

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

In the Matter of:

|                                       |   |            |
|---------------------------------------|---|------------|
| ELECTRONIC APPLICATION OF LYNN BARK   | ) |            |
| ENERGY CENTER, LLC FOR A CERTIFICATE  | ) | CASE NO.   |
| OF CONSTRUCTION FOR AN UP TO 6.3 MILE | ) | 2026-00096 |
| NONREGULATED TRANSMISSION LINE IN     | ) |            |
| MARTIN COUNTY, KENTUCKY               | ) |            |

ORDER

On July 28, 2026, Lynn Bark Energy Center, LLC (Lynn Bark Energy) filed a motion for confidential treatment, pursuant to 807 KAR 5:110, Section 5,<sup>1</sup> and KRS 61.878(1)(c)(1), requesting that the Siting Board grant confidential treatment for an indefinite period for copies of leases and easements that were executed for the route or right of way (ROW) for the proposed transmission line.

LEGAL STANDARD

The Siting Board is a public agency subject to Kentucky Open Records Act,<sup>2</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>3</sup> The exceptions to the free and open examination of public records should be strictly construed.<sup>4</sup> The party requesting that the

---

<sup>1</sup> The motion cites to 807 KAR 5:001 Section 13; however, in cases before the Siting Board, 807 KAR 5:110 Section 13 is the appropriate regulation.

<sup>2</sup> KRS 61.870 through 61.884.

<sup>3</sup> KRS 61.872(1).

<sup>4</sup> KRS 61.878.

materials be granted confidential protection has the burden of establishing that one of the exemptions is applicable.<sup>5</sup> KRS 61.878(1)(a) grants confidential protection of information that if disclosed would create an invasion of personal privacy.<sup>6</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)(i) grants confidential protection to preliminary drafts, notes, or correspondence.<sup>7</sup>

### DISCUSSION AND FINDINGS

In support of its motion, Lynn Bark Energy argued that the leases and easements provided in response to Staff’s First Request for Information, Item 1 should be granted confidential protection pursuant to KRS 61.878(1)(c)(1) because the leases contain proprietary commercial information relating to pricing and other sensitive information that, if publicly disclosed, would place Lynn Bark Energy at significant commercial disadvantage.<sup>8</sup>

Having considered the motion and the material at issue, the Siting Board finds that Lynn Bark Energy’s motion should be granted, in part, and denied, in part. The Siting Board finds that certain designated material terms contained in Lynn Bark Energy’s leases and easements may result in commercial harm to the applicant and, as such, are

---

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

<sup>6</sup> KRS 61.878(1)(a).

<sup>7</sup> KRS 61.878(1)(i).

<sup>8</sup> Lynn Bark Energy’s Motion for Confidential Treatment (filed July 28, 2026) at 2.

records that meet the criteria for confidential treatment and are exempted from public disclosure for an indefinite period pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:110, Section 5. For the purposes of this Order, the Siting Board finds that “material terms” are defined as including:

1. The lease amounts;
2. Escalation of lease payments;
3. Remedies available to the parties of the lease for nonperformance of the terms;
4. Economic terms other than lease terms and related escalations such as signing payments, crop damage calculations, construction rent amounts, extension fees, and holdover rent amounts; and
5. The structure of the lease term includes the outside date for the rent commencement date.

The Siting Board further finds that the request for confidential treatment is denied for the remaining portions of the leases because they are general contract language that would not give a competitor of Lynn Bark Energy an unfair commercial advantage. Therefore, the remaining terms do not meet the criteria for confidential treatment and are not exempted from public disclosure pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:110, Section 5.

IT IS THEREFORE ORDERED that:

1. Lynn Bark Energy’s motion for confidential treatment is granted, in part, and denied, in part.

2. Lynn Bark Energy's motion for confidential treatment for the material terms of leases and easements in response to Siting Board Staff's First Request for Information, Item 1 as described in this Order is granted.

3. Lynn Bark Energy's motion for confidential treatment for the remaining portions of the leases and easements is denied.

4. 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.

5. 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.

6. Lynn Bark Energy 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.

7. 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, Lynn Bark Energy shall have 20 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 Lynn Bark Energy 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.

8. 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 Lynn Bark Energy to seek a remedy afforded by law.

9. 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.

10. If Lynn Bark Energy 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.

11. Within 30 days of the date of service of this Order, Lynn Bark Energy 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.

12. The designated material for which Lynn Bark Energy 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 to allow Lynn Bark Energy to seek a remedy afforded by law.

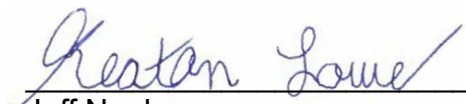
Entered on this 2nd day of October, 2026.

KENTUCKY STATE BOARD ON ELECTRIC GENERATION  
AND TRANSMISSION SITING

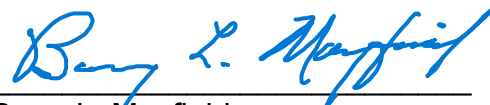
  
\_\_\_\_\_  
Angie Hatton  
Chair, Public Service Commission

  
\_\_\_\_\_  
John Lyons  
Secretary, Energy and Environment  
Cabinet, or his designee

  
\_\_\_\_\_  
Mary Pat Regan  
Vice Chair, Public Service Commission

  
\_\_\_\_\_  
Jeff Noel  
Secretary, Cabinet for Economic  
Development, or his designee

  
\_\_\_\_\_  
Andrew W. Wood  
Commissioner, Public Service Commission

  
\_\_\_\_\_  
Barry L. Mayfield  
Commissioner, Public Service Commission

ATTEST:

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

## Service List for Case 2026-00096

\* Dylan F. Borchers  
Bricker Graydon LLP  
100 South Third Street  
Columbus, OH 43215

\* Kara H. Herrnstein  
Bricker Graydon LLP  
100 South Third Street  
Columbus, OH 43215

\* Sommer L. Sheely  
Bricker Graydon LLP  
100 South Third Street  
Columbus, OH 43215