

COMMONWEALTH OF KENTUCKY

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

IN THE MATTER OF:

THE ELECTRONIC APPLICATION OF)
SEBREE SOLAR, LLC FOR A CERTIFICATE)
TO CONSTRUCT AN APPROXIMATELY 250)
MEGAWATT MERCHANT SOLAR ELECTRIC) CASE NO. 2021-00072
GENERATING FACILITY AND AN)
APPROXIMATELY 4.85 MILE)
NONREGULATED ELECTRIC TRANSMISSION)
LINE IN HENDERSON COUNTY, KENTUCKY)
AND WEBSTER COUNTY, KENTUCKY)
PURSUANT TO KRS 278.700, ET SEQ. AND)
807 KAR 5:110, ET SEQ.)

**SEBREE SOLAR LLC'S
MOTION FOR CONFIDENTIAL TREATMENT**

Comes now Sebree Solar LLC (“Sebree”), by 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 Post-Hearing Data Requests, respectfully states as follows:

1. Sebree’s Application in the above-styled proceeding was filed on August 13, 2021. Following discovery, a site visit and the filing of the Siting Board consultant’s report, a hearing was held on December 21, 2021. Subsequent to the hearing, the Siting Board issued the Post-Hearing Data Requests on January 4, 2022.

2. As part of Sebree’s response to Post-Hearing Data Request No. 2, Sebree is filing copies of “leases for the leased properties in the Project, including the proposed solar facility and

the proposed transmission line” as Attachment 2a (facility leases) and Attachment 2c (transmission line leases). Collectively these lease documents are hereinafter referred to as the “Confidential Information.”

3. The Confidential Information has sensitive, proprietary commercial information concerning pricing and other terms and conditions that could be detrimental to Sebree in future negotiations if made public. Such disclosure would also give a considerable advantage to other companies who are currently negotiating with landowners across the Commonwealth of Kentucky for similar leasing arrangements. Disclosure of Sebree’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.

4. The Confidential Information is being provided in a form with significant portions of the leases redacted. An unredacted copy of the Confidential Information is being provided to the Siting Board under seal.

5. 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 Sebree on a “need-to-know” basis and is not publicly available. Indeed, the lessors who are signatories to these leases have a contractual obligation to keep the terms of the leases confidential. Because the Confidential Information is critical to Sebree’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.

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

7. In accordance with the provisions of 807 KAR 5:001, Section 13(3), Sebree 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 Sebree if publicly disclosed. Sebree 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, Sebree 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.

Done this 14th day of January 2022.

Respectfully submitted,



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