

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION  
AND TRANSMISSION SITING

In the Matter of:

|                                       |   |            |
|---------------------------------------|---|------------|
| ELECTRONIC APPLICATION OF DOGWOOD     | ) |            |
| CORNERS LLC FOR CERTIFICATE OF        | ) |            |
| CONSTRUCTION FOR AN APPROXIMATELY 125 | ) | CASE NO.   |
| MEGAWATT MERCHANT ELECTRIC SOLAR      | ) | 2023-00246 |
| GENERATING FACILITY IN CHRISTIAN      | ) |            |
| COUNTY, KENTUCKY PURSUANT TO KRS      | ) |            |
| 278.700 AND 807 KAR 5:110             | ) |            |

ORDER

This matter arises from two petitions for confidential treatment filed by Dogwood Corners, LLC (Dogwood Corners), pursuant to 807 KAR 5:110, Section 5, and KRS 61.878, filed on February 16, 2024, and February 22, 2024. The petitions are described in further detail below.

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)(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.”

#### FEBRUARY 16, 2024 PETITION FOR CONFIDENTIAL TREATMENT

Dogwood Corners requested confidential treatment for an indefinite period for an outreach log that contained individual names and addresses of nonparties that were filed in response to Siting Board Staff’s Post-Hearing Request for Information (Staff’s Post-Hearing Request), Item 1. In support of its petition, Dogwood Corners argued that individuals’ names and home addresses of nonparties are personal information pursuant to 807 KAR 5:110, Section 4(10), and therefore should be protected from public disclosure.

Having considered the petition and the material at issue, the Siting Board finds that an individuals’ names and addresses of nonparties are generally recognized as personal, private information; therefore, it 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)(a)(1).

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

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

FEBRUARY 22, 2024 PETITION FOR CONFIDENTIAL TREATMENT

Dogwood Corners requested confidential treatment for the Interconnection System Impact Study prepared by the Tennessee Valley Authority (TVA) that was filed in response to Siting Board Staff's First Request for Information (Staff's First Request), Item 16, for an indefinite period. Dogwood Corners requested that cost estimates contained in the study be maintained as confidential. In support of its petition, Dogwood Corners argued that the cost estimates should be held confidential because they could be used to gain a commercial advantage by competitors.

Having considered the petition and the material at issue, the Siting Board finds that the cost estimates contained in TVA's Interconnection System Impact Study are generally recognized as confidential or proprietary; therefore, the material 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). Dogwood Corners could face a competitive disadvantage if the cost estimates were disclosed.

IT IS THEREFORE ORDERED that:

1. Dogwood Corners' February 16, 2024 petition for confidential treatment is granted.
2. Dogwood Corners' February 22, 2024 petition for confidential treatment is granted.
3. The designated material granted confidential treatment by this Order 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.

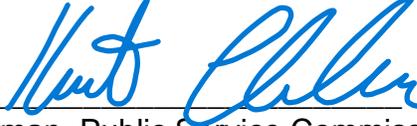
4. Use of the designated material granted confidential treatment by this Order in any Siting Board proceeding shall comply with 807 KAR 5:110, Section 5.

5. Dogwood Corners 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.

6. 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, Dogwood Corners 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 Dogwood Corners 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.

7. 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 Dogwood Corners 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:



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



\*Ben Bolinger  
Chairman of the Hopkinsville-Christian County  
710 S Main St  
Hopkinsville, KENTUCKY 42240

\*James W Gardner  
Sturgill, Turner, Barker & Moloney, PLLC  
333 West Vine Street  
Suite 1400  
Lexington, KENTUCKY 40507

\*Honorable Harold Mac Johns  
English, Lucas, Priest & Owsley, LLP  
12 Public Square  
P.O. Box 746  
Elkton, KENTUCKY 42220

\*Rebecca C. Price  
Sturgill, Turner, Barker & Moloney  
155 East Main Street  
Lexington, KENTUCKY 40507

\*Tom Britton  
Community & Development Services  
710 South Main Street  
Post Office Box 1125  
Hopkinsville, KENTUCKY 42240

\*M. Todd Osterloh  
Sturgill, Turner, Barker & Moloney, PLLC  
333 West Vine Street  
Suite 1400  
Lexington, KENTUCKY 40507