

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION  
AND TRANSMISSION SITING

In the Matter of:

ELECTRONIC APPLICATION OF PINE GROVE )  
SOLAR, LLC FOR A CERTIFICATE OF )  
CONSTRUCTION FOR AN APPROXIMATELY 50 )  
MEGAWATT MERCHANT ELECTRIC SOLAR )  
GENERATING FACILITY IN MADISON COUNTY, )  
KENTUCKY PURSUANT TO KRS 278.700 AND )  
807 KAR 5:110 )

CASE NO.  
2022-00262

ORDER

On May 12, 2023, Pine Grove Solar, LLC (Pine Grove Solar) filed a petition for confidential treatment, pursuant to 807 KAR 5:110, Section 5, and KRS 61.878 (1)(c)(1), requesting that the Siting Board grant confidential treatment for its response to Siting Board's Post Hearing Request for Information (Siting Board's Post Hearing Request), Item 5 for an indefinite period.

LEGAL STANDARD

The Siting Board is a public agency subject to Kentucky Open Records Act,<sup>1</sup> which requires that all public records "be open for inspection by any person, except as otherwise provided by KRS 61.870 to KRS 61.884."<sup>2</sup> The exceptions to the free and open examination of public records should be strictly construed.<sup>3</sup> The party requesting that the materials be granted confidential protection has the burden of establishing that one of the

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<sup>1</sup> KRS 61.870 through 61.884.

<sup>2</sup> KRS 61.872(1).

<sup>3</sup> KRS 61.878.

exemptions is applicable.<sup>4</sup> KRS 61.878(1)(c)(1) provides an exception to the requirement for public disclosure of records that are “generally recognized as confidential and proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.”

### DISCUSSION AND FINDINGS

In support of its petition Pine Grove Solar stated the response to Siting Board’s Post Hearing Request, Item 5 required Pine Grove Solar to provide Large Generator Interconnection Agreement (LGIA) with Louisville Gas and Electric Company and Kentucky Utilities Company (jointly, LG&E/KU) which included cost information for interconnection. Pine Grove Solar argued that cost information contained in the LGIA is specific to materials, labor, and other costs and is not information that is not otherwise publicly available. Pine Grove Solar argued the LGIA cost information should be granted confidential treatment because the disclosure of actual or estimated costs associated with interconnection could cause harm to Pine Grove Solar and/or LG&E/KU.

Having considered the petition and the material at issue, the Siting Board finds that the cost estimates in Pine Grove Solar’s response to Staff’s Post-Hearing Request, Item 5 are generally recognized as confidential or proprietary; and therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:110, Section 5, and KRS 61.878 (1) (c) (1). Pine Grove Solar could face a competitive disadvantage if the cost estimates were disclosed.

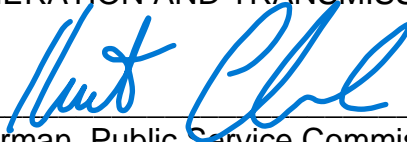
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<sup>4</sup> 807 KAR 5:110, Section 5(2)(d).

IT IS THEREFORE ORDERED that:

1. Pine Grove Solar's petition for confidential treatment is granted.
2. The information granted confidential treatment cost estimates provided in response to Siting Board's Post Hearing Request, Item 5 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 designated material granted confidential treatment by this Order in any Siting Board proceeding shall comply with 807 KAR 5:110, Section 5.
4. Pine Grove Solar shall inform the Siting Board if the designated material granted confidential treatment by this Order 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, Pine Grove Solar 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 Pine Grove Solar 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 Pine Grove Solar to seek a remedy afforded by law.

KENTUCKY STATE BOARD ON ELECTRIC  
GENERATION AND TRANSMISSION SITING



Chairman, Public Service Commission



Vice Chairman, Public Service Commission

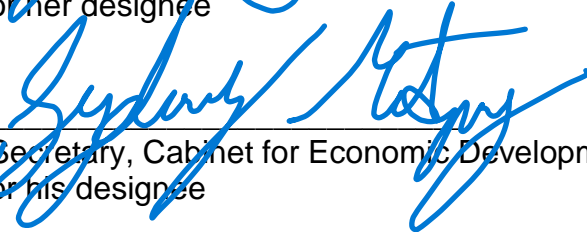


Commissioner, Public Service Commission

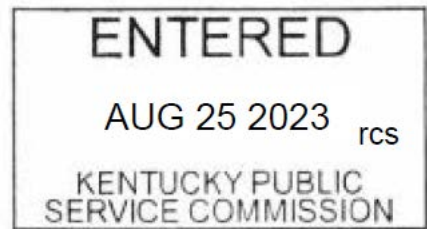
by KAC  
w/ permission



Secretary, Energy and Environment Cabinet,  
or her designee



Secretary, Cabinet for Economic Development,  
or his designee



ATTEST:



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*on behalf of* the Kentucky State  
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and Transmission Siting

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