

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

**ELECTRONIC APPLICATION OF ASHWOOD)
SOLAR I, LLC FOR A CERTIFICATE OF)
CONSTRUCTION FOR AN APPROXIMATELY)
86 MEGAWATT MERCHANT ELECTRIC) Case No. 2020-00280
SOLAR GENERATING FACILITY IN LYON)
COUNTY, KENTUCKY PURSUANT TO KRS)
278.700 AND 807 KAR 5:110)**

PETITION FOR CONFIDENTIAL TREATMENT

Ashwood Solar I, LLC (“Ashwood Solar”), 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 documents it filed as a part of its Responses to the Siting Board Staff’s and BBC Research & Consulting’s Initial Request 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 25 of the Siting Board Staff’s Initial 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).

Ashwood Solar 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. Ashwood Solar has further redacted highly sensitive information that would not be relevant for the Siting Board’s decision under KRS 278.710. 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).

In addition, Ashwood Solar’s narrative response to Item 5 of BBC Research and Consulting’s request relates to concerns that were received by Ashwood Solar resulting from the public outreach efforts. The response specifically identifies certain individuals who discussed the project with representatives of Ashwood Solar, in addition to the concerns that they raised.

KRS 61.878(1)(j) permits non-disclosure of “correspondence with private individuals.” This is particularly true when the communications are “under conditions in which the candor of the correspondents depends on assurances of confidentiality.” 00-ORD-168, at 2. With respect to the communications at issue here, the individuals who discussed the project with representatives of Ashwood Solar would not have knowledge that their communications would be subject to public disclosure. This is not a circumstance where the private individuals were

communicating with a public agency to provide input on how they believed the agency should handle a certain matter.

Similarly, KRS 61.878(1) protects “information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.” The information on which confidential treatment is requested contains information of a personal nature. Specifically, individuals were able to discuss their specific concerns about the project. Their comments provide insight into the inner workings of their personal concerns. And not everyone may want their concerns articulated in a public forum.

While Ashwood Solar desires to provide complete information to the Siting Board, it has reservations about publicly disclosing communications with private individuals, in which they express their personal feelings. Accordingly, Ashwood Solar respectfully requests confidential protection in perpetuity of the relevant narrative response to Item 5 of the Responses to the BBC Research & Consulting’s Initial Request for Information.

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

Respectfully submitted,



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