

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

In the Matter of:

Electronic Application of Unbridled Solar, LLC for Certificates of Construction for an approximately 160 Megawatt Merchant Electric Solar Generating Facility and Nonregulated Electric Transmission Line in Henderson and Webster Counties, Kentucky)
)
)
)
)
)

Case No.
2020-00242

Unbridled’s Motion for Confidential Treatment of Information

Unbridled Solar, LLC (“Unbridled”) respectfully submits this Motion pursuant to 807 KAR 5:001, § 13, for confidential treatment of certain information responsive to the initial requests for information in this case. In support of this Motion, Unbridled states as follows:

1. On this date, Unbridled filed with the Siting Board its Responses to Siting Board Staff’s First Request for Information (“ESB __”), including Responses to the attached Appendix requests (“BBC __”).

2. Unbridled seeks confidential treatment for the attachment provided in response to ESB 07. ESB 07 requests information about the surrounding property owners who expressed concerns with the viewshed; and sought copies of the visual renderings and any screening plan agreements. A redacted copy of the provided landowner list (Amended Exhibit J, Figure 3) was provided with the filed Response; these are highlighted in unredacted form and provided under seal with this Motion. Amended Exhibit J, Figure 3 was also provided in response to ESB 24, and the same request for confidential treatment applies herein.

3. Also provided in response to ESB 07 and 24 (but only separately under seal) is a handwritten note identified as Figure ESB 07-A PID #71-47 Written Approval (hereinafter

“Written Approval”). Confidential treatment is sought for the entirety of the Written Approval, and as instructed by 807 KAR 5:001, § 13(2)(a)(3)(b), the entire document, since confidential, is filed only under seal (and not as an attachment to the Response) in lieu of the otherwise required highlighting and redactions.

4. Unbridled is also seeking confidential treatment for the transfer study provided as an attachment in response to BBC 04. This transfer study has been redacted in the publicly-filed Response; the material for which confidential treatment is sought has been highlighted in the unredacted copy filed under seal. The transfer study contains confidential and propriety information regarding the Project.

5. Unbridled additionally seeks confidential treatment for the legal descriptions provided as Figure BBC 10 – Unbridled Legal Descriptions (hereinafter “Legal Descriptions”) in response to BBC 10. The Legal Descriptions are only provided separately under seal in a large PDF file compiled from recorded instruments. Confidential information to be redacted occurs throughout the PDF file in such a way that redaction was not possible; personal and private information of non-parties are intertwined throughout the documents. Therefore, as instructed by 807 KAR 5:001, § 13(2)(a)(3)(b), the entire document, since confidential, is filed only under seal (and not as an attachment to the Response) in lieu of the otherwise required highlighting and redactions.

6. The information in the documents for which Unbridled here seeks confidential treatment is not publicly disseminated, and public disclosure of this information would harm Unbridled, as well as the neighboring landowners and individuals otherwise identified in the recorded instruments provided in Legal Descriptions, for various reasons discussed in the following paragraphs.

7. The posted property owners lists in Amended Exhibit J, Figure 3 are subject to the provisions of 807 KAR 5:001, § 4 (10)(a), which require privacy protection for filings that include an individual's first name or first initial and last name in combination with the individual's address and telephone number, if that individual is not a party and has not requested to be a party. 807 KAR 5:001, § 4 (10)(a)(7). The individuals listed in this Figure have not filed any request for intervention or otherwise have requested to be parties. Additionally, both the Written Approval and the Legal Descriptions include the first and last names of the individual non-party property owners (and past owners), as well as their address and telephone number, therefore subjecting these documents to 807 KAR 5:001, § 4 (10)(a)(7), as no request for intervention by these individuals has been made.

8. The Written Approval also contains objections from certain landowners and should also be provided confidential treatment out of respect for the privacy of the objections. First, the objection contains contact information; the issued notices do not warn or alert the individuals that any objection they send directly to Unbridled itself will be posted; posting such an objection publicly may have the effect of discouraging individuals from objecting either because they hesitated to have their opinions posted publicly or they felt that their objection had already been raised; and, posting such an objection may have the effect of exposing objectors to Web-enabled harassment because they spoke up or the particulars of how they expressed their objection. These individuals have not requested to be publicly involved in this matter and should not have their personal (and protected) information shared as a result.

