

PETITION NO. 1310A – Quinebaug Solar, LLC petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 50 megawatt AC solar photovoltaic electric generating facility on approximately 561 acres comprised of 29 separate and abutting privately-owned parcels located generally north of Wauregan Road in Canterbury and south of Rukstela Road and Allen Hill Road in Brooklyn, Connecticut. Reopening of this petition based on changed conditions pursuant to Connecticut General Statutes §4-181a(b)

*Connecticut
Siting
Council*

January 6, 2023

MOTION FOR PROTECTIVE ORDER

Quinebaug Solar, LLC (“Quinebaug” or the “Petitioner”) respectfully moves the Connecticut Siting Council (the “Council”) for a Protective Order to ensure that confidential financial information provided by Quinebaug in its Final Report, as required by Conn. Agencies Regs. § 16-50j-62(c), for the above-referenced project is protected from public disclosure, in accordance with Conn. Gen. Stat. § 1-210(b) and Conn. Agencies Regs. §§ 16-50j-22a(d)(1) and 16-50j-62(d).

Pursuant to Conn. Gen. Stat. § 1-210(b), the Council is authorized to protect from public disclosure “trade secrets,” which for purposes of the Freedom of Information Act are defined as information, including compilations and cost data “that (1) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use, and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” Conn. Gen. Stat. § 1-210(b)(5)(A); Conn. Gen. Stat. § 35-51(d). The Council is also authorized to protect from public disclosure “[c]ommercial and financial information given in confidence, not required by statute.” Conn. Gen. Stat. § 1-210(b)(5)(B); See, Department of Public Utilities v. Freedom of Information Comm’n, 29 Conn. L. Rptr. 215, 2001 WL 79833, at *3 (Conn. Super. Ct. January

12, 2001); see also *Chief of Staff v. Freedom of Information Comm'n*, 25 Conn. L. Rptr. 270, 1999 WL 643373, at *2-3 (Conn. Super. Ct. August 12, 1999).

Quinebaug is seeking protective treatment of the construction costs of the above-referenced facility. Specifically, the cost of site clearing and access, construction and associated equipment, site rehabilitation, and property acquisition for or access to the project site (the “Confidential Information”).

The Confidential Information is financial information that is commercially valuable and market-sensitive and not publicly available. Public disclosure of the Confidential Information would give competitors insight into the Quinebaug’s internal costs and would allow competitors to extrapolate information about Quinebaug’s, and its corporate parent’s, internal finances and business strategies. Hence, the Confidential Information derives actual and potential independent economic value from not being generally known to, and not being readily ascertainable by proper means by, persons who can obtain economic value from its disclosure and use. Therefore, any disclosure of the Confidential Information would detrimentally and irreparably harm Quinebaug’s business interest and place in the competitive market. For that reason, Quinebaug, and its corporate parent, have historically vigorously protected the Confidential Information, and would not make such information available absent the regulatory requirements of Conn. Agencies Regs. § 16-50j-62(c). Additionally, only those employees who require such information to perform their duties are given access to the Confidential Information.

Neither federal law nor Connecticut statutes require that Quinebaug submit the Confidential Information and/or require the Confidential Information to be filed in the public record. In fact, the Council’s regulations expressly allows “certificate holder, or facility owner or operator, [to] file a motion for a protective order pertaining to commercial or financial information

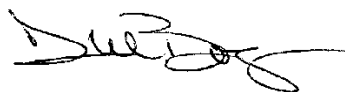
related to the site or access to the site.” Conn. Agencies Regs. § 16-50j-62(d). In prior proceedings, the Council has protected such proprietary cost information from public disclosure. See Petition Nos. 1150, 1181, 1192, Tesla Energy Operations, Inc., Council Decisions on Motion for Protective Order (July 19, 2018); see also Petition No. 1352, Nutmeg Solar, Council Decision on Motion for Protective Order (January 17, 2019).

Attached to this Motion is the Affidavit of Yves Masset, Senior Business Manager, NextEra Energy Resources, LLC, attesting to the need for protective treatment for the Confidential Information.

For the reasons described above, the Confidential Information qualifies as both a trade secret and as commercial financial information given in confidence, not required by statute, and therefore should be exempt from disclosure. Quinebaug requests the Council grant this request for protective treatment consistent with the attached Protective Order.

Respectfully Submitted,

QUINEBAUG SOLAR, LLC



By _____

David W. Bogan, Esq.
Day Pitney, LLP
242 Trumbull Street
Hartford, CT 06103
T: (860) 275-0187
F: (860) 881-2463
Its Attorney