

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

In the Matter of:

ELECTRONIC APPLICATION OF RUSSELLVILLE)	
SOLAR LLC FOR A CERTIFICATE OF)	
CONSTRUCTION FOR AN APPROXIMATELY)	CASE NO.
173 MEGAWATT MERCHANT ELECTRIC SOLAR)	2021-00235
GENERATING FACILITY IN LOGAN COUNTY,)	
KENTUCKY PURSUANT TO KRS 278.700 AND)	
807 KAR 5:110)	

ORDER

On March 14, 2022, Russellville Solar LLC (Russellville Solar) filed two motions, the first a request for an expedited decision by June 29, 2022, and the second a request for confidential treatment for designated material in the motion for an expedited decision.

In the motion for an expedited decision, Russellville requested that the Siting Board not schedule a hearing and, pursuant to KRS 278.710(1), render a decision within 120 days of the date of filing the application. In support of its motion to expedite, Russellville Solar argued that if the final Order is not issued by June 29, 2022, then it will be unable to meet its construction schedule and contractual obligations. Russellville Solar stated that the construction time for the proposed project would typically be 16 to 18 months, but it intends to complete the construction in 13 months to meet obligations under Russellville Solar's power purchase agreement. Russellville Solar maintained that, if a hearing is scheduled and the final Order is not entered until 180 days after the application is filed,

then Russellville Solar’s construction schedule would be “unattainable even under ideal circumstances.”¹

In the request for confidential treatment, Russellville Solar requested confidential treatment, pursuant to 807 KAR 5:110, Section 5, and KRS 61.878(1)(c)(1), for the dates related to its power purchase agreement that were contained in the motion to expedite. Russellville Solar requested the designated material be granted confidential treatment through December 31, 2023. As a basis for the request, Russellville Solar asserted that public disclosure of the designated material could result in an unfair commercial advantage to its competitors, and thus should be granted confidential treatment pursuant to KRS 61.878(1)(c)(1), which exempts from open records laws confidential information that if publicly disclosed could result in commercial harm.

Based upon the motion and case record, and being otherwise sufficiently advised, the Siting Board finds that Russellville Solar failed to establish good cause to expedite this proceeding, and therefore the motion is denied. The Siting Board notes that Russellville Solar’s notice of intent was filed on June 11, 2021, but Russellville Solar did not file its application until March 1, 2022, almost nine months after the notice of intent was filed. Russellville Solar did not provide an explanation for the delay in filing the application that would justify an expedited decision. Further, the Siting Board has a statutory duty to conduct a robust and complete review of the application, which includes the necessity for a hearing. For the above reasons, the Siting Board finds that, in accordance with KRS 278.710(1), it will require the statutory period of 180 days to render a decision.

¹ Motion to Expedite at 2.

Regarding the petition for confidentiality, the Siting Board finds that the designated material in the motion to expedite are related to contractual terms that are commercially sensitive and, if disclosed, could present an unfair commercial advantage to competitors of Russellville Solar. Such material is generally recognized as confidential or proprietary; 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). Therefore, the designated material is granted confidential treatment for the time period requested.

IT IS THEREFORE ORDERED that:

1. Russellville Solar's motion to expedite issuance of a final Order is denied.
2. Russellville Solar's petition for confidential treatment is granted.
3. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection until after December 31, 2023, or until further order of this Siting Board.
4. 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.
5. Russellville Solar shall inform the Siting Board if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.
6. 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, Russellville 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 Russellville 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.

7. 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 Russellville Solar to seek a remedy afforded by law.

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KENTUCKY STATE BOARD ON ELECTRIC
GENERATION AND TRANSMISSION SITING

[Signature]
Chairman, Public Service Commission

[Signature]
Vice Chairman, Public Service Commission

Commissioner, Public Service Commission

[Signature]
Secretary, Energy and Environment Cabinet,
or her designee

by KAC
w/ permission

[Signature]
Secretary, Cabinet for Economic Development,
or his designee

[Signature]
Judge Logan Click, ad hoc member

ENTERED
MAR 30 2022 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

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

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