

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

In the Matter of:

Electronic Application Banjo Creek Solar LLC for a)
Certificate of Construction for an Approximately 120)
Megawatt Electric Generating Facility in Graves) **Case No. 2023-00263**
County, Kentucky Pursuant to KRS 278.700 and 807)
KAR 5:110)

MOTION FOR CONFIDENTIAL TREATMENT

Banjo Creek Solar LLC (“Banjo Creek Solar”), by counsel moves the Kentucky State Board on Electric Generation and Transmission Siting (the “Siting Board”) for an order granting confidential treatment to the System Impact Study filed with its application. In support of this application, Banjo Creek Solar 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).

KRS 61.878(1)(m)(1) exempts from disclosure public records that have a reasonable likelihood of threatening public safety by exposing a vulnerability, such as infrastructure records that disclose the “location, configuration, or security of critical systems,” or “detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems.” In addition, KRS 61.878(1)(c)(1) exempts records confidentially disclosed to

an agency that are generally recognized as confidential or proprietary and that would provide an unfair commercial advantage to competitors that disclosed the records.

The Interconnection System Impact Study prepared by Tennessee Valley Authority (“TVA”) and attached to the application as Attachment E identifies Adverse System Impacts on TVA’s transmission system in order to maintain system reliability as a result of the Interconnection Request. The System Impact Study also analyzes the facility additions, modifications, and upgrades that are needed to maintain a reliable interconnection. TVA labeled the System Impact Study as confidential and business sensitive, as it contains Critical Energy Infrastructure Information (“CEII”).

The System Impact Study is exempt from disclosure under the Open Records Act. It contains details of electric infrastructure, including diagrams of anticipated interconnection. It is also a proprietary document from TVA. The Public Service Commission has previously granted confidential treatment to similar CEII.¹

For the foregoing reasons, Banjo Creek Solar respectfully requests confidential treatment of the System Impact Study. If the Siting Board disagrees with this request for confidential protection, it must hold an evidentiary hearing (a) to protect Banjo Creek Solar’s due process rights and (b) to supply the Siting Board with a complete evidentiary record to enable it to reach a decision with regard to this matter.

¹ *Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2014-00371, Order Regarding Request for Confidential Treatment to AG’s Initial Request for Information (Ky. PSC Dec. 2, 2015).

Respectfully submitted,



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