

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

In the Matter of:

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|---------------------------------------|---|------------|
| ELECTRONIC APPLICATION OF GREEN RIVER |) | |
| SOLAR, LLC FOR A CERTIFICATE TO |) | |
| CONSTRUCT AN APPROXIMATELY 200 |) | |
| MEGAWATT MERCHANT SOLAR ELECTRIC |) | CASE NO. |
| GENERATING FACILITY IN BRECKINRIDGE |) | 2020-00387 |
| COUNTY AND MEADE COUNTY, KENTUCKY |) | |
| PURSUANT TO KRS 278.700 AND 807 KAR |) | |
| 5:110 |) | |

ORDER

On January 16, 2025, Green River Solar, LLC (Green River Solar) filed a motion pursuant, to 807 KAR 5:110, Section 5, and KRS 61.878, requesting that the Siting Board grant confidential treatment for the amount of financing required for the construction financing as well as the portion of the financing amount specific to Green River Solar for a period of ten years.¹

On November 22, 2024, Green River Solar filed an application for a declaratory order regarding construction financing.² A final Order was entered on December 17, 2024, approving construction financing.³ The final Order required, in part, that Green

¹ Green River Solar's Motion for Confidential Treatment (Post-Case Files) (filed Jan. 16, 2025).

² Green River Solar's Application for Declaratory Order (filed Nov. 22, 2024).

³ Order (Ky. Siting Board Dec. 17, 2024).

River Solar file the total amount of the financing and the portion of that amount related to Green River Solar.⁴

LEGAL STANDARD

The Siting Board is a public agency subject to Kentucky Open Records Act,⁵ which requires that all public records “be open for inspection by any person, except as otherwise provided by KRS 61.870 to KRS 61.884.”⁶ The exceptions to the free and open examination of public records should be strictly construed.⁷ The party requesting that the materials be granted confidential protection has the burden of establishing that one of the exemptions is applicable.⁸ KRS 61.878(1)(c)(1) provides an exception to the requirement for public disclosure of records that are “generally recognized as confidential and proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.”

DISCUSSION AND FINDINGS

In support of its motion, Green River Solar stated that the final Order approving construction financing required, in part, that Green River Solar file the amount of financing and the portion related to Green River Solar.⁹ Green River Solar argued that disclosure

⁴ Order (Ky. Siting Board Dec. 17, 2024) at 5.

⁵ KRS 61.870 through 61.884.

⁶ KRS 61.872(1).

⁷ KRS 61.878.

⁸ 807 KAR 5:110, Section 5(2)(d).

⁹ Green River Solar’s Motion for Confidential Treatment.

of the amount of financing would be detrimental to future negotiations and would give an advantage to other companies.¹⁰

Having considered the motion and the material at issue, the Siting Board finds that the amount of financing that is required for the construction financing for the project, as well as the portion specifically related to Green River Solar, is generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records; it therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:110, Section 5, and KRS 61.878(1)(c)(1) for a period of ten years.

IT IS THEREFORE ORDERED that:

1. Green River Solar's motion for confidential treatment is granted.
2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for ten years or until further order of this Siting Board.
3. Use of the designated material granted confidential treatment by this Order in any Siting Board proceeding shall comply with 807 KAR 5:110, Section 5.
4. If the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment, Green River Solar shall inform the Commission and file with the Commission an unredacted copy of the designated material.
5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been

¹⁰ Green River Solar's Motion for Confidential Treatment at 2.

granted confidential treatment has not expired, Green River Solar shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Green River Solar is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Siting Board shall deny the request for inspection.

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KENTUCKY STATE BOARD ON ELECTRIC
GENERATION AND TRANSMISSION SITING


Chairman, Public Service Commission


Commissioner, Public Service Commission



Commissioner, Public Service Commission


Secretary, Energy and Environment Cabinet,
or her designee


Secretary, Cabinet for Economic Development,
or his designee

by Atty
w/ permission

ATTEST:


Executive Director
Public Service Commission
on behalf of the Kentucky State
Board on Electric Generation
and Transmission Siting



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Judge Executive

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