

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

In the Matter of:

ELECTRONIC APPLICATION OF SEBREE)	
SOLAR, LLC FOR A CERTIFICATE TO)	
CONSTRUCT AN APPROXIMATELY 250)	
MEGAWATT MERCHANT SOLAR ELECTRIC)	
GENERATING FACILITY AND AN)	CASE NO.
APPROXIMATELY 4.5 MILE NONREGULATED)	2021-00072
ELECTRIC TRANSMISSION LINE IN)	
HENDERSON COUNTY, KENTUCKY AND)	
WEBSTER COUNTY, KENTUCKY PURSUANT)	
TO KRS 278.700 AND 807 KAR 5:110)	

ORDER

On January 16, 2025, Sebree Solar, LLC (Sebree 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 that was required for the construction financing for the project for ten years for information

On November 27, 2024, Sebree Solar filed an application for a declaratory order regarding construction financing.¹ A final Order was entered on December 20, 2024, approving construction financing.² The final Order required, in part, that Sebree Solar file the total amount of the financing and the portion of that amount related to Sebree Solar.³

¹ Sebree Solar's Application for Declaratory Order (filed Nov. 27, 2024) (Post Case Filing).

² Order (Ky. Siting Board Dec. 20, 2024).

³ Order (Ky. Siting Board Dec. 20, 2024) at 5.

LEGAL STANDARD

The Siting Board is a public agency subject to Kentucky Open Records Act,⁴ 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.”⁵ The exceptions to the free and open examination of public records should be strictly construed.⁶ The party requesting that the materials be granted confidential protection has the burden of establishing that one of the exemptions is applicable.⁷ 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, Sebree Solar stated that the final Order approving construction financing required, in part, that Sebree Solar file the amount of financing and the portion related to Sebree Solar.⁸ Sebree Solar argued that disclosure of the amount of financing would be detrimental to future negotiations and would give an advantage to other companies.⁹

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

⁴ KRS 61.870 through 61.884.

⁵ KRS 61.872(1).

⁶ KRS 61.878.

⁷ 807 KAR 5:110, Section 5(2)(d).

⁸ Sebree Solar’s Motion for Confidential Treatment (filed Jan. 16, 2025) (Post Case Filings).

⁹ Sebree Solar’s Motion for Confidential Treatment at 2.

well as the portion specifically related to Sebree Solar, is generally recognized as confidential or proprietary which if openly disclosed would permit an unfair commercial advantage to competitors of Sebree Solar; 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. Sebree 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, Sebree 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 granted confidential treatment has not expired, Sebree 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 Sebree 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.

6. The Siting Board shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow Sebree Solar to seek a remedy afforded by law.

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KENTUCKY STATE BOARD ON ELECTRIC
GENERATION AND TRANSMISSION SITING

*Signed
w/permission* Angie Hatten
Chairman, Public Service Commission

Andrew Wood
Commissioner, Public Service Commission

Max Pat Regan
Commissioner, Public Service Commission

*Signed
w/permission* John Lyons
Secretary, Energy and Environment Cabinet,
or her designee

*Signed
w/permission* Jansen Hancock
Secretary, Cabinet for Economic Development,
or his designee

ATTEST:

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



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