

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

Tesla Energy Operations, Inc. declaratory ruling that no	:	PETITION NO. 1150
Certificate of Environmental Compatibility and Public Need is	:	
required for the proposed construction and operation of a 3.1	:	
Megawatt Community Shared Solar Photovoltaic Electric	:	
Generating facility located on Brush Hill Road in Bozrah,	:	
Connecticut	:	
	:	
Tesla Energy Operations, Inc. declaratory ruling that no	:	PETITION NO. 1181
Certificate of Environmental Compatibility and Public Need is	:	
required for the proposed construction and operation of a 4.93	:	
Megawatt Community Shared Solar Photovoltaic Electric	:	
Generating facility located at 9 Stott Avenue & 292 Plain Hill	:	
Road, Norwich, Connecticut	:	
	:	
Tesla Energy Operations, Inc. declaratory ruling that no	:	PETITION NO. 1192
Certificate of Environmental Compatibility and Public Need is	:	
required for the proposed construction and operation of a 2.74	:	
Megawatt Community Shared Solar Photovoltaic Electric	:	
Generating facility located at two City of Norwich-owned parcels	:	
on Rogers Road, Norwich, Connecticut	:	
	:	

JUNE 22, 2018

TESLA ENERGY OPERATIONS, INC.
MOTION FOR A PROTECTIVE ORDER
REGARDING CONSTRUCTION COST INFORMATION

Tesla Energy Operations, Inc. (“Tesla”) hereby moves that the Connecticut Siting Council (“Council”) issue protective orders in Petition Nos. 1150, 1181 and 1192 (collectively, the “Petitions”) to protect from public disclosure Tesla’s actual costs of constructing the photovoltaic electric generating facilities (“Facilities”) approved by the Council in the Petitions. This motion is filed pursuant to Section 1-210(b)(5) of the Connecticut General Statutes (“Conn. Gen. Stat.”), Section 16-50j-62(d) of the Regulations of Connecticut State Agencies (“RCSA”), and the Council’s Procedures for Filing Proprietary Information Under Protective Order.

As background, the Council's May 7, 2018 letters in each Petition required Tesla to file information relating to development and management plan conditions and Council regulations including the "the actual construction cost of the facility." Tesla submits that the "the actual construction cost" of its Facilities constitutes confidential and proprietary information and trade secrets under Connecticut's Freedom of Information Act ("FOIA"), and hence is not subject to public disclosure. Therefore, Tesla moves for permission to file its unredacted confidential and proprietary data related to each of the Facilities under seal. In support of this motion, Tesla states as follows:

1. The Council has requested submission of the final report required by RCSA Section 16-50j-62(c) for the three Facilities (collectively, the "Final Reports").
2. Per RCSA Section 16-50j-62(c)(5), the Final Reports must identify "the actual construction cost of the facility, including, but not limited to, the following costs:
 - (A) clearing and access;
 - (B) construction of the facility and associated equipment;
 - (C) rehabilitation; and
 - (D) property acquisition for the site or access to the site."
3. Per RCSA Section 16-50j-62(d), the "facility owner or operator, may file a motion for a protective order pertaining to commercial or financial information related to the site..."
4. Under its procedures, the Council permits the protection of "proprietary information," defined as "any information that may be exempt from public disclosure under FOIA, Conn. Gen. Stat. §1-210(b)." *Connecticut Siting Council - Procedures for Filing Proprietary Information Under Protective Order*, available at <http://www.ct.gov/csc/lib/csc/guides/protectiveorder.pdf#56684>.
5. (a) Conn. Gen. Stat. §1-210(b)(5)(A), exempts from public disclosure "trade secrets," defined as "information, including formulas, patterns, compilations,

programs, devices, methods, techniques, processes, drawings, cost data . . . that (i) derive 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 their disclosure or use, and (ii) are the subject of efforts that are reasonable under the circumstances to maintain secrecy.” The construction cost information requested to be included in the Final Reports constitutes “trade secrets.” It is certainly “cost data.”

