

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

In the Matter of:

ELECTRONIC APPLICATION OF MT OLIVE)	
CREEK SOLAR, LLC FOR A CERTIFICATE OF)	
CONSTRUCTION FOR AN APPROXIMATELY)	CASE NO.
60 MEGAWATT MERCHANT ELECTRIC)	2020-00226
SOLAR GENERATING FACILITY IN RUSSELL)	
COUNTY, KENTUCKY PURSUANT TO KRS)	
278.700 AND 807 KAR 5:110)	

ORDER

On August 3, 2021, Mt. Olive Creek Solar, LLC (Mt. Olive Creek), filed a motion requesting to deviate from certain filing requirements in 807 KAR 5:001, Section 8, for its response to Siting Board Staff's Second Request for Information (Staff's Second Request), Item 18.

As a basis for the motion, Mt. Olive Creek explained that its response to Staff's Second Request, Item 18, contains files that are too large to upload using the Siting Board's electronic filing system. Mt. Olive Creek requested approval to provide the material on a USB drive, which was submitted to the Siting Board contemporaneously with the motion.

The procedures for electronic filing of case records are established in 807 KAR 5:001, Section 8. The regulation specifies the types of audio, video, and electronic document file formats that can be uploaded; file size limits; and procedures for files that exceed the size limitations, which include uploading files in two or more consecutive

uploading sessions. The Siting Board can permit deviations from these rules in accordance with 807 KAR 5:001, Section 22, for good cause shown.

The Kentucky Public Service Commission (Commission) is granted broad authority to promulgate administrative regulations for the purpose of enforcing the provisions of KRS Chapter 278.¹ The Siting Board, a body governed by KRS 278.700 through .718 is therefore subject to administrative regulations promulgated by the Commission for the enforcement of KRS Chapter 278. The particular regulation at issue here, 807 KAR 5:110, Section 3(4), refers broadly to 807 KAR Chapter 5 and notes filings shall be rejected if they do not comply with an administrative regulation promulgated in 807 KAR Chapter 5.²

The Siting Board strives to promote transparency by, among other things, ensuring that case records are available to the public on the Siting Board's website, psc.ky.gov, with an exception for information that is exempt from the public disclosure pursuant to Kentucky's open records laws in KRS 61.878. Documents that are too large to be updated, and thus are provided on electronic media, are not available to the public on the Siting Board website, which is contrary to the Siting Board's efforts to promote transparency. The Siting Board has taken steps to facilitate larger file sizes in our electronic filing system and will soon initiate a separate proceeding addressing current electronic filing size and type guidelines.

Here, Mt. Olive Creek was asked to speak with the Siting Board's information technology staff (Staff) to determine whether the file could be uploaded in two or more

¹ KRS 278.040.

² 807 KAR 5:110, Section 3(4).

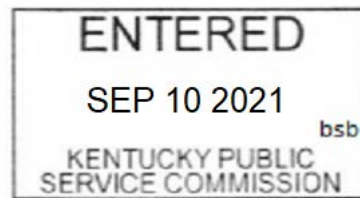
consecutive sessions. Mt. Olive Creek never spoke directly with Staff, but determined that the files could not be divided into smaller files based upon a discussion with Mt. Olive Creek's own information technology staff. Staff, on their own initiative, reviewed the filings and determined that taking additional action to divide the oversized file into smaller files was not warranted under the circumstances.

Based upon the motion and being otherwise sufficiently advised, the Siting Board finds that, while Mt. Olive Creek did not take the affirmative steps requested to address the file size, Mt. Olive Creek established good cause and therefore its motion to deviate from the filing requirements should be granted. Our determination is based upon Staff's review of the file size and type, and the amount of Staff time necessary to address the issue. In the future, Mt. Olive Creek should not request to deviate from filing requirements unless Mt. Olive Creek has first consulted with the Siting Board's information technology Staff, who determine that, for technological reasons, the file cannot be uploaded in two or more consecutive uploading sessions.

IT IS THEREFORE ORDERED that:

1. Mt. Olive Creek's motion to deviate from filing requirements is granted.
2. Mt. Olive Creek's response to Staff's Second Request, Item 18, is accepted for filing as of August 3, 2021.

By the Kentucky State Board on Electric
Generation and Transmission Siting



ATTEST:

A handwritten signature in blue ink that reads "Linda C. Bidwell". The signature is written in a cursive style and is positioned above a horizontal line.

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

Case No. 2020-00226

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