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December 10, 2024

VIA ELECTRONIC MAIL AND FEDEX

Melanie Bachman
Executive Director
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

Re: PETITION NO. 1637 – KCE CT 11, 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 4.99-megawatt AC battery energy storage facility and associated equipment located at 100 Salmon Brook Street, Granby, Connecticut, and associated electrical interconnection.

Dear Ms. Bachman:

I am writing on behalf of my client, KCE CT 11, LLC, (“KCE”) in connection with the above-referenced Petition. Given the Town of Granby’s December 9, 2024 correspondence, KCE is filing the enclosed Motion for Protective Order and accompanying affidavit. Based on the testimony during the November 19, 2024 hearing, KCE believed that the Council instructed KCE to provide certain late filed exhibits pursuant to the existing protective order. Although KCE believes that this testimony is sufficient to allow for the submittal of documentation pursuant to a protective order, KCE is filing the enclosed motion in an attempt to alleviate any further confusion.

In addition, in its December 3, 2024 correspondence to the Council, KCE indicated that Late Filed Exhibit 8 was responsive to the Town of Granby’s Interrogatory No. 8. LFE-8 is actually responsive to Interrogatory No. 9. KCE regrets the error.

Should you have any questions concerning this submittal, please contact me at your convenience. I certify that copies of this submittal have been submitted to all parties on the Application’s Service List as of this date.

Sincerely,

Lee D. Hoffman

Enclosures
cc: Service List

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

Petition No. 1637- KCE CT 11, 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 4.99-megawatt AC battery energy storage facility and associated equipment located at 100 Salmon Brook Street, Granby, Connecticut, and associated electrical interconnection.	Petition No. 1637
	December 9, 2024

AFFIDAVIT OF TAYLOR QUARLES

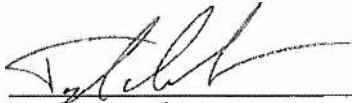
I, Taylor Quarles, do state and declare under penalty of perjury as follows:

1. I am over the age of eighteen and understand the obligation of an oath.
2. I submit this Affidavit in support of the Request for Protective Order as it relates to confidential information which shall be provided by KCE CT 11, LLC (“KCE”) in response to the Connecticut Siting Council’s (“Council”) request for interrogatories within the above-referenced petition.
3. I am employed by Key Capture Energy as Vice President of Development. In that position, I have ultimate responsibility for all aspects of the project that is the subject of this docket as KCE CT 11, LLC is a wholly owned subsidiary of Key Capture Energy.
4. I have personal knowledge of the facts set forth herein unless otherwise stated, in which case, I understand those facts to be true based on information and belief.
5. Specifically, KCE seeks to protect from public disclosure non-public information regarding as that information is embodied in two late-file exhibits that KCE filed in this petition: Late-File Exhibits 2 and 8.
6. LFE-2 consists of the Canadian Solar Emergency Response Plan, and LFE-8 is the Standard SolBank Fire Safety Design. Together, these documents comprise the “Confidential Information” that is referenced in this affidavit and in the accompanying Motion for Protective Order.
7. On April 21, 2023, Key Capture Energy, LLC, the parent of KCE, entered into a Mutual Non-Disclosure & Confidentiality Agreement with Canadian Solar SSES (US) Inc. (the “NDA”).
8. Pursuant to the terms of the NDA, Canadian Solar provided the materials found in the Confidential Information to KCE. Pursuant to Section 3.0 of the NDA, KCE is required to “keep the Confidential Information confidential and secret and not disclose it to anyone except with the prior written consent” of Canadian Solar.

9. Canadian Solar provided written permission for KCE to disclose the information to the Connecticut Siting Council, but only if KCE could do so by filing it pursuant to a protective order, which KCE sought to do.
10. Canadian Solar considers its Emergency Response Plan and its Fire Safety Design as trade secrets that is critical, commercially sensitive, and competitively significant.
11. The Confidential Information constitutes commercial or financial information given from Canadian Solar to KCE in confidence and is exempt from disclosure under both state and federal law. *See*, 5 U.S.C. §552; Conn. Gen. Stat. §1-210(5)(B).
12. Public disclosure would harm Canadian Solar's ability to compete in this very competitive emerging energy storage market. As such, Canadian Solar considers this information to be trade secrets and protects this information from public disclosure. *See*, 5 U.S.C. §552; Conn. Gen. Stat. §1-210(5)(A).
13. KCE would be harmed by the disclosure of the Confidential Information in that its disclosure would violate the terms of the NDA and cause KCE to be subject to potential lawsuits under the terms of the NDA.
14. To the best of my knowledge, no agency of the state of Connecticut, nor any other state or federal agency or court of competent jurisdiction, has previously made a confidentiality determination relevant to the Confidential Information.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Affidavit as of the date set forth above.

KCE CT 11, LLC,

By: 
Name: Taylor Quarles
Title: Director of Development

STATE OF New York
COUNTY OF Kings) SS: _____

On this 9 th day of December, 2024, before me, the undersigned officer, personally appeared Taylor Quarles, the Director of Development of **KCE CT 11 LLC**, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within Instrument and acknowledged that he executed the same as his free act and deed and the free act and deed of the limited liability company for the purposes therein contained.

