

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 IN HENDERSON)	
COUNTY, KENTUCKY PURSUANT TO)	
KRS 278.700, ET SEQ. AND 807 KAR 5:110)	

SEBREE SOLAR LLC’S MOTION FOR
CONFIDENTIAL TREATMENT

Comes now Sebree Solar LLC (“Sebree Solar” or “Applicant”), by counsel, and 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. Sebree Solar’s Application in the above-styled proceeding was deemed filed on August 13, 2021.
2. Siting Board Staff issued Staff’s First Request on October 1, 2021.
3. As part of Sebree Solar’s responses to Staff’s First Request, it is filing responses to information requests concerning sensitive information contained in its Decommissioning Plan which is filed as an attachment to Request No. 35. Collectively this information is hereinafter referred to as the “Confidential Information.”

4. Specifically, the Confidential Information is being provided in response to Staff's First Request No. 35, which states as follows:

Provide a copy of any decommissioning plan Sebree Solar has developed which describes the environmental impact of decommissioning.

5. In the response to Request No. 35, Sebree Solar is providing a copy of its Decommissioning Plan, which includes detailed estimates as to the costs of implementing its Decommissioning Plan and anticipated salvage values. This information is sensitive, proprietary commercial information concerning pricing estimates that could be detrimental to Sebree Solar in future negotiations if made public.

6. 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. Because the Confidential Information is critical to Sebree Solar's effective execution of business decisions and strategy in the future, it satisfies both the statutory and common law standards for being afforded confidential treatment. Indeed, the Public Service Commission has previously recognized that similar forecasts and analysis are generally confidential and proprietary in nature.¹

7. In accordance with the provisions of 807 KAR 5:001, Section 13(2), Sebree Solar is filing one copy of the Confidential Information separately under seal. The filing of the

¹ *See e.g. In the Matter of the Application of Louisville Gas & Electric Company to Modify its Certificate of Public Convenience and Necessity as to the Mill Creek Unit 3 Flue-Gas Desulfurization Unit*, Order, Case No. 2012-00469 (Ky. P.S.C. July 25, 2013).

Confidential Information is noted in the public version of Sebree Solar's responses.

8. In accordance with the provisions of 807 KAR 5:001, Section 13(3), Sebree Solar respectfully requests that the Confidential Information in the responses be withheld from public disclosure on a permanent basis. This will assure that the Confidential Information will not be released until after the decommissioning of the proposed project is completed and, therefore, will not impair the interests of Sebree Solar.

WHEREFORE, on the basis of the foregoing, Sebree Solar 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 Confidential Information, which is filed herewith under seal, for the period set forth herein.

This 15th day of October, 2021.

Respectfully submitted,



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