A, Figure 23	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by</p>	Reveals equipment configuration, facility layout protective measures, fire

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FIGURE/PHOTO/DESCRIPTION	BASIS FOR CONFIDENTIAL DESIGNATION	RATIONALE
	<p>disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p>	<p>system (bottom photo), and piping. Combined with the description, it provides a clear understanding of the installed position of the equipment.</p>
Bay Valve Report		
<p>Russell City 23 Adams Valve Report, Photo PDF p. 6.</p>	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p>	<p>Provides specific equipment details / equipment identifier.</p>

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TABLE 1		
FIGURE/PHOTO/DESCRIPTION	BASIS FOR CONFIDENTIAL DESIGNATION	RATIONALE
	<p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p>	
Russell City 23 Adams Valve Report, Photo PDF p. 7.	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p>	Provides specific equipment details / equipment identifier.
Russell City 23 Adams Valve Report, Photo PDF p. 13.	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of</p>	Provides specific equipment details / equipment identifier previously granted confidential designation.

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TABLE 1		
FIGURE/PHOTO/DESCRIPTION	BASIS FOR CONFIDENTIAL DESIGNATION	RATIONALE
	<p>trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p>	
Russell City 23 Adams Valve Report, Photo PDF p. 14.	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p>	Provides specific equipment details / equipment identifier previously granted confidential designation.

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TABLE 1		
FIGURE/PHOTO/DESCRIPTION	BASIS FOR CONFIDENTIAL DESIGNATION	RATIONALE
	Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)	
Russell City 23 Adams Valve Report, Photo PDF p. 15.	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p>	Provides specific equipment details / equipment identifier previously granted confidential designation.
Russell City 23 Adams Valve Report, Photo PDF p. 24.	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p> <p>Cal. Evid. Code § 1060 (protection of</p>	Provides specific equipment details and information regarding the conditions under which the valve was tested and impaired.

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TABLE 1		
FIGURE/PHOTO/DESCRIPTION	BASIS FOR CONFIDENTIAL DESIGNATION	RATIONALE
	<p>trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p>	
<p>Russell City 23 Adams Valve Report, Photo PDF pp. 32, 33.</p>	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p>	<p>Provides specific equipment details and information regarding the conditions under which the valve was tested and impaired.</p>

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TABLE 1		
FIGURE/PHOTO/DESCRIPTION	BASIS FOR CONFIDENTIAL DESIGNATION	RATIONALE
Russell City 23 Adams Valve Report, Photo PDF p. 38.	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p> <p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p>	Provides specific equipment details/ equipment identifier previously granted confidential designation.
Russell City 23 Adams Valve Report, All other photos, with the exception of those identified above and those depicted on PDF pp. 46, 47, and 49.	<p>Gov't Code § 6255 (public interest served by not disclosing clearly outweighs public interest served by disclosure)</p> <p>Cal. Evid. Code § 1060 (protection of trade secrets), Cal. Civ. Code § 3426 et seq. (protection of trade secrets)</p> <p>Govt. Code § 6254.7(d) (trade secrets are not public records)</p>	<p>Reveals equipment configuration of specific generating components used at the RCEC.</p> <p>Reveals OEM proprietary design.</p>

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TABLE 1		
FIGURE/PHOTO/DESCRIPTION	BASIS FOR CONFIDENTIAL DESIGNATION	RATIONALE
	<p>NERC Rules of Procedure, Section 1501 (Confidential Information)</p> <p>Govt. Code § 6254.15 (Not required to disclose certain records, including corporate proprietary information including trade secrets)</p> <p>Govt. Code § 6254(k) (records exempted or prohibited pursuant to federal or state law)</p>	

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 photographs and other Information do not consist of the types of data or programmatic reporting that generally lends itself to the types of masking and aggregation the Applicant believes is contemplated by Section 2505(a)(E), thus making aggregation or masking infeasible. However, where the CEC determines that the record can be redacted for public disclosure, the Applicant requests that the CEC consult with the Applicant to make this determination.

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 information is available only to employees or consultants providing essential services to the Russell City Energy Center and disclosed to certain agencies, such as the California Public Utilities Commission and CEC that have regulatory oversight or other responsibilities over either the information or the RCEC.

I certify under penalty of perjury of the laws of the State of California the information described in this Application is true and correct to the best of my knowledge.

Sincerely,

**REPEATED APPLICATION FOR CONFIDENTIAL DESIGNATION
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Russell City Energy Center (01-AFC-07C)**

/s/

Jeffery D. Harris

Ellison Schneider Harris & Donlan LLP

2600 Capitol Avenue, Suite 400

Sacramento, CA 95816

Tel: (916) 447-2166

Email: jdh@eslawfirm.com

*Attorneys for Russell City Energy Company,
LLC*