

**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 Second Request for Information (“Staff’s Second 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 Siting Board Staff’s First Request for Information (“Staff’s First Request”) on August 19, 2021.
4. Horus filed its Response to Staff’s First Request on September 2, 2021.
5. Board Staff issued Staff’s Second Request on September 16, 2021.
6. As part of Horus’s responses to Staff’s First Request, Horus is filing responses to information requests that contain sensitive information.

7. Specifically, the Confidential Information is being provided in Exhibits E, F, and I, and in Response to Request 38.

8. In Exhibit E, the Applicant is providing a Phase I Archeological Survey.

9. In Exhibit F, the Applicant is providing an Architectural Survey.

10. In Exhibit I, the Applicant is providing Lease Agreement Copies.

11. In Response to Request 38, the Applicant divulges certain financial information.

12. With these Exhibits and in Response to Request 38, Horus is providing the confidential information that contains sensitive, proprietary commercial information that could be detrimental to Horus in future negotiations if made public. Such disclosure would also give considerable advantage to other companies. Disclosure of this information would severely prejudice its ability to do business within the Commonwealth of Kentucky on a level playing field with competitors.

13. 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.

14. 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.

15. 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 Second Request with the Confidential Information included. The filing of the Confidential Information is noted in the public version of Horus's responses.

16. 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 the maximum period prescribed by law. 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 of Confidential Information, which is filed herewith under seal, for the periods set forth herein.

This 30th 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