

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

In the Matter of:

*Electronic* Application of Golden Solar,            )  
LLC for Certificate of Construction for            )  
an approximately 100 Megawatt                    )  
Merchant Electric Solar Generating            )  
Facility in Caldwell County, Kentucky         )

Case No.  
2020-00243

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**Golden’s Petition for Confidential Treatment of Information**

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Golden Solar, LLC (“Golden”) respectfully submits this Petition pursuant to 807 KAR 5:001 § 13 and 807 KAR 5:110 § 5 for confidential treatment of certain information responsive to the post hearing requests for information in this case. In support of this Petition, Golden states as follows:

1. On this date, Golden filed with the Siting Board its Responses to Siting Board Staff’s Post Hearing Request for Information (“PH ESB \_\_\_”).
2. Golden seeks confidential treatment for the documents provided in response to PH ESB 01. PH ESB 01 requests the affected systems studies completed by Midcontinent Independent System Operation, Inc. (MISO) and the Tennessee Valley Authority (TVA). Responsive studies (the “Studies”) and the related attachments provided therein have been provided separately and only under seal as instructed by 807 KAR 5:001, § 13(2)(a)(3)(b) since the entirety of the documents are confidential. This is done in lieu of the otherwise required highlighting and redactions. The information in the documents for which Golden here seeks confidential treatment is not publicly disseminated, and public disclosure of this information should not be done for various reasons discussed in the following paragraphs.

3. The Studies should be kept confidential because they contain confidential and proprietary business information as well as “trade secrets” as defined by KRS 365.880(4), and therefore fall within the scope of the KRS 61.878(1)(c)(1) exemption from disclosure. The information for which confidential treatment is sought in this Petition is treated as confidential by Golden and its affiliates; even among employees it is not disseminated to those who do not have a business reason to use the information. Commercial information (such as that contained in the Studies) generally recognized as confidential is protected if disclosure would cause competitive injury and permit competitors an unfair commercial advantage. Golden should not be forced to share this information publicly to its possible detriment and to the detriment of the non-party preparer of the Studies.

4. If the confidential commercial information and trade secrets do not receive confidential treatment, the risk of harm would be unnecessarily increased that Golden and its affiliates would suffer a serious business injury and these trade secrets/information would be misappropriated by developers and other competitors in the merchant solar industry. Public disclosure of the information in the identified documents may cause competitive harm to Golden and its affiliates as well as the third parties preparing the Studies and could cause a reduction in competition relating to similar merchant solar plants. For example, if disclosed, the Studies would give competitors sensitive information about, e.g., (a) development strategy and capability and (b) analysis of networks, their problems, and potential.

5. Also, the Studies should be kept confidential because these provide critical infrastructure information that falls within KRS 61.878(1)(m)(1), which protects “[p]ublic records the disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability in preventing protecting against, mitigating, or responding to a

terrorist act....,” and specifically exempts from public disclosure certain records pertaining to public utility critical systems. See KRS 61.878(1)(m)(1)(f). The Studies includes identifications and depictions of certain critical energy infrastructure necessary to transmit electricity and heat in the region.

6. If the Studies are disclosed the information could be utilized to commit or further a criminal or terrorist act, disrupt critical public utility systems, and/or intimidate or coerce the civilian population. Disclosure of the Studies could also result in the disruption of innumerable other infrastructure systems which relate to, or rely upon, the safe and reliable provision of electricity and heat. Moreover, disclosure of the Studies could have a reasonable likelihood of threatening the public safety. Put plainly, maintaining the confidentiality of the Studies relating to critical energy infrastructure is necessary to protect the interests of Golden Solar and the region at large.

7. 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 Golden’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.

8. In compliance with 807 KAR 5:001, §§ 8(3) and 13(2)(a)(3), Golden is filing with the Siting Board one copy of the identified attachments under seal and entirely unredacted. 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.

9. 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. Golden respectfully submits the Studies should remain confidential from the date of the filing until such information becomes publicly available or otherwise no longer warrants confidential treatment.

WHEREFORE, Golden respectfully requests that the Siting Board grant confidential treatment of the information described herein and filed under seal.

Respectfully submitted,

/s/ Kathryn A. Eckert

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