(b) Per the attached Affidavit of Julia Collignon, Senior Manager, Commercial Energy Development for Tesla, dated June 22, 2018 (“Collignon Aff.”), Tesla does not publish or disclose this information publically. Tesla’s contracts with outside contractors contain confidentiality provisions which are general in nature and cover project costs, while Tesla employees are prohibited from disclosing certain project information, including construction costs, under their terms of employment; therefore, such information is not generally known to and not readily ascertainable by proper means by competitors or customers. Collignon Aff. ¶¶ 3-8.

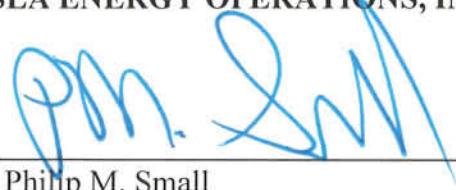
(c) This cost information is valuable due to the fact that it is not publically known. Tesla competes with many other solar developers for wholesale and retail solar customers and for highly-sought after commercial renewable energy development rights. The public disclosure of this proprietary cost information would also allow competitors insight into the cost calculus of Tesla’s solar facility development without allowing Tesla reciprocal access to information regarding competitors’ costs. This would allow Tesla’s competitors to develop future competing bids in a manner to undercut Tesla’s business, thereby putting Tesla at a competitive

disadvantage. Disclosure of this proprietary cost information to Tesla's customers and potential future customer base would put Tesla at a bargaining disadvantage in negotiations related to project pricing. Collignon Aff. ¶¶ 3-8.

6. In addition, Conn. Gen. Stat. § 1-210(b)(5)(B) exempts from public disclosure “[c]ommercial or financial information given in confidence, not required by statute.” The construction cost information requested to be included in the Final Reports are clearly “commercial and financial in nature” due to the competitive market conditions discussed above and the potential implications on Tesla’s business if the cost information were disclosed to competitors and customers. *See* Collignon Aff. ¶¶ 3-8. Disclosure of these construction costs is not required by statute, and the Council’s regulation that requests the data specifically envisions its protection from disclosure. *See* RCSA Section 16-50j-62(d).
7. Consequently, this information is exempt from public disclosure under Conn. Gen. Stat. § 1-210(b).

For the reasons set forth above and in the Affidavit of Julia Collignon dated June 22, 2018, Tesla respectfully seeks a protective order with regard to Tesla's providing of Facility construction cost information to the Council, and for permission to file its unredacted confidential and proprietary data related to each of the three above-captioned projects under seal.

TESLA ENERGY OPERATIONS, INC.

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**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

**Tesla Energy Operations, Inc. declaratory ruling that no
Certificate of Environmental Compatibility and Public Need is
required for the proposed construction and operation of a 3.1
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Generating facility located on Brush Hill Road in Bozrah,
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PETITION NO. 1150

**Tesla Energy Operations, Inc. declaratory ruling that no
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PETITION NO. 1181

**Tesla Energy Operations, Inc. declaratory ruling that no
Certificate of Environmental Compatibility and Public Need is
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Generating facility located at two City of Norwich-owned parcels
on Rogers Road, Norwich, Connecticut**

PETITION NO. 1192

June 22, 2018

AFFIDAVIT OF JULIA COLLIGNON

I am over the age of eighteen and understand the obligations of making statements under oath. The following statements are true to the best of my knowledge and belief.

1. My name is Julia Collignon. I am the Senior Manager, Commercial Energy Development for Tesla Energy Operations, Inc. ("Tesla"). My responsibilities include running a team responsible for the deployment and installation of our commercial and utility energy systems. This includes estimating, siting, permitting, subcontractor procurement, contract negotiations and management, schedule management, budget management, project management, construction management, and installation for solar only, solar plus storage, and storage only projects.
2. I submit this affidavit in support of Tesla's Motion for Protective Order with respect to certain facility construction cost information contained in the final report for the above-captioned projects.
3. Tesla operates in a competitive market environment with low and long-term margins where any competitive advantage can have large and lasting implications. Tesla competes with many other solar developers for wholesale and retail solar customers and for highly-sought after commercial renewable-energy development rights and power purchase agreements.

