

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION  
AND TRANSMISSION SITING

In the Matter of:

ELECTRONIC APPLICATION OF GOLDEN	)	
SOLAR, LLC FOR A CERTIFICATE OF	)	
CONSTRUCTION FOR AN APPROXIMATELY 100	)	CASE NO.
MEGAWATT MERCHANT ELECTRIC SOLAR	)	2020-00243
GENERATING FACILITY IN CALDWELL	)	
COUNTY, KENTUCKY	)	

ORDER

On January 23, 2023, Golden Solar, LLC (Golden Solar) filed a petition, pursuant to 807 KAR 5:110, Section 5, and KRS 61.878, requesting that the Siting Board grant confidential treatment until the information becomes publicly available for its response to Siting Board Staff's Post-Hearing Request for Information (Staff's Post-Hearing Request), Item 1.

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.” KRS 61.878(1)(m)(1)(f) grants confidential protection for information that if disclosed would have a reasonable likelihood of threatening public safety by disclosing critical electrical systems.<sup>5</sup>

### DISCUSSION AND FINDINGS

In support of its petition, Golden Solar argued its response to Staff’s Post-Hearing Request, Item 1 required it to provide the affected systems studies conducted by Midcontinent Independent System Operator, Inc. (MISO) and the Tennessee Valley Authority (TAV) for the project’s interconnection in the area. Golden Solar argued this information should be granted confidential protection because it could provide an unfair advantage to competitors if it is disclosed because it could be misappropriated by competitors in the industry. Golden Solar also argued that the information should be granted confidential protection because the studies contain identifications and descriptions of critical infrastructure.

Having considered the petition and the material at issue, the Siting Board finds that affected system studies completed by MISO and the TVA provided in response to Staff’s Post-Hearing Request, Item 1 do not meet the criteria for confidential treatment and are not exempted from public disclosure pursuant to 807 KAR 5:110, Section 5, and KRS 61.878(1)(c)(1) or KRS 61.878((1)(m)(1)(f). In considering whether to grant or deny

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<sup>4</sup> 807 KAR 5:001E, Section 13(2)(c).

<sup>5</sup> KRS 61.878(1)(m)(1)(f).

a certificate of construction, the Siting Board must consider how the additional load from the project will adversely affect the reliability for customers served electricity transmission system from utilities regulated by the Public Service Commission.<sup>6</sup> The affected systems studies provide that information, and it is necessary for that information to be in the record for the general public's understanding. Additionally, this information is required to be provided in the application,<sup>7</sup> and the Siting Board has never granted confidential protection for the studies.

IT IS THEREFORE ORDERED that:

1. Golden Solar's petition for confidential treatment is denied.
2. The designated material denied confidential treatment by this Order is not exempt from public disclosure and shall be placed in the public record and made available for public inspection.
3. If Golden Solar objects to the Siting Board's determination that the requested material not be granted confidential treatment, it must seek either rehearing pursuant to 807 KAR 5:110, Section 5(4), or judicial review of this Order pursuant to KRS 278.712(5). Failure to exercise either of these statutory rights will be deemed as agreement with the Siting Board's determination of which materials should be granted confidential treatment.
4. Within 30 days of the date of service of this Order, Golden Solar shall file a revised version of the designated material for which confidential treatment was denied, reflecting as unredacted the information that has been denied confidential treatment.

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<sup>6</sup> KRS 278.710(f).

<sup>7</sup> KRS 278.706(i).

5. The designated material for which Golden Solar's request for confidential treatment has been denied shall neither be placed in the public record nor made available for inspection for 30 days from the date of service of this Order in order to allow Golden Solar to seek a remedy afforded by law.

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KENTUCKY STATE BOARD ON ELECTRIC  
GENERATION AND TRANSMISSION SITING



Chairman, Public Service Commission

Vice Chairman, Public Service Commission



Commissioner, Public Service Commission



Secretary, Energy and Environment Cabinet,  
or her designee

Ex KAC  
w/ permission



Secretary, Cabinet for Economic Development,  
or his designee

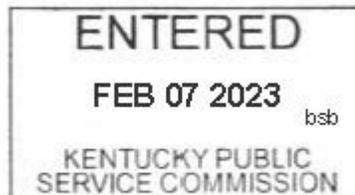


Gale Cherry, ad hoc member

ATTEST:



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*on behalf of the Kentucky State  
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and Transmission Siting*



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