

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

IN THE MATTER OF:

<b>THE ELECTRONIC APPLICATION OF</b>	)	
<b>WEIRS CREEK SOLAR, LLC FOR A</b>	)	
<b>CERTIFICATE TO CONSTRUCT AN</b>	)	
<b>APPROXIMATELY 150 MEGAWATT</b>	)	
<b>MERCHANT SOLAR ELECTRIC</b>	)	<b>CASE NO.</b>
<b>GENERATING FACILITY IN WEBSTER</b>	)	<b>2024-00099</b>
<b>COUNTY AND HOPKINS COUNTY,</b>	)	
<b>KENTUCKY PURSUANT TO KRS 278.700</b>	)	
<b>ET SEQ. AND 807 KAR 5:110</b>	)	

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**WEIRS CREEK SOLAR LLC'S**  
**MOTION FOR CONFIDENTIAL TREATMENT**

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Comes now Weirs Creek Solar, LLC (“Weirs Creek Solar”), by counsel, pursuant to KRS 61.878, 807 KAR 5:001, Section 13 and other applicable law, and requests the Kentucky State Board on Electric Generation and Transmission Siting (“Siting Board”) afford confidential treatment to certain portions of its Response to Siting Board Staff’s First Request for Information (“Staff’s First Request”), Item 38. Weirs Creek Solar respectfully states as follows:

1. On June 6, 2024, Weirs Creek Solar filed its Application in the above-styled proceeding. Siting Board Staff issued Staff’s First Request on July 27, 2024 with responses due on August 5, 2024.

2. As part of Weirs Creek Solar’s response to Staff’s First Request Item 38, Weirs Creek Solar is filing copies of leases and purchase agreements that have been entered into in connection with the proposed solar facility. Collectively these documents are hereinafter referred to as the “Confidential Information.”

3. The Confidential Information has sensitive, proprietary commercial information concerning pricing and other terms (known by the Siting Board as “material terms”) that could be detrimental to Weirs Creek in future negotiations if made public. Such disclosure would also give a considerable advantage to other companies who are currently negotiating with landowners across for similar leasing arrangements. Disclosure of these material terms of the leases would severely prejudice Weirs Creek Solar’s ability to do business on a level playing field with competitors. Therefore, the Confidential Information should be kept confidential pursuant to KRS 61.878(1)(c)(1).

4. In accordance with the provisions of 807 KAR 5:001, Section 13(2), Weirs Creek Solar is filing one copy of the Confidential Information separately under seal. The Confidential Information is being provided in a form with the material terms of the leases redacted and is filing an unredacted copy of the Confidential Information is being provided to the Siting Board under seal.

5. The Kentucky Open Records Act exempts the Confidential Information from public disclosure. *See* KRS 61.878(1). Moreover, the Kentucky Supreme Court has stated, “information concerning the inner workings of a corporation is ‘generally accepted as confidential or proprietary.’” *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995). Furthermore, the Confidential Information is retained by Weirs Creek Solar on a “need-to-know” basis and is not publicly available. Indeed, the lessors who are signatories to these leases have a contractual obligation to keep the terms of the leases confidential. Because the Confidential Information is critical to Weirs Creek Solar’s effective execution of business decisions and strategy it satisfies both the statutory and common law standards for being afforded confidential treatment. The leases would also qualify as trade secrets under Kentucky law.

7. In accordance with the provisions of 807 KAR 5:001, Section 13(3), Weirs Creek Solar respectfully requests that the Confidential Information in the responses be withheld from public disclosure for a period of ten years. This will assure that the Confidential Information will be less likely to include information that continues to be commercially sensitive so as to impair the interests of Weirs Creek Solar if publicly disclosed. Weirs Creek Solar reserves the right to seek an extension of the grant of confidential treatment if it is necessary to do so in the future.

WHEREFORE, on the basis of the foregoing, Weirs Creek Solar respectfully requests the Commission to enter an Order granting this Motion for Confidential Treatment and to so afford such protection from public disclosure to the unredacted copies of the material terms of the leases, which is filed herewith under seal, for the periods set forth herein.

This 5<sup>th</sup> day of August 2023.

Respectfully submitted,

*Heather S. Temple*

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**CERTIFICATE OF SERVICE**

This is to certify that the electronic filing was transmitted to the Commission on August 5, 2024, and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085 no paper copies of this filing will be made.

*Heather S. Temple*

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*Counsel for Weirs Creek Solar, LLC*