4. Information related to the actual construction cost of the above-captioned projects are "commercial and financial in nature" and are not generally known to and not readily ascertainable by proper means by competitors or customers of Tesla. Tesla considers this information to be proprietary and an essential component of its business.
5. The public disclosure of this proprietary cost information would also allow competitors insight into the cost calculus of Tesla's solar facility development without allowing Tesla reciprocal access to information regarding competitors' costs, thus allowing competitors to develop future competing bids in a manner to undercut Tesla's business, putting Tesla at a competitive disadvantage. Disclosure of this proprietary cost information to Tesla's customers and potential future customer-base will put Tesla at a bargaining disadvantage in negotiations related to project pricing.
6. Tesla's facility construction cost information constitutes commercially sensitive information that is not generally known to and not readily ascertainable by proper means by other persons who can obtain economic value from their disclosure or use. The public disclosure of this information will put Tesla at a competitive disadvantage, especially because Tesla does not have reciprocal access to the same types of information from its competitors.
7. Tesla considers the construction cost information, contained in Tesla's final report to the Connecticut Siting Council required by Section 16-50j-62 (c) of the Regulations of Connecticut State Agencies, to be proprietary and confidential trade secrets and do not publicly disseminate such information. Tesla does not publish or disclose this information publically. All Tesla contracts with outside contractors contain confidentiality provisions which are general in nature and cover project costs, while Tesla employees are prohibited from disclosing certain project information, including construction costs, under their terms of employment.
8. To the best of my knowledge, construction cost information related to the above-captioned projects have not been disclosed or released to the public.



JULIA COLLIGNON

Subscribed and sworn to before

me this 22nd June 2018



Pamela J Martin
Notary Public, State of New York
Qualified in Onondaga Co.
No. 01MA4965305
Commission Expires April 16, 2022

PROTECTIVE ORDER CONCERNING PROVISION OF
CONFIDENTIAL-PROPRIETARY INFORMATION FILED IN PETITION NOS. 1150,
1181 AND 1192

WHEREAS, as required by Section 16-50j-62(c) of the Regulations of Connecticut State Agencies (“RCSA”), Tesla Energy Operations, Inc. (“Tesla”) is filing with the Connecticut Siting Council (“Council”) the final report for each of Petition Nos. 1150, 1181, and 1192;

WHEREAS, pursuant to RCSA Section 16-50j-62(c)(5), the final report must identify the actual construction cost of the facility, including, but not limited to, the following costs: (A) clearing and access; (B) construction of the facility and associated equipment; (C) rehabilitation; and (D) property acquisition for the site or access to the site;

WHEREAS, such actual construction cost information contains information and data that would, in the opinion of Tesla result in the disclosure of: (a) Tesla’s confidential, proprietary, or otherwise sensitive commercial and financial information that is given in confidence and not required by statute under Conn. Gen. Stat. §1-210(b)(5)(B), and (b) Tesla’ trade secrets under Conn. Gen. Stat. §1-210(b)(5)(A) (“Confidential Information”); and

WHEREAS, RCSA Section 16-50j-62(d) expressly permits a facility owner or operator to file a motion for a protective order pertaining to commercial or financial information in a final report.

NOW, THEREFORE, it is hereby ordered that the following procedure is adopted for the protection of Tesla’s Confidential Information.

1. All Confidential Information provided by Tesla, whether in documentary form or otherwise, shall be identified as follows: “CONFIDENTIAL-PROPRIETARY INFORMATION SUBJECT TO PROTECTIVE ORDER IN PETITION NOS. 1150, 1181 and 1192” and will be governed by the terms of this Protective Order (the “Order”). The Order is applicable to all such Confidential Information, whether in the form of documents, data, testimony, studies or otherwise.

2. Confidential Information shall be marked as such and delivered in sealed envelopes to Melanie Bachman, Executive Director of the Council. A statement in the following form shall be placed prominently on each envelope:

“CONFIDENTIAL-PROPRIETARY SUBJECT TO PROTECTIVE ORDER IN PETITION NOS. 1150, 1181 and 1192. This envelope is not to be opened nor the contents to be displayed or revealed except pursuant to the pertinent Protective Order issued in Petitions 1150, 1181, and 1192.”

3. All Confidential Information shall be made available pursuant to this Order to commissioners and staff of the Council for review.

4. All such commissioners and staff to this protective order agree to be bound by its terms and shall not use or disclose the Confidential Information except for purposes of this proceeding.

CONNECTICUT SITING COUNCIL

By _____
Chairman

Dated: _____