

COMMONWEALTH OF KENTUCKY
BEFORE THE KENTUCKY STATE BOARD ON
ELECTRIC GENERATION AND TRANSMISSION SITING

In the Matter of:

ELECTRONIC APPLICATION OF TURKEY)	
CREEK SOLAR, LLC FOR A CONSTRUCTION)	
CERTIFICATE TO CONSTRUCT AN)	
APPROXIMATELY 50 MEGAWATT)	CASE NO.
MERCHANT ELECTRIC SOLAR)	2020-00040
GENERATING FACILITY IN GARRARD)	
COUNTY, KENTUCKY PURSUANT TO KRS)	
278.700 AND 807 KAR 5:110)	

ORDER

On June 1, 2020, Turkey Creek Solar, LLC (Turkey Creek) filed a petition, pursuant to 807 KAR 5:001, Section 13, KRS 61.878(1)(j), and KRS 61.878(1)(c)(1), requesting that the Siting Board grant confidential protection for an indefinite period of time certain information contained in Turkey Creek’s responses to Siting Board Staff’s First Requests for Information, Items 2b, 5, 8, and Exhibit F.

In support of its petition, Turkey Creek asserts that its response to Item 2b relates to concerns that were received by Turkey Creek resulting from the public outreach efforts and states how Turkey Creek addressed those concerns. Turkey Creek states that the discovery response identifies certain individuals who discussed the proposed solar project with representatives of Turkey Creek, in addition to the concerns that they raised. Turkey Creek further states that the documents attached as Exhibit F and referenced in response to Items 2b and 5, are written or electronic correspondence pertaining the project received from neighboring property owners. Turkey Creek contends that these

responses contain communications with private individuals and include information that are personal in nature. Turkey Creek argues that that these discovery responses should be kept confidential pursuant to KRS 61.878(1)(j), which permits non-disclosure of correspondence with private individuals.

Turkey Creek states that its response to Item 8 provides a breakdown of the total cost of the proposed solar project, including any estimated contingencies. Turkey Creek contends that it could be at a significant competitive disadvantage if the total anticipated cost of the project was disclosed. Among other reasons, Turkey Creek argues that vendors providing services to Turkey Creek may use the projected costs as a guide for increasing their bids for services.

Having considered the petition and the material at issue, the Siting Board finds that the information contained in Turkey Creek's discovery responses to Items 2b, 5, 8, and Exhibit F are generally recognized as confidential or proprietary; it therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, KRS 61.878(1)(j), and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. Turkey Creek's petition for confidential protection for the information contained in its discovery responses to Siting Board Staff's First Requests for Information, Items 2b, 5, 8, and Exhibit F is granted.

2. The designated information contained in in Turkey Creek's discovery responses to Siting Board Staff's First Requests for Information, Items 2b, 5, 8, and Exhibit F shall not be placed in the public record or made available for public inspection for an indefinite period or until further Order of this Siting Board

3. Use of the material in question in any Siting Board proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

4. Turkey Creek shall inform the Siting Board if the material in question becomes publicly available or no longer qualifies for confidential treatment.

5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, Turkey Creek shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Turkey Creek is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Siting Board shall deny the request for inspection.

6. The Siting Board shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow Turkey Creek to seek a remedy afforded by law.

By the Kentucky State Board on Electric
Generation and Transmission Siting



ATTEST:



Acting Executive Director

Case No. 2020-00040

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