



May 8, 2023

**By E-Filing Docket #2023-2025-WMPs**

Caroline Thomas Jacobs, Director  
Office of Energy Infrastructure Safety  
715 P Street, 20th Floor  
Sacramento, CA 95814

**Re: Application for Confidentiality Designation for Attachment A through F of Trans Bay Cable LLC's 2023 Wildfire Mitigation Plan**

Dear Director Thomas Jacobs:

Pursuant to California Code of Regulations Title 14, Section 29200, Trans Bay Cable LLC ("TBC") submits this application for confidentiality designation for the following pages in TBC's 2023 Wildfire Mitigation Plan ("WMP"):

1. Attachment A: Persons Responsible for Executing the WMP, provided as pages 265-267 of the WMP ("Attachment A");
2. Attachment B: TBC-OP-004 Emergency Operations, provided as pages 268-287 of the WMP ("Attachment B")
3. Attachment C: TBC-HS-200 Emergency Action Plan, provided as pages 288-315 of the WMP ("Attachment C")
4. Attachment D: TBC-OP-07 Facility Startup and Shutdown Plan, provided as pages 316-329 of the WMP ("Attachment D")
5. Attachment E: TBC-OP-008 System Restoration Plan, provided as pages 330-341 of the WMP ("Attachment E")
6. Attachment F: Confidential Version of Table 8-44 and Table 8-46, provided as pages 342-343 of the WMP ("Attachment F" and together with Attachments A, B, C and D, the "Attachments").

The Attachments are being submitted concurrently with this application for confidentiality designation.

TBC requests confidentiality for the Attachments, and requests that the Office of Energy Infrastructure Safety ("Energy Safety") not disclose the Attachments or the information contained therein to the public or any third party. Due to the sensitivity of the Attachments, as explained below, TBC requests that they be maintained as confidential indefinitely. Confidential treatment is warranted because the Attachments reveal confidential employee information and information that could be used in an attempt to

compromise TBC's energy infrastructure. Accordingly, TBC requests that the Attachments be treated as confidential.<sup>1</sup>

Confidential treatment of the Attachments by the Energy Safety is appropriate pursuant to:

- Section 6254(c) of the California Government Code, which prohibits the disclosure of personnel information that would constitute an unwarranted invasion of personal privacy.
- U.S. Code Title 16, Section 824o-1, and regulations promulgated thereunder by the Federal Energy Regulatory Commission ("FERC") (18 C.F.R. § 388.113) prohibiting disclosure of critical electric infrastructure information;
- Section 6254(k) of the California Government Code, which specifies that a state agency is not required to disclose "records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence code relating to privilege;" and
- Section 1040 of the California Evidence Code, which specifies that a public entity has a privilege to refuse to disclose information acquired in confidence by a public employee in the course of his or her duty and not open, or officially disclosed, to the public prior to the time the claim of privilege is made, when disclosure is forbidden by an act of Congress of the United States or a statute of this state.

Grounds in support of this application for confidentiality designation are discussed further below.

**Attachment A Discloses Confidential and Sensitive Employee Contact Information.**

Section 6254(c) of the California Government Code prohibits the disclosure of information regarding "personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy." Attachment A reveals the names, telephone numbers, and emails of those TBC employees responsible for the WMP and its execution. Revealing this information to the public would potentially subject those individuals to unwarranted, personal scrutiny for their involvement in wildfire mitigation. The Energy Safety will have the information of these individuals for the sake of communication and compliance. Releasing the employees' information to the public creates an unjustified risk of abuse.

**Attachment B, Attachment C, Attachment D, Attachment E and Attachment F Contain Confidential and Sensitive Information Relating to Site Security and Electric Facility Operations and Federal Law Restricts Disclosure of Such Information.**

Public disclosure of the emergency operations procedure, emergency action plan, facility startup and shutdown plan, and system restoration plan, emergency action and the included maps identifying the

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<sup>1</sup> We have stamped each page of Attachment A, Attachment B, Attachment C, Attachment D, Attachment E and Attachment F as "Submitted Under Confidential Treatment."

location of electricity infrastructure, could be a possible violation of 16 U.S.C.A. § 824o-1(d), which states that critical electric infrastructure information<sup>2</sup> (“CEII”) “shall not be made available by any Federal, State, political subdivision or tribal authority pursuant to any Federal, State, political subdivision or tribal law requiring public disclosure of information or records.” Critical electrical infrastructure is defined as “a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which would negatively affect national security, economic security, public health or safety, or any combination of such matters.”

Attachment B, Attachment C, Attachment D, Attachment E and Attachment F reveal sensitive information regarding TBC’s emergency operations procedure, emergency action plan, facility startup and shutdown plan, and system restoration plan, emergency action, contact information for communicating with other entities regarding facility operation and contains maps identifying the location of specific electric infrastructure. The location of specific electricity infrastructure is information currently held by FERC and would possibly be protected as CEII. It is reasonable to assume that those seeking to compromise TBC’s infrastructure would find information regarding TBC’s process for assessing transmission system vulnerability and the location of the infrastructure valuable. Therefore, the material contained in Attachment B, Attachment C, Attachment D Attachment E and Attachment F could meet the definition of CEII and therefore should not be released to the general public under federal law.

**The Energy Safety Has Authority to Maintain the Confidentiality of Information Protected From Disclosure Under Federal and State Law.**

TBC requests that the Energy Safety exercise its authority under state law to maintain the confidentiality of the sensitive information contained in the Attachments. The information disclosed in the Attachments is protected from public disclosure by Section 6254(k) of the California Government Code (“Section 6254(k)”), which specifies that a state agency is not required to disclose “records, the disclosure of which is exempted or prohibited pursuant to federal or state law.” In addition, the Energy Safety has authority to protect the Attachments from public disclosure pursuant to Section 1040 of the California Evidence Code (“Section 1040”), which specifies that a public agency has a privilege to refuse to disclose information acquired in confidence by a public employee in the course of his or her duty and not open, or officially disclosed, to the public prior to the time the claim of privilege is made, when disclosure is forbidden by an act of Congress of the United States or a statute of this state. Given the state and federal restrictions discussed above, the Energy Safety has authority under Section 6254(k) and Section 1040 to maintain the confidentiality of the Attachments.

Finally, TBC does not believe it is feasible to aggregate the information revealed in the Attachments to conceal confidential information and therefore, TBC requests that such information not be disclosed in any form. TBC requests that the Attachments be maintained as confidential indefinitely, without setting a date for making such information public.

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<sup>2</sup> The term “critical electric infrastructure information” means information related to critical electric infrastructure, or proposed critical electrical infrastructure, generated by or provided to the Commission or other Federal agency, other than classified national security information, that is designated as critical electric infrastructure information by the Commission or the Secretary pursuant to subsection (d).” U.S.C.A. § 824o-1(a)(3).

Thank you for your consideration of this request.

I, Lenneal Gardner, 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. I also have prepared the application and am authorized to make the application and certification on behalf of the TBC.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lenneal Gardner", written in a cursive style.

Lenneal Gardner