

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

In the Matter of:

ELECTRONIC APPLICATION OF BRIGHT	)	
MOUNTAIN SOLAR, LLC FOR A CERTIFICATE	)	
OF CONSTRUCTION FOR AN UP TO 80	)	
MEGAWATT MERCHANT ELECTRIC SOLAR	)	CASE NO.
GENERATING FACILITY AND RELATED	)	2022-00274
NONREGULATED TRANSMISSION LINE OF	)	
APPROXIMATELY 4 MILES IN PERRY COUNTY,	)	
KENTUCKY PURSUANT TO KRS 278.700 AND	)	
807 KAR 5:110	)	

ORDER

On September 15, 2023, Bright Mountain Solar, LLC (Bright Mountain) filed a motion for confidential treatment, pursuant to 807 KAR 5:110, Section 5, and KRS 61.878(1)(a) and (1)(c)(1), requesting that the Siting Board grant confidential treatment for an indefinite period for portions of the Application, Tab 10, Attachment I, Socioeconomic Report.

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

---

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

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

<sup>3</sup> KRS 61.878.

materials be granted confidential protection has the burden of establishing that one of the exemptions is applicable.<sup>4</sup> KRS 61.878(1)(a) grants confidential protection of information that if disclosed would create an invasion of personal privacy.<sup>5</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 motion, Bright Mountain argued that the Socioeconomic Report contains estimated capital costs for the project and estimated operations and maintenance costs during operations. Also included in the report, were salary estimates for the full-time employees during operations. Bright Mountain argued this information should be granted confidential treatment because it would permit an unfair commercial advantage to competitors who could use the information to undercut Bright Mountain.

Having considered the motion and the material at issue, the Siting Board finds that the cost estimates contained in the Application, Tab 10, Attachment I, Socioeconomic Report 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). Bright Mountain could face a competitive disadvantage if the cost estimates are disclosed because other solar developers will know the prices Bright Mountain is prepared to pay for labor and materials.

---

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

<sup>5</sup> KRS 61.878(1)(a).

IT IS THEREFORE ORDERED that:

1. Bright Mountain motion for confidential treatment is granted.
2. The designated material granted confidential treatment provided in Bright Mountain's application 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. Bright Mountain 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, Bright Mountain 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 Bright Mountain 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 Bright Mountain to seek a remedy afforded by law.

KENTUCKY STATE BOARD ON ELECTRIC  
GENERATION AND TRANSMISSION SITING

Mark C. Cline  
Chairman, Public Service Commission

Ally  
Vice Chairman, Public Service Commission

Mary Pat Regan  
Commissioner, Public Service Commission

John Speer  
Secretary, Energy and Environment Cabinet,  
or her designee

Sydney Montgomery  
Secretary, Cabinet for Economic Development,  
or his designee

Bennie Combs  
Bennie Combs, ad hoc

by KAC  
w/ permission

ATTEST:

Linda C. Bridwell  
Executive Director  
Public Service Commission  
*on behalf of the Kentucky State  
Board on Electric Generation  
and Transmission Siting*



\*Dylan F. Borchers  
Bricker & Eckler  
100 South Third Street  
Columbus, OHIO 43215

\*Sommer L. Sheely  
Bricker & Eckler  
100 South Third Street  
Columbus, OHIO 43215

\*Bennie L. Combs  
338 KY HWY 28  
Hazard, KENTUCKY 41701