9. The information in the transfer study responsive to BBC 04 for which Unbridled seeks confidential treatment is not publicly disseminated and public disclosure of this information would harm Unbridled. The study reveals commercially sensitive information regarding the

internal ability and workings of Unbridled and its affiliates — in particular, how they evaluate potential networks, and respond to various issues that arise in merchant solar projects. This study also demonstrates innovative and proprietary technology and processes developed through experience and used by Unbridled and its affiliates to develop these facilities and networks. Such processes are “trade secrets” as defined by KRS 365.880(4) and fall within the scope of the KRS 61.878(1)(c)(1) exemption from disclosure. If the trade secrets contained within the transfer study do not receive confidential treatment, the risk of harm would be unnecessarily increased that Unbridled and its affiliates would suffer a serious business injury and these trade secrets would be misappropriated by developers and other competitors in the merchant solar industry.

10. In addition, Unbridled seeks confidential treatment for the transfer study because it is proprietary. Directly or indirectly (through affiliate National Grid Renewables), Unbridled expended funds with a third party as part of the due diligence in investigating the involved network. Unbridled should not be forced to share this information publicly to its possible detriment. Especially in the event that the Application is denied, public accessibility would cause Unbridled harm because disclosure would give other developers and potential competitors a “leg-up” regarding the areas discussed in the reports and lessen competition in subsequent processes. Such disclosure would also be costly in the future when attempts to develop other similar projects are made and Unbridled’s ability to negotiate terms specific to the circumstances has been compromised.

11. The information in the transfer study could be used by competitors to the business injury of Unbridled and its affiliates, including National Grid Renewables, in other ways as well. For example, if disclosed, the transfer study would give competitors sensitive information about,

e.g., (a) acquisition strategy and capability and (b) analysis of networks, their problems, and potential.

12. Under KRS 61.878(1)(c)(1), commercial information generally recognized as confidential is protected if disclosure would cause competitive injury and permit competitors an unfair commercial advantage. Public disclosure of the information in the identified attachments may cause competitive harm to Unbridled and its affiliates as well as the neighboring landowners and could cause a reduction in competition relating to similar merchant solar plants.

13. The information for which confidential treatment is sought in this Motion is treated as confidential by Unbridled and its affiliates; even among employees it is not disseminated to those who do not have a business reason to use the information.

14. If the Siting Board's tentative assessment is that any of the information identified herein is not exempt from disclosure as confidential commercial information, it must hold an evidentiary hearing to protect Unbridled's due process rights and permit an opportunity to supply the Siting Board with a complete record to enable it to reach a decision with regard to this confidentiality request.

15. In compliance with 807 KAR 5:001, §§ 8(3) and 13(2)(a)(3), Unbridled is filing with the Siting Board one copy of the identified attachments, entirely unredacted and with highlighting of the material for which confidential treatment is sought (except for the Written Approval as discussed in paragraph 2 and the Legal Descriptions as discussed in paragraph 3). The unredacted copies are filed under seal pursuant to the instructions regarding confidential filings in the 3/24/20 Order issues in KY. PSC Case No. 2020-00085; redacted pages of Amended Exhibit J, Figure 3 and the transfer study are being publicly filed with the electronic copy of this Motion.

16. Section 13(2)(a)(2) of 807 KAR 5:001 provides that a motion for confidential treatment shall state the time period in which the material should be treated as confidential and the reasons for this time period. Unbridled respectfully submits that five (5) years from the date of the filing of the Application is a reasonable period of time for the material in these attachments to be treated as confidential in the light of competitive conditions in the merchant solar industry.

WHEREFORE, Unbridled respectfully requests that the Siting Board grant confidential treatment of the information described herein, filed under seal, and shown as redacted on the attached publicly-filed Motion attachments.

