

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

In the Matter of:

ELECTRONIC APPLICATION OF)
HUMMINGBIRD ENERGY LLC FOR A)
CERTIFICATE OF CONSTRUCTION)
FOR AN APPROXIMATELY 200)
MEGAWATT MERCHANT ELECTRIC)
SOLAR GENERATING FACILITY AND)
NONREGULATED ELECTRIC)
TRANSMISSION LINE IN FLEMING)
COUNTY, KENTUCKY PURSUANT TO)
KRS 278.700 AND 807 KAR 5:110)

Case No. 2022-00272

RENEWED MOTION FOR CONFIDENTIAL TREATMENT

Comes now Hummingbird Energy LLC (“Hummingbird” or “Applicant”), by and through counsel, pursuant to KRS 61.878 and 807 KAR 5:001, Section 13, and hereby files this renewed motion for confidential treatment for certain information filed in response to the Kentucky Electric Generation and Transmission Siting Board (“Siting Board”)’s August 4, 2023 Request for Information.

Hummingbird previously filed a motion for confidential treatment on August 18, 2023, in response to request number 1 of the Siting Board’s First Request for Information. Specifically, the Applicant requested confidentiality for personal information and financial information contained in the leases, easements, and purchase agreements (together, the “Site Control Documents”) entered into in connection with its proposed solar facility (the “Project”), including the agreements for each Project parcel. The Applicant provided unredacted copies of its Site Control Documents under seal with the Siting Board in tandem with its redacted documents filed publicly.

Hummingbird has since updated its prior redactions and now seeks to enter those updated redacted copies in the administrative record. Additionally, the Applicant discovered that an

amended lease was submitted without its original, unamended counterpart; and now seeks to enter a redacted copy of the original lease in the administrative record and provide an unredacted copy of the same under seal to the Siting Board.

Hummingbird hereby reasserts its request for confidential treatment and seeks protection of personal information and financial information contained in the Site Control Documents pursuant to 807 KAR 5:001, Section 4(10)(a)(7) and KRS 61.878(1)(c)(1), respectively.


The Applicant seeks protection of phone numbers and email addresses for landowners that have executed Site Control Documents with Hummingbird. Per 807 KAR 5:001, Section 4(10)(a)(7), the address, phone number, or email address of an individual who is not a party and has not requested to be a party should be redacted and kept confidential. Hummingbird has redacted the phone number and email address for the landowners, but not the physical address. The physical addresses have already been made public through the nature of requesting siting approval.

Hummingbird is also requesting confidential protection of the financial information contained in the Site Control Documents, specifically the payments made to landowners and treatment of taxes related to the transaction. Per KRS 61.878(1)(c)(1) records confidentially disclosed to the Siting Board that are generally recognized as confidential or proprietary, which if disclosed would permit an unfair competitive advantage, should be deemed as confidential and protected from public disclosure. If the payments made to landowners were divulged, it would place Hummingbird at a competitive disadvantage.

Per 807 KAR 5:001, Section 13(2)(a)(2), Hummingbird requests that this information be kept confidential for a period of forty (40) years, the anticipated lifetime of the Project, from the date of the order granting this motion.

Wherefore, Hummingbird Energy LLC respectfully requests the above referenced information be granted the appropriate status and protections due such confidential information.

Respectfully submitted,



Gregory T. Dutton
FROST BROWN TODD LLP
400 W. Market Street, 32nd Floor
Louisville, KY 40202
(502) 589-5400
(502) 581-1087 (fax)
gdutton@fbtlaw.com
Counsel for Hummingbird Energy LLC