

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

In the Matter of:

ELECTRONIC APPLICATION OF FRON BN, LLC)	
(FRONTIER SOLAR) FOR A CERTIFICATE OF)	
CONSTRUCTION FOR AN APPROXIMATELY 120)	
MEGAWATT MERCHANT SOLAR ELECTRIC)	
GENERATING FACILITY AND NONREGULATED)	Case No. 2023-00360
ELECTRIC TRANSMISSION LINE IN MARION AND)	
WASHINGTON COUNTIES, KENTUCKY)	
PURSUANT TO KRS 278.700 AND 807 KAR)	
5:110)	

PETITION FOR CONFIDENTIAL TREATMENT

FRON bn, LLC (“Frontier”) respectfully submits this Petition pursuant to 807 KAR 5:100 Section 5, for confidential treatment for certain information responsive to the Kentucky Electric Generation and Transmission Siting Board (“Siting Board”) Staff’s First Request for Information filed February 8, 2024. In support of this Petition, Frontier states as follows.

The Siting Board’s request number 1 seeks copies of the leases or purchase agreements, including options, separate agreements, or deeds Frontier has entered into in connection with the proposed solar facility, including the agreements for each project parcel. Frontier is seeking (collectively, the “Site Control Documents”) under 807 KAR 5:001, Section 4(10)(a)(7); and financial information contained in the Site Control Documents under KRS 61.878(1)(c)(1). The publicly filed Site Control Documents have been redacted, with unredacted copies containing material terms provided to the Siting Board under seal.

Specifically, Frontier is seeking protection of phone numbers and email addresses for landowners that have executed Site Control Documents with Frontier. 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. Frontier has redacted the

address 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.

Frontier is also requesting confidential protection of the material terms contained in the project's Site Control Documents. Material terms include information such as the lease amounts; escalation of lease payments; remedies available to the parties for nonperformance of terms; economic terms other than leases rates and related escalations such as signing payments, crop damage calculations, construction rent amounts, extension fees, and holdover rent amounts; the structure of the lease term including the outside date for rent commencement; 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. Frontier's Site Control Documents reveal commercially sensitive information regarding the internal ability and workings of Frontier and its affiliates – in particular, how they evaluate certain land areas for projects, evaluate potential networks, and respond to various issues that arise in merchant solar projects, including negotiated prices and terms for property rights. The price terms negotiated and form provisions, and related acquisition strategy then demonstrate innovative and proprietary processes developed through experience and used by Frontier and its affiliates to develop these facilities and networks. If the Site Control Documents' material terms were divulged, it would cause competitive injury by placing Frontier at a competitive disadvantage.

In compliance with 807 KAR 5:110, § 5 and 807 KAR 5:001 § 13(2)(a)(3), Frontier is filing with the Siting Board one copy of the identified documents entirely unredacted and with highlighting of the material for which confidential treatment is sought. The unredacted copies are

filed under seal pursuant to the instructions regarding confidential filings in the March 24, 2020 Order issued in KY. PSC Case No. 2020-00085; redacted pages have been publicly filed with the electronic copy of Frontier's Response to the Siting Board's Request for Information.

Per 807 KAR 5:001, Section 13(2)(a)(2), Frontier 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, in light of competitive conditions in the merchant solar industry.

Wherefore, FRON bn, LLC respectfully requests that the Siting Board grant confidential treatment of the information described herein, both filed under seal and shown as redacted in the publicly-filed Response to the Siting Board's First Request for Information.

Respectfully submitted,



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