

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

IN THE MATTER OF:

THE ELECTRONIC APPLICATION OF )  
THOROUGHbred SOLAR, LLC FOR A CERTIFICATE )  
TO CONSTRUCT A 50 MEGAWATT MERCHANT )  
SOLAR ELECTRIC GENERATING FACILITY IN ) CASE NO. 2022-00115  
HART COUNTY, KENTUCKY PURSUANT TO )  
KRS 278.700, ET SEQ. AND 807 KAR 5:110, ET SEQ. )

---

**THOROUGHbred SOLAR, LLC’S**  
**MOTION FOR CONFIDENTIAL TREATMENT**

---

Comes now Thoroughbred Solar, LLC (“Thoroughbred” or “Applicant”), by and through counsel, pursuant to KRS 61.878, 807 KAR 5:001, Section 13, and 807 KAR 5:110, and seeks confidential treatment of certain information filed in response to the Kentucky Electric Generation and Transmission Siting Board’s (“Siting Board”) November 21, 2022 First Request for Information (“RFI”).

As the Public Service Commission (“PSC”) knows, KAR 5:001, Section 13(1) provides that “all material on file with the commission shall be available for examination by the public *unless the material is confidential.*” (emphasis added). Relatedly, KRS 61.878(1)(a) provides for protection of “[p]ublic records containing information of a personal nature,” and KRS 61.878(1)(c)(1) provides for confidential treatment of:

Records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.

With that, Thoroughbred seeks confidential treatment of information provided in response to RFI Nos. 1, 30, and 50.

RFI No. 1 asks for “a copy of the leases or purchase agreements, including options, separate agreements, or deeds which Thoroughbred Solar has entered into in connection with the proposed solar facility, including the agreements for each of the parcels of the project.” The reasons for confidential treatment are threefold. First, these lease documents contain private information such as landowner names and contact information. Second, the lease documents contain sensitive information that competitors could use to obtain a competitive advantage. Specifically, the documents include information related to lease amounts and payments, escalation terms, parties’ various rights under the agreements, including remedies available for breaches of the agreements, and other economic terms. Public disclosure of these provisions would provide competitive information to (1) developers competing for similar lease terms and (2) landowners who may engage or negotiate with Thoroughbred in future developments. Finally, the terms of the lease agreements themselves provide for confidentiality.

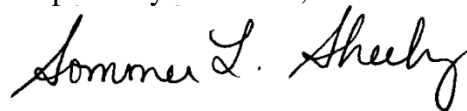
Second, Thoroughbred seeks confidential treatment of the communications being provided in response to Request No. 30, which seeks copies of all communications the Project has had with members of the public. The Project did not advise the persons involved in such communications at the time that they would be filed publicly, and some contain non-public topics or topics of a personal nature.

Finally, Thoroughbred seeks confidential treatment of information provided in response to RFI No. 50, which asks for Thoroughbred to “[p]rovide the estimated total capital cost of the Thoroughbred Solar project.” Confidential treatment is necessary because of the proprietary nature

of the total capital cost of the Project. Possession of such information would be highly advantageous to competitors who seek to undercut Thoroughbred's position.

Information provided in response to both RFIs is generally recognized as confidential or proprietary to developers of all kinds. Accordingly, as required by KAR 5:001, Section 13(2)(a)(2), Thoroughbred respectfully requests that the information provided in response to RFI Nos. 1, 30, and 50 be provided confidential treatment indefinitely.

Respectfully submitted,



---

Dylan F. Borchers  
Sommer L. Sheely  
BRICKER & ECKLER LLP  
100 South Third Street  
Columbus, OH 43215-4291  
Telephone: (614) 227-2300  
Facsimile: (614) 227-2390  
Email: [dborchers@bricker.com](mailto:dborchers@bricker.com)  
[ssheely@bricker.com](mailto:ssheely@bricker.com)

*Counsel for Applicant Thoroughbred Solar, LLC*