

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

In the Matter of:

ELECTRONIC APPLICATION OF SONG)	
SPARROW SOLAR LLC FOR CERTIFICATE OF)	
CONSTRUCTION FOR AN APPROXIMATELY 104)	CASE NO.
MEGAWATT MERCHANT ELECTRIC SOLAR)	2023-00256
GENERATING FACILITY IN BALLARD COUNTY,)	
KENTUCKY PURSUANT TO KRS 278.700 AND)	
807 KAR 5:110)	

ORDER

On December 6, 2023, Song Sparrow Solar LLC (Song Sparrow 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 an indefinite period for the operator’s manual of the Vermeer PD10 pile driver, that was filed in response to Siting Board Staff’s Second Request for Information (Siting Board Staff’s Second Request), Item 4.

LEGAL STANDARD

The Siting Board is a public agency subject to Kentucky Open Records Act,¹ 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.”² The exceptions to the free and open examination of public records should be strictly construed.³ The party requesting that the

¹ KRS 61.870 through 61.884.

² KRS 61.872(1).

³ KRS 61.878.

materials be granted confidential protection has the burden of establishing that one of the exemptions is applicable.⁴ KRS 61.878(1)(a) grants confidential protection of information that if disclosed would create an invasion of personal privacy.⁵ 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, Song Sparrow Solar, stated that the response to Siting Board Staff’s Second Request for Information, Item 4, required Song Sparrow Solar to provide the operator’s manual for the Vermeer PD10 pile driver. Song Sparrow Solar has provided the cover page, first page of the introduction, relevant page identifying sound level, and the last page of the operator’s manual for the Vermeer PD10 pile driver. Song Sparrow Solar argued that the operator’s manual should be held confidential because the operator manual is provided only to owners of the pile driver and because the operators manual may contain information that, if disclosed, could provide a competitive advantage to competitors.

Having considered the petition and the material at issue, the Siting Board finds that operator’s manual for the Vermeer PD10 pile driver does not meet the criteria for confidential treatment and is not exempted from public disclosure pursuant to 807 KAR 5:110, Section 5, and KRS 61.878(1)(a) and KRS 61.878(1)(c)(1). Neither Song Sparrow

⁴ 807 KAR 5:110, Section 5(2)(d).

⁵ KRS 61.878(1)(a).

Solar nor the manufacturer of the pile driver will be at a competitive disadvantage if the operator's manual to the pile driver is not granted confidential treatment. A competitor could buy a single unit and receive the manual.

IT IS THEREFORE ORDERED that:

1. Song Sparrow 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 Song Sparrow 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, Song Sparrow 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.
5. The designated material for which Song Sparrow 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 Song Sparrow Solar to seek a remedy afforded by law.

KENTUCKY STATE BOARD ON ELECTRIC
GENERATION AND TRANSMISSION SITING

Art Coker

Chairman, Public Service Commission

Art

Vice Chairman, Public Service Commission

May Pat Ryan

Commissioner, Public Service Commission

John Seave

Secretary, Energy and Environment Cabinet,
or her designee

*Let KAC
w/permission*

Sydney Montoye

Secretary, Cabinet for Economic Development,
or his designee

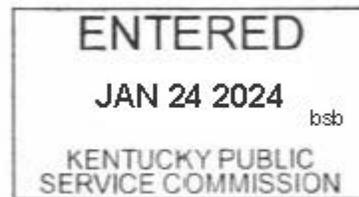
Todd Cooper

Todd Cooper, ad hoc

ATTEST:

Linda E. Bridwell

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



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