Respectfully submitted,

/s/ Kathryn A. Eckert

Jason R. Bentley
Katherine K. Yunker
Kathryn A. Eckert
McBrayer PLLC
201 East Main St., Suite 900
Lexington, KY 40507
(859) 231-8780
jbentley@mmlk.com
kyunker@mcbrayerfirm.com
keckert@mcbrayerfirm.com
Counsel for Unbridled Solar, LLC

MOTION ATTACHMENTS

(excerpts from the Response attachments, showing all redactions)

Amended Exhibit J, Figure 3

Transfer Study

CONFIDENTIAL DOCUMENTS NOT FILED OR ATTACHED

(provided separately in full, under seal, no redactions)

Written Approval

Legal Descriptions

**AMENDED EXHIBIT J
FIGURES**

Figure 3 Leased Property Owner Key *

Property Owner	Map Reference	Parcel ID	Address
	1	71-46	
	2	71-39	
	3	71-35	
	4	71-35.1	
	5	71-40	
	6	71-44	
	7	72-1	
	8	71-40	
	9 **	71-41	
	10	71-42	
	11	71-34	
	12	72-20	
	13	72-27	
	14	72-22	
	15	72-20.1	
	16	72-3	
	17	72-19	
	18	72-18	
	19	72-17	

*Amended 2/2/2021

Figure 3 Leased Property Owner Key *

Property Owner	Map Reference	Parcel ID	Address
	20	72-24.1	
	21	72-9.1	
	22	72-10	
	23	077-001-000	
	24	72-11 ***	
	25	72-14	
	26	72-15	
	27	077-002-006	
	28	077-002-004	
	29	077-004-000	
	30	083-001-000	
	31	083-005-000	
	32	083-005-000	
	33	083-005-000	
	34	083-006-000	
	35	083-006-000	
	36	083-010-000	
	37	083-012-000	
	38	083-012-000	
	39	083-013-000	

*Amended 2/2/2021

Figure 3 Leased Property Owner Key

Property Owner	Map Reference	Parcel ID	Address
	40	083-014-000	
	41	077-006-003-001	
	42	077-006-001	
	43	077-005-000	
	44	077-005-001	
	45	077-009-000	
	46	077-010-005	
	47	077-010-005	
	48	077-010-005	

Figure 3 Adjacent Property Owner Key*

Property Owner	Map Reference	Parcel Id	Address
	49	083-003-000	
	50	083-004-017	
	51	083-003-001	
	52	077-006-004	
	53	077-006-002	
	54	077-006-005	
	55	077-006-000	
	56	077-006-001-002	
	57	077-008-001	
	58	077-006-003	
	59	077-007-002	
	60	077-007-001	
	61	071-012-000	
	62	077-007-000	
	63	077-008-000	
	64	077-010-001	
	65	077-010-001-001	
	66	077-005-000	
	67	077-002-001	
	68	077-004-001	

Figure 3 Adjacent Property Owner Key *

Property Owner	Map Reference	Parcel Id	Address
	69	077-003-000	
	70	077-005-002	
	71	083-021-000	
	72	077-006-001-001	
	73	72-5	
	74	61-44.1	
	75	61-44	
	76	71-32	
	77	71-33	
	78	72-25	
	79	71-43	
	80	72-28	
	81	72-3	
	82	71-45	
	83	71-46.2	
	84	71-36	
	85	71-47	
	86	71-46.1	
	87	71-46.4	
	88	71-46.3	

Figure 3 Adjacent Property Owner Key *

Property Owner	Map Reference	Parcel Id	Address
	89	72-23	
	90	077-002-000	
	91	81-13	
	92	72-2	
	93	61-41	
	94	61-42.1	
	95	61-42.3	
	96	61-41.1	
	97	61-42	
	98	61-39	
	99	61-38	
	100	61-37	
	101	61-36	
	102	61-65	
	103	81-14	
	104	61-35	
	105	71-21	
	106	71-40	
	107	71a-37	
	108	72-24	

