

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

**In the Matter of the Electronic Application of Flat Run)
Solar, LLC for a Certificate of Construction for an) Case No. 2020-00272
Approximately 55 Megawatt Merchant Electric Solar)
Generating Facility in Taylor County, Kentucky)
Pursuant to KRS 278.700 and 807 KAR 5:110)**

**FLAT RUN SOLAR, LLC'S
PETITION FOR CONFIDENTIAL TREATMENT**

Flat Run Solar, LLC (“Flat Run”), 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 that the Siting Board has requested to be filed in Items 4(c) and 14(b) of the Initial 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).

The Siting Board has requested copies of leases for the project’s properties. 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).

Flat Run 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. The Siting Board recently granted confidential treatment for similar requests by solar developers. *See Glover Creek Solar, LLC*, Case No. 2020-00043 (Ky. PSC Oct. 2, 2020).

For the foregoing reasons, Flat Run respectfully requests confidential treatment of the aforementioned information for a permanent period of time.

Respectfully submitted,
Sturgill, Turner, Barker, & Moloney, PLLC

/s/M. Todd Osterloh
James W. Gardner
M. Todd Osterloh
333 West Vine Street, Suite 1500
Lexington, KY 40507
Phone: 859-255-8581
Fax: 859.231.0851
jgardner@sturgillturner.com
tosterloh@sturgillturner.com

COUNSEL FOR FLAT RUN