

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

In the Matter of:

ELECTRONIC APPLICATION OF GREEN)
RIVER SOLAR LLC FOR A CERTIFICATE OF)
CONSTRUCTION FOR AN APPROXIMATELY)
200 MEGAWATT MERCHANT ELECTRIC) Case No. 2020-00387
SOLAR GENERATING FACILITY IN)
BRECKENRIDGE AND MEADE COUNTY,)
KENTUCKY, PURSUANT TO KRS 278.700)
AND 807 KAR 5:110)

**GREEN RIVER SOLAR LLC’S MOTION FOR
CONFIDENTIAL TREATMENT**

Comes now Green River Solar LLC, (“Green River”), by and through counsel, pursuant to KRS 61.878, 807 KAR 5:001, Section 13 and other applicable law, and for its Motion requesting that the Kentucky State Board on Electric Generation and Transmission Siting (“Siting Board”) afford confidential treatment to certain information filed in its Responses to Siting Board Staff’s First Request for Information (“Staff’s First Request”), respectfully states as follows:

1. Green River’s Application in the above-styled proceeding was deemed filed on June 30, 2021.
2. Siting Board Staff issued Staff’s First Request on August 11, 2021.
3. As part of Green River’s responses to Staff’s First Request, Green River is filing responses to information requests concerning sensitive information contained in its solar lease easement agreements. Collectively this information and these documents are hereinafter referred to as the “Confidential Information.”

4. Specifically, the Confidential Information is being provided in response to Staff's First Request Nos. 3b and 24b.

5. Request No. 3b from the Staff's First Request states as follows:

The map in the Application, Volume 1, Tab 1, Attachment A, is the only map that shows the route of the underground wiring from the solar arrays to the project substation. The preliminary site layout should show the right-of-way (ROW) of the underground wiring from the fenced area of the arrays to the project substation. Submit a new set of maps for the preliminary site layout showing the ROW for the underground wiring for the Project. This can be an overlay to the Application, Volume 2, Tab 11, Attachment A, Exhibit 3, Preliminary Site Layout. Include the names of the property owners that currently own the ROW on the layout.

b. Submit copies of all ROW agreements/easements that are not part of leases for the solar arrays.

6. In the response to Request No. 3b, Green River is providing easement agreements that are not part of the leases for the solar arrays. These agreements have sensitive, proprietary commercial information concerning pricing and other terms and conditions that could be detrimental to Green River in future negotiations if made public. Such disclosure would also give considerable advantage to other companies – perhaps numbering two dozen or more – who are currently negotiating with landowners across the Commonwealth of Kentucky for similar leasing arrangements. Disclosure of Green River's lease provisions, pricing and terms and conditions would severely prejudice its ability to do business within the Commonwealth of Kentucky on a level playing field with competitors.

7. Request No. 24b. from Staff's First Request states as follows:

Submit a parcel map or maps that show all of the parcels involved in the Project. The parcels should correspond to those of the Meade County and Breckinridge County Property Valuation Administrators (PVAs). This is to check that the records for all leases, purchases, and easements have been included in the application and the adjacent parcels have been notified. The parcel map must include four types of parcels that are color-coded: (1)

those parcels that are leased or purchased for the solar arrays and substation, (2) those parcels that are adjacent to the parcels in (1) and are required for underground wiring ROW, (3) all other parcels adjacent to (1), and (4) all other parcels required for underground wiring ROW. Label each parcel with a unique parcel ID.

b. Provide copies of the leases or purchases of the parcels for the solar arrays. Index them with the parcel ID on the map.

8. In the response to Request No. 24b, Green River is providing copies of lease agreements for the parcels for the solar arrays. These agreements also contain sensitive, proprietary commercial information concerning pricing and other terms and conditions that could be detrimental to Green River in future negotiations if made public. Such disclosure would also give considerable advantage to other companies – perhaps numbering two dozen or more – who are currently negotiating with landowners across the Commonwealth of Kentucky for similar leasing arrangements. Disclosure of Green River’s lease provisions, pricing and terms and conditions would severely prejudice its ability to do business within the Commonwealth of Kentucky on a level playing field with competitors.

9. The information included in the responses listed above is only being provided under seal since Green River is requesting confidential treatment for the entire documents. The pervasiveness of the confidential information included in the leases is so great that filing redacted copies in the public record would be effectively useless. The Confidential Information contains such highly confidential and proprietary information that is included in virtually every single provision of the agreements, making it extremely difficult to redact the information and provide a document that would be readable. Due to the nature of the documents Green River is requesting confidential treatment for the entirety of these documents.

10. The Kentucky Open Records Act exempts the Confidential Information from public disclosure. *See* KRS 61.878(1). Moreover, the Kentucky Supreme Court has stated, “information

concerning the inner workings of a corporation is ‘generally accepted as confidential or proprietary.’” *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995). Furthermore, the Confidential Information is retained by Green River on a “need-to-know” basis and is not publicly available. Because the Confidential Information is critical to Green River’s effective execution of business decisions and strategy it satisfies both the statutory and common law standards for being afforded confidential treatment. The leases would also qualify as trade secrets under Kentucky law.

11. In accordance with the provisions of 807 KAR 5:001, Section 13(2), Green River is filing one copy of the Confidential Information separately under seal. The filing of the Confidential Information is noted in the public version of Green River’s responses.

12. In accordance with the provisions of 807 KAR 5:001, Section 13(3), Green River respectfully requests that the Confidential Information in the responses be withheld from public disclosure for a period of ten years. This will assure that the Confidential Information – if disclosed after that time – will be less likely to include information that continues to be commercially sensitive so as to impair the interests of Green River if publicly disclosed. Green River reserves the right to seek an extension of the grant of confidential treatment if it is necessary to do so in the future.

WHEREFORE, on the basis of the foregoing, Green River respectfully requests the Commission to enter an Order granting this Motion for Confidential Treatment and to so afford such protection from public disclosure to the unredacted copies of Confidential Information, which is filed herewith under seal, for the periods set forth herein.

This 27th day of August, 2021.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that the electronic filing has been transmitted to the Commission on August 27, 2021 and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085 no paper copies of this filing will be made.



Counsel for Green River Solar LLC