In Witness Whereof, I hereunto set my hand and official seal.

My commission expires:
[SEAL]

LUCIA S. YU
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 02YU6442727
Qualified in Albany County
Commission Expires October 17, 2026


Notary Public

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

PETITION NO. 1637 – KCE CT 11, 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 4.99-megawatt AC battery energy storage facility located at 100 Salmon Brook Street, Granby Connecticut and associated electrical interconnection.	Petition No. 1637
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MOTION FOR PROTECTIVE ORDER

KCE CT 11, LLC, a subsidiary of Key Capture Energy (“KCE” or the “Petitioner”) respectfully requests that the Connecticut Siting Council (“Council”) admit the documents filed as Late Filed Exhibits (“LFE”) 2 and 8 pursuant to the Protective Order previously entered in this Petition to protect certain confidential information that was provided to KCE as confidential information and which KCE does not have the authority to publicly share.

As indicated in the accompanying affidavit, the information contained in this response includes commercially sensitive, confidential technical, financial and proprietary information, which is the property of Canadian Solar SSES (US) Inc. (“Canadian Solar”). Further, public disclosure of this information would harm both Canadian Solar’s and KCE’s ability to effectively engage in the highly competitive energy storage markets by injuring their competitive positions.

As is explained in greater detail in the accompanying affidavit, on April 21, 2023, Key Capture Energy, LLC, the parent of KCE, entered into a Mutual Non-Disclosure & Confidentiality Agreement with Canadian Solar (the “NDA”). Pursuant to the terms of the NDA, Canadian Solar provided KCE with a variety of documents that Canadian Solar considers confidential, including, but not limited to: the Canadian Solar Emergency Response Plan (which KCE wishes to submit as

LFE-2) and the Standard SolBank Fire Safety Design (which KCE wishes to submit as LFE-8).¹ For purposes of this Motion, these two documents comprise the “Confidential Information” for which KCE is seeking a Protective Order.

On November 19, 2024, the Council signed a Protective Order in this Petition which allows KCE to provide the Council with confidential information. KCE received the Confidential Information that is the subject of this Motion from Canadian Solar, pursuant to the terms of the NDA. Pursuant to Section 3.0 of the NDA, KCE is required to “keep the Confidential Information confidential and secret and not disclose it to anyone except with the prior written consent” of Canadian Solar. Although Canadian Solar provided written permission for KCE to disclose the information to the Connecticut Siting Council, it only granted that permission if the Confidential Information was not posted publicly. In other words, to provide the Council with this information, KCE was specifically instructed to provide the information pursuant to the terms of a Protective Order. Otherwise, KCE does not have permission to provide the Council with the Confidential Information as it is not KCE’s information. The information is owned by Canadian Solar, not KCE.

This issue was specifically addressed by the Council and KCE’s witnesses during the evidentiary hearing on November 19, 2024. The Council requested emergency response information that was developed by Canadian Solar, and KCE’s witnesses testified, as they had previously, that such information was likely labeled as “confidential” by Canadian Solar, and as such, KCE would have to request permission from Canadian Solar to file such information with the Council. Transcript of November 19, 2024 Evidentiary Hearing (“Tr.”) at pages 42 and 45. As

¹ It should be noted that when KCE submitted LFE-8 to the Council on December 3, 2024, KCE indicated that LFE-8 was responsive to Interrogatory Request No. 8 from the Town of Granby. LFE-8 is responsive to the Town’s Interrogatory No. 9. KCE regrets the error.

the discussions related to this information continued during the hearing, it was clear that the Council would take the information pursuant to the existing protective order in this matter. *See* Tr. at 46-48.

Based on the Town of Granby's correspondence to the Council of December 9, 2024, it does not appear that the Town of Granby agreed with this approach. Therefore, KCE is filing this motion to make it clear that: KCE does not own the information that is being requested; KCE has asked for permission from its owner (Canadian Solar) to provide this information to the Council; Canadian Solar has granted its permission, but only if the information is filed pursuant to a protective order; and KCE wishes to file this information pursuant to the existing protective order.

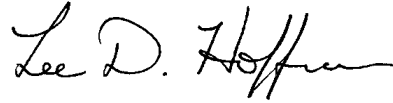
By way of further explanation, Canadian Solar considers its Emergency Response Plan and its Fire Safety Design as trade secrets that are critical, commercially sensitive, and competitively significant. As such, it does not want such information being publicly filed where its competitors can locate such information and use it to their advantage.

KCE does not own the rights to the Confidential Information that has been provided to it and has no choice but to comply with the terms of the NDA. Compelling disclosure of this information would constitute an illegal mandate for disclosure of confidential and proprietary information which is protected under both state and federal law. *See*, 5 U.S.C. §552; Conn. Gen. Stat. §1-210(5). Instead, KCE would like to provide this information directly to the Council under seal, pursuant to the Council's instructions.

WHEREFORE, KCE requests that any review or reference to the above-requested information be conducted pursuant to the Protective Order already issued in this Petition.

Respectfully submitted,

KCE CT 11, LLC ,



By: _____

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Its Attorneys