

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

In the Matter of:

**In the Matter of the Application of Dogwood Corners)
LLC for a Certificate of Construction for an)
Approximately 125 Megawatt Merchant Electric Solar) Case No. 2023-00246
Generating Facility in Christian County, Kentucky)
Pursuant to KRS 278.700 and 807 KAR 5:10)**

SECOND PETITION FOR CONFIDENTIAL TREATMENT

Dogwood Corners LLC (“Dogwood Corners”), by counsel, moves the Kentucky Siting Board on Electric Generation and Transmission Siting (the “Siting Board”) for an order granting confidential treatment to certain information in the System Impact Study filed as a supplemental response to Item 16 of the Staff’s First Request for Information. In support of this motion, Dogwood Corners states as follows:

Administrative Regulation 807 KAR 5:110, Section 5 sets forth the procedure by which certain information filed with the Commission shall be treated as confidential. Specifically, the party seeking confidential treatment must establish “each basis upon which the petitioner believes the material should be classified as confidential” in accordance with the Kentucky Open Records Act, KRS 61.878. 807 KAR 5:110 Section 5(2)(a)(1).

The Kentucky Open Records Act exempts certain records from the requirement of public inspection. *See* KRS 61.878. In particular, KRS 61.878(1)(c)(1) exempts from disclosure:

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 present an unfair

commercial advantage to competitors of the entity that disclosed the records.

This exception “is aimed at protecting records of private entities which, by virtue of involvement in public affairs, must disclose confidential or proprietary records to a public agency, if disclosure of those records would place the private entities at a competitive disadvantage.” Ky. OAG 97-ORD-66 at 10 (Apr. 17, 1997). One “obvious disadvantage” is created when proprietary information is disclosed “without the hurdles systematically associated with acquisition of such information about privately owned organizations.” *See Marina Management Service, Inc. v. Commonwealth of Ky., Cabinet for Tourism*, 906 S.W.2d 318, 319 (Ky. 1995). The information and documents referenced below are all confidential and proprietary and the disclosure of which would present an unfair commercial disadvantage to Dogwood Corners.

Through Item 16 of the First Request for Information, the Siting Board seeks copies of the system impact study reports prepared by TVA. TVA has requested that certain information—primarily¹ cost estimates—be maintained as confidential.

The Siting Board has previously granted confidential treatment to these types of cost estimates. Most recently, in Case No. 2023-00263, the Siting Board granted confidential treatment for the same information in the system impact study for Banjo Creek Solar.² In addition, in Case No. 2022-00262, the Siting Board granted confidential treatment to cost estimates contained in Pine Grove Solar’s interconnection agreement with Louisville Gas and Electric Company and Kentucky Utilities Company.³ Banjo Creek Solar requests similar treatment to the cost information in its system impact study prepared by TVA.

¹ TVA also redacted the project name.

² *Banjo Creek Solar LLC*, Case No. 2023-00263 (Ky. PSC [Nov. 13, 2023](#)).

³ *Pine Grove Solar, LLC*, Case No. 2022-00262, 2023 WL 5623926, at *1-2 (Ky. PSC [Aug. 25, 2023](#)).

For the foregoing reasons for an indefinite amount of time, Dogwood Corners respectfully requests confidential treatment of certain information in the System Impact Study reports in perpetuity.

Respectfully submitted,



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