

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

In the Matter of the Application of Horseshoe Bend)
Solar, LLC, for a Construction Certificate to Construct) Case No. 2020-00190
a Merchant Electric Generating Facility)

PETITION FOR CONFIDENTIAL TREATMENT

Applicant Horseshoe Bend Solar, LLC (“Horseshoe Bend”), by counsel, and pursuant to 807 KAR 5:001, Section 13, respectfully requests the Kentucky State Board on Electric Generation and Transmission Siting (“Siting Board”) to grant confidential protection to leases it filed as a part of its Responses to the Siting Board Staff’s First Requests for Information.

Administrative Regulation 807 KAR 5:110, Section 5 sets forth the procedure by which certain information filed with the Siting Board shall be treated as confidential. Specifically, the party seeking confidential treatment must establish “each basis upon which the petitioner believes the material should be classified as confidential” under the Kentucky Open Records Act. 807 KAR 5:110, Section 5(2)(a)(1).

Item 1 of the Siting Board Staff’s First Request for Information request copies of leases. These leases contain highly sensitive information that should be kept confidential.

KRS 61.878(1)(c)(1) exempts from disclosure:

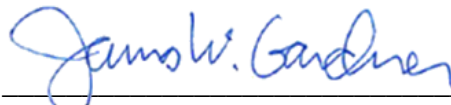
Records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would present an unfair commercial advantage to competitors of the entity that disclosed the records.

This exception “is aimed at protecting records of private entities which, by virtue of involvement in public affairs, must disclose confidential or proprietary records to a public agency, if disclosure of those records would place the private entities at a competitive disadvantage.” 97-ORD-66 at 10 (Ky. OAG Apr. 22, 2008).

Horseshoe Bend could be at a significant competitive disadvantage if it were to disclose the leases that it has entered into with the property owners. If these leases are publicly disclosed, other competitors in the energy sector and other potential lessors would be able to learn of terms contained within those leases. Horseshoe Bend has further redacted highly sensitive information that would not be relevant for the Siting Board’s decision under KRS 278.710.

For the foregoing reasons, Horseshoe Bend respectfully requests confidential treatment of the entire leases and amendments thereto for a permanent period of time.

Respectfully submitted,



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