

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	)	

**THIRD PETITION FOR CONFIDENTIAL TREATMENT**

FRON bn, LLC ("Frontier" or "Project") respectfully submits this Petition pursuant to 807 KAR 5:110 § 5, requesting that the Kentucky State Board on Electric Generation and Transmission Siting ("Siting Board" or "Board") afford confidential treatment to certain information filed in the easement agreement submitted as part of Frontier's Third Supplemental Response to Siting Board Staff's First Request for Information submitted herewith. In support of this Petition, Frontier states as follows.

Frontier filed its application in the above-captioned proceeding on November 7, 2023, and received its first data request from the Board on February 8, 2024. Request number 1 in the Board's First Request for Information directed Frontier to "[s]ubmit a copy of the leases or purchase agreements, including options, separate agreements, or deeds that Frontier Solar has entered into in connection with the proposed solar facility, including the agreements for each of the parcels of the project." In response, Frontier submitted the Project's leases, easements, and purchase and sale agreements (collectively, the "Site Control Documents") under seal with the Board pursuant to

807 KAR 5:001, § 4(10)(a)(7) and KRS 61.878(1)(c)(1), requesting confidentiality for landowners' personal information and the Site Control Documents' material terms, respectively.

The Siting Board held an evidentiary hearing on Frontier's application on April 30, 2024. At the evidentiary hearing, Frontier notified the Siting Board of an amendment to the Project's transmission line route, after securing land rights to an additional property parcel for the purpose of installing a power pole thereon (the "Nalley Easement"). The landowners for the Nalley Easement received proper notice of Frontier's application for a construction certificate for the nonregulated electric transmission line through legal notices placed in The Lebanon Enterprise and Springfield Sun, published on December 27, 2023, and included as Exhibit B-2 to Frontier's application. Frontier respectfully requests confidentiality for the material terms of the easement agreement for this parcel.

Specifically, Frontier is seeking confidential protection of the material terms contained in the Nalley Easement pursuant to KRS 61.878(1)(c)(1). Material terms include information such as the payment amounts; escalation of payments; remedies available to the parties for nonperformance of terms; economic terms other than payment rates and related escalations such as signing payments, crop damage calculations, and extension fees; the structure of the agreement term including the outside date for 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. The Nalley Easement, if submitted unredacted, would 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 material terms of the Nalley Easement were divulged, it would cause 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 document entirely unredacted and with highlighting of the material for which confidential treatment is sought. The unredacted copy is filed under seal pursuant to the instructions regarding confidential filings in the March 24, 2020 Order issued in Case No. 2020-00085; a redacted version will be publicly filed with the electronic copy of Frontier's Third Supplemental Response to Siting Board Staff's First 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 easement.

Respectfully submitted,



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