Figure 3 Adjacent Property Owner Key *

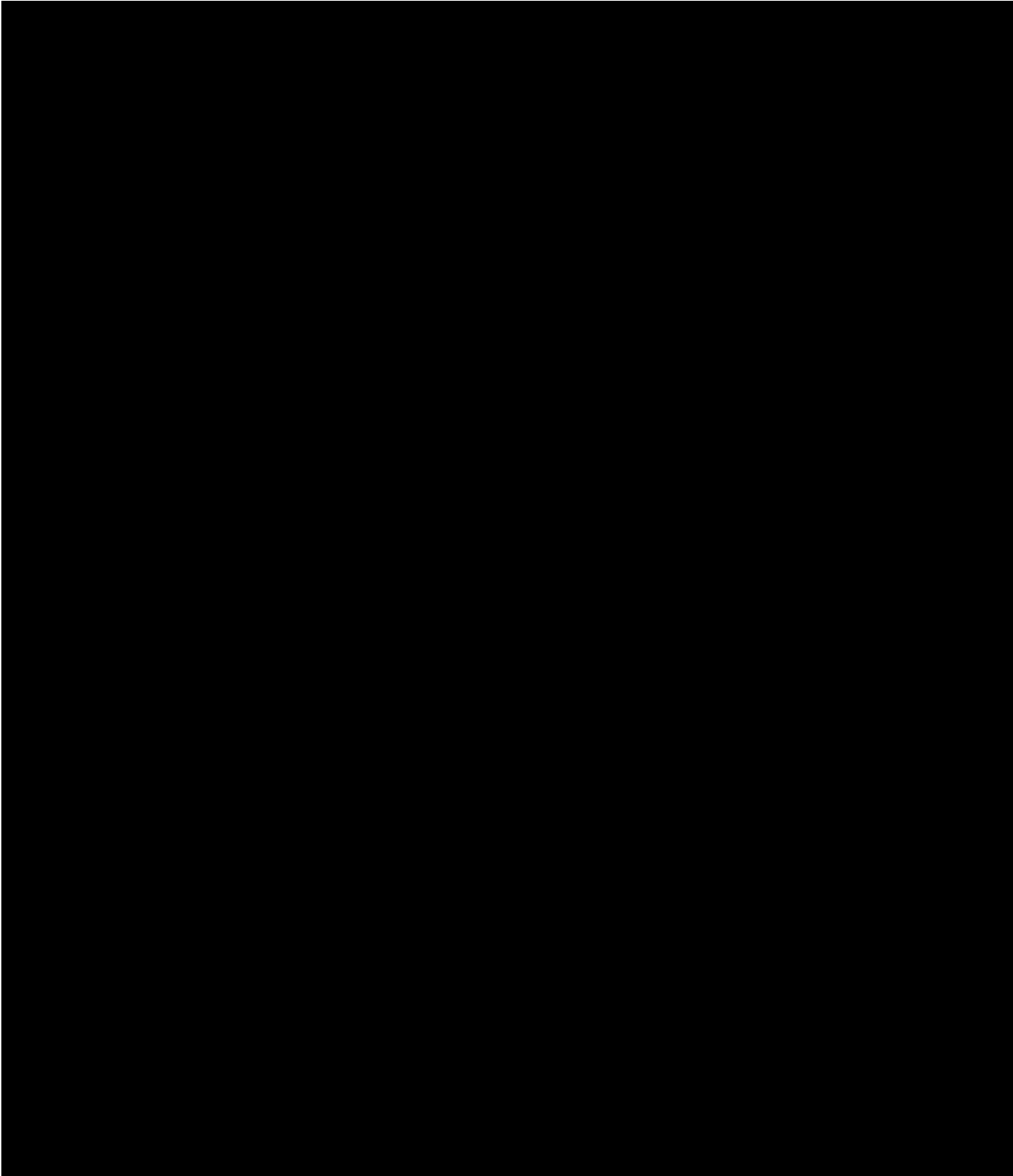
Property Owner	Map Reference	Parcel Id	Address
	109	72-26.1	
	110	72-7	
	111	72-9	

Figure BBC 04
Unbridled Transfer Study



Engineers and Consultants

Date: 25-November-2019
To: Randy Porter, Geronimo Energy
From: Sean Hagen, Mesa Associates, Inc.
**Subject: 100 MW Solar Power Project Network
Upgrades Assessment**
Project: Mesa Project No. 19606001





Engineers and Consultants

