

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

In the Matter of:

ELECTRONIC APPLICATION OF HORUS)
KENTUCKY 1 LLC FOR A CERTIFICATE OF)
CONSTRUCTION FOR AN APPROXIMATELY)
69.3 MEGAWATT MERCHANT ELECTRIC) Case No. 2020-00417
SOLAR GENERATING FACILITY IN SIMPSON)
COUNTY KENTUCKY PURSUANT TO KRS)
278.700 AND 807 KAR 5:110)

HORUS KENTUCKY 1 LLC’S MOTION FOR CONFIDENTIAL TREATMENT

Comes now Horus Kentucky 1 LLC (“Horus” or “Applicant”), by and through counsel, pursuant to KRS 61.878, 807 KAR 5:110, Section 5 and other applicable law, and for its Motion requesting that the Kentucky State Board on Electric Generation and Transmission Siting (the “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. Horus’s Application in the above-styled proceeding was filed on July 5, 2021.
2. On July 28, 2021, the Kentucky State Board on Electric Generation and Transmission Siting (the “Board”) entered its Order setting the procedural schedule in this matter.
3. Board Staff issued Staff’s First Request on August 19, 2021.
4. As part of Horus’s responses to Staff’s First Request, Horus is filing responses to information requests that contain sensitive financial information. Collectively this information and these documents are hereinafter referred to as the “Confidential Information.”
5. Specifically, the Confidential Information is being provided in response to Staff’s First Request Nos. 9, 13, 14(e), 55, and 57(d).
6. Request No. 9 from the Staff’s First Request states as follows:

Refer to the Application, Appendix E, page 2. Explain what proportion of the \$80 million in capital cost for the construction phase are expected to be spent on equipment and services in (1) Kentucky, (2) Simpson County.

7. In the response to Request No. 9, Horus is providing detailed financial spending estimates. This financial information contains sensitive, proprietary commercial information concerning pricing and cost inputs that could be detrimental to Horus in future negotiations if made public. Such disclosure would also give considerable advantage to other companies. Disclosure of Horus's financial information would severely prejudice its ability to do business within the Commonwealth of Kentucky on a level playing field with competitors.

8. Request No. 13 from the Staff's First Request states as follows:

Refer to the Application, Appendix E, pages 2–3. Provide a separate discussion of the employment, labor income, value added, and output effects of the construction phase and the operations phase of the project. Include in the discussion the separate effects upon Simpson County and the State of Kentucky.

9. In the response to Request No. 13, Horus is providing detailed financial spending estimates. This financial information contains sensitive, proprietary commercial information concerning pricing and cost inputs that could be detrimental to Horus in future negotiations if made public. Such disclosure would also give considerable advantage to other companies. Disclosure of Horus's financial information would severely prejudice its ability to do business within the Commonwealth of Kentucky on a level playing field with competitors.

10. Request No. 14(e) from the Staff's First Request states as follows:

Refer to the Application, Appendix E, pages 1–3. The table on page 2 and the chart on page 3 lists the direct impacts of the construction phase of the project with \$80 million attributed to Display Code 52. The indirect and induced impacts of the project are found in all other industrial categories for combined impacts of an additional \$17,741,854.49.

e. Explain whether the Impacts are on a gross or net basis, taking into account the economic value of the land and labor that is currently being employed on the project footprint. Refer to the Application, Appendix E,

page 3. Provide the raw data for the employment impact chart at the top of page 3.

11. In the response to Request No. 14(e), Horus is providing detailed financial spending estimates. This financial information contains sensitive, proprietary commercial information concerning pricing and cost inputs that could be detrimental to Horus in future negotiations if made public. Such disclosure would also give considerable advantage to other companies. Disclosure of Horus's financial information would severely prejudice its ability to do business within the Commonwealth of Kentucky on a level playing field with competitors.

12. Request No. 55 from the Staff's First Request states as follows:

Refer generally to Appendix E (Economic Impact Analysis).

a. Provide an estimate of the amount of money likely to be spent on purchases of materials, supplies, equipment or other items in Simpson County in support of facility construction.

b. Provide an estimate of the amount of money likely to be spent on purchases of materials, supplies, equipment, or other items outside of Simpson County, but within the Commonwealth of Kentucky in support of facility construction.

c. Provide an estimate of the amount of sales or use tax revenue generated by the purchase of construction materials within Kentucky.

d. Provide the approximate percentage of the estimated 100 FTE construction workers that will be hired from within Simpson County (local residents).

e. Explain the estimate of \$29.7 million in construction labor income for 100 FTEs, which amounts to over \$297,000 per FTE over the 12 to 18 month construction period. If necessary, revise the estimate of labor income and the associated estimate of payroll taxes.

13. In the response to Request No. 55, Horus is providing detailed financial spending estimates. This financial information contains sensitive, proprietary commercial information concerning pricing and cost inputs that could be detrimental to Horus in future negotiations if made public. Such disclosure would also give considerable advantage to other companies. Disclosure of

Horus's financial information would severely prejudice its ability to do business within the Commonwealth of Kentucky on a level playing field with competitors.

14. Request No. 57(d) from the Staff's First Request states as follows:

Provide a copy of the decommissioning plan, if available.

d. Confirm that the Project site will be returned to pre-existing conditions.

15. In the response to Request No. 57(d), Horus is providing detailed financial information. This financial information contains sensitive, proprietary commercial information concerning pricing and profit that could be detrimental to Horus in future negotiations if made public. Such disclosure would also give considerable advantage to other companies. Disclosure of Horus's financial information would severely prejudice its ability to do business within the Commonwealth of Kentucky on a level playing field with competitors.

16. 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); *see also Marina Management Services, Inc. v. Commonwealth, Cabinet for Tourism Dept. of Parks*, 906 S.W.2d 318, 319 (Ky. 1995). Furthermore, the Confidential Information is retained by Horus on a "need-to-know" basis and is not publicly available. Because the Confidential Information is critical to Horus's effective execution of business decisions and strategy it satisfies both the statutory and common law standards for being afforded confidential treatment.

17. In accordance with the provisions of 807 KAR 5:110, Section 5(2)(b), Horus is filing a copy of its Responses to Staff's First Request with the Confidential Information redacted.

18. In accordance with the provisions of 807 KAR 5:110, Section 5(2)(a), Horus is filing separately, under seal, a copy of its Responses to Staff's First Request with the Confidential Information highlighted. The filing of the Confidential Information is noted in the public version of Horus's responses.

19. In accordance with the provisions of 807 KAR 5:110, Section 5(6), Horus 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 Horus if publicly disclosed. Horus 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, Horus 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 2nd day of September, 2021

Respectfully Submitted,

/s/ Randall L. Saunders

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing *“Motion for Confidential Treatment”* has been served upon the following counsel of record via the PSC’s e-filing system:

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/s/ Randall L. Saunders