

CALIFORNIA ENERGY COMMISSION

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www.energy.ca.gov

DOCKET**09-AAER-2**DATE May 19 2011RECD. May 25 2011

May 19, 2011

Ric Erdheim
Philips Electronics
1050 K Street N.W. Suite 900
Washington, D.C. 20001

RE: **Application for Designation of Confidential Records on Appliance
Efficiency Standards for Battery Charger Efficiency of Emergency Lighting
Docket Number 09-AAER-2**

Dear Mr. Erdheim:

On May 3, 2011, Philips Electronics ("Applicant") filed an application for confidentiality in the above-captioned docket. The application requests confidential designation for Applicant's submission of data related to battery charger efficiency. Specifically, Applicant requests confidential designation for the following report:

1. *Chloride Systems Investigation on Battery Charging Efficiency Study*

The application states that the report is confidential because the report contains information on Philips proprietary technology and cost data and that such information constitutes an innovative trade secret developed by Philips at great expense. The application also notes that disclosure of the report would provide market participants access to competitively sensitive information that would harm Philips and be otherwise unavailable.

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 [Energy] Commission to keep the record confidential." The California Public Records Act allows for the non-disclosure of trade secrets. (Gov. Code, § 6254(k); Evid. Code, § 1060.) The 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, 207-208, from the Restatement of Torts, vol. 4, § 757, comments b, p.5.)

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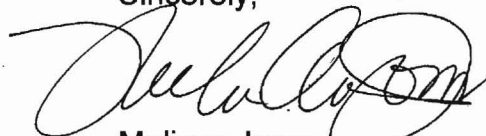
California Code of Regulations, title 20, section 2505(a)(1)(D) states that if the applicant for confidential designation believes that the record should not be disclosed because it contains trade secrets, or its disclosure would otherwise cause loss of a competitive advantage, the application shall 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.

Applicant has made a reasonable claim that the law allows the Energy Commission to keep the above listed report confidential on the grounds that it is trade secret and/or proprietary information. The information has been developed exclusively by Applicant, contains information that is not public, and has the potential for economic advantage. Applicant requests that the information relating to the technology Philips uses in its emergency lighting products be kept confidential for ten years and that information regarding the cost of battery efficiency improvements be kept confidential for three years. In addition, the Applicant does not believe the technology information can be aggregated to a level that would allow disclosure. The Applicant notes that cost data may be disclosed if such information is aggregated with data from other parties so as to preclude the identification of the data source.

For the above reasons, your request for confidential designation for the report titled, *Chloride Systems Investigation on Battery Charging Efficiency Study*, is granted. The information/data relating to technology will remain confidential until June 1, 2021, and the cost information/data will remain confidential until June 1, 2014. Cost information may be disclosed if aggregated to a level that precludes identification of the data source.

Be advised that persons may petition to inspect or copy records that I have designated as confidential. The procedures and criteria for filing, reviewing, and acting upon such petitions are set forth in the California Code of Regulations, title 20, section 2506. If you have any questions concerning this matter, please contact Jared Babula, Staff Counsel, at (916) 651-1462.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melissa Jones', with a stylized flourish at the end.

Melissa Jones
Executive Director

cc: Docket Unit
Energy Commission Project Manager