

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 PROTECTION

FRON bn, LLC (“Frontier” or “Project”) respectfully submits this Petition pursuant to 807 KAR 5:110 § 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.

Request number 34 of Siting Board Staff’s First Request for Information seeks copies of any historic or archeologic studies that have been planned or completed for the Project site. Frontier seeks confidential protection pursuant to KRS 61.878(1)(c)(2)(d) for portions of its Critical Issues Analysis (CIA) related to the Project site’s cultural and historical resources. The publicly-filed Critical Issues Analysis has been redacted, with the unredacted pages provided to the Siting Board under seal.

Specifically, Frontier is seeking confidential protection of Figure 5 of the CIA. Granting confidentiality for Figure 5 is proper pursuant to KRS 61.878(1)(c)(2)(d), which 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 are compiled and maintained...[f]or the grant or review of a license to do business.”

Figure 5 of the CIA meets this standard. The CIA is a report that examines land characteristics, development potential, and site constraints for proposed development of a merchant solar electric generating facility. Figure 5 provides locational information of cultural and historical resources reported within and around the Project site. The Siting Board has recognized historical and archaeological studies as confidential and proprietary due to potential concerns of destruction or unpermitted excavation of historically sensitive lands,¹ which aligns with Kentucky policy regarding archaeological sites.² The CIA is being provided to the Siting Board based a request for information in order to consider it for the grant of a construction certificate required for Frontier to conduct business. Accordingly, Figure 5 of the CIA meets the standard set in KRS 61.878(1)(c)(2)(d) and granting confidentiality is appropriate.

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 pages entirely unredacted. 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 will be publicly filed with the electronic copy of Frontier’s Second Supplemental Response to Siting Board Staff’s First Request for Information.

Per 807 KAR 5:001, §13(2)(a)(2), Frontier requests that this information be kept confidential in perpetuity to ensure that the Project’s underlying cultural or historical sites and

¹ *In the Matter of the Electronic Application of Russellville Solar LLC for a Certificate of Construction for an Approximately 173 Megawatt Merchant Electric Solar Generating Facility in Logan County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110*, Case No. 2021-00235, Order entered June 30, 2022.

² Limiting exploration, excavation and collection of archaeological sites and objects of antiquity to qualified persons and educational institutions to preserve the same for the public benefit is the public policy of the Commonwealth. *See* KRS 164.705.

objects of antiquity would not be subject to excavation and removal of materials by unqualified persons in accordance with state policy.

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 Petition for Confidential Protection.

Respectfully submitted,



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