

COMMONWEALTH OF KENTUCKY
BEFORE THE ELECTRIC GENERATION
AND TRANSMISSION SITING BOARD

In the Matter of:

ELECTRONIC APPLICATION OF BRIGHT)
MOUNTAIN SOLAR, LLC FOR A)
CERTIFICATE OF CONSTRUCTION FOR AN)
UP TO 80 MEGAWATT MERCHANT)
ELECTRIC SOLAR GENERATING FACILITY)
AND AN APPROXIMATELY 4 MILE)
NONREGULATED ELECTRIC)
TRANSMISSION LINE IN PERRY COUNTY,)
KENTUCKY, PURSUANT TO KRS 278.700,)
ET SEQ. AND 807 KAR 5:110, ET SEQ.)

Case No. 2022-00274

BRIGHT MOUNTAIN SOLAR, LLC'S
MOTION FOR CONFIDENTIAL TREATMENT

Comes now Bright Mountain Solar, LLC (“Bright Mountain” 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 on February 19, 2024 in response to the Kentucky Electric Generation and Transmission Siting Board’s (“Siting Board”) February 9, 2024 Request for Information (“Post-Hearing RFI”).

Specifically, Post-Hearing RFI No. 5 states: “Provide each of the unredacted leases or purchase agreements for every parcel of the projects, including options, separate agreements, or deeds which Bright Mountain has entered into in connection with the proposed solar facility.”

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, Bright Mountain seeks confidential treatment of the redacted information provided in response to Post-Hearing RFI No. 5.

Bright Mountain has already filed redacted copies of the Leases consistent with this Motion for Confidential Treatment, as Attachments A and B to its responses to the Board Staff’s October 19, 2023 Request for Information. There, RFI No. 1 asked for “a copy of the leases or purchase agreements, including options, separate agreements, or deeds which Bright Mountain has entered into in connection with the proposed solar facility, including the agreements for each of the parcels of the project.” Bright Mountain provided the subject leases with landowner identifying information and material financial terms redacted.

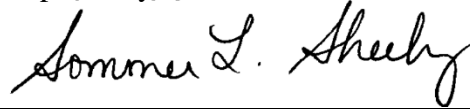
Now in responding to Post-Hearing RFI No, 5, Bright Mountain is concurrently submitting unredacted copies of the leases as requested, but seeks confidential treatment to maintain the confidentiality of the material redacted when submitted in response to October 19, 2023 RFI No. 1.

Confidential treatment of this information is necessary for two reasons. First, the lease documents contain private information such as landowner contact information. Second, the lease documents contain sensitive financial information that competitors could use to obtain a competitive advantage against Bright Mountain. Specifically, the documents include information related to lease amounts and payments, escalation terms, the 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 Bright Mountain in future developments.

Information provided in response to Post-Hearing RFI No. 5 is generally recognized as confidential or proprietary to developers of all kinds. Accordingly, as required by KAR 5:001, Section 13(2)(a)(2), Bright Mountain respectfully requests that the information provided in response to RFI No. 5 be provided confidential treatment indefinitely.

Respectfully submitted,



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