

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

In the Matter of:

| | | |
|--------------------------------------|---|------------|
| ELECTRONIC APPLICATION OF AEUG |) | |
| FLEMING SOLAR, LLC FOR A CERTIFICATE |) | |
| OF CONSTRUCTION FOR AN |) | |
| APPROXIMATELY 188 MEGAWATT |) | CASE NO. |
| MERCHANT ELECTRIC SOLAR GENERATING |) | 2020-00206 |
| FACILITY IN FLEMING COUNTY, KENTUCKY |) | |
| PURSUANT TO KRS 278.700 AND 807 KAR |) | |
| 5:110 |) | |

ORDER

On June 24, 2020, AEUG Fleming Solar, LLC (Fleming Solar) filed a notice of intent to file an application for a Certificate of Construction for an approximately 188-megawatt solar facility to be located in Flemingsburg, Fleming County, Kentucky.¹ On June 30, 2020, Fleming Solar filed a motion to approve format of public meeting. The motion requests approval for a proposed format of a public meeting that would be conducted to conform to the current public gathering limitations and social distancing requirements imposed during the COVID-19 State of Emergency in Kentucky. Fleming Solar states that the proposed public meeting format would satisfy the public meeting requirement set forth in KRS 278.706(2)(f) and requests a declaration regarding the same.

In particular, Fleming Solar proposes the following process in conducting a public meeting as required by KRS 278.706(2)(f):

¹ In its Notice of Election of Use of Electronic Filing Procedures, Fleming Solar indicates that the filing of the application would occur no later than December 23, 2020.

- (a) All representatives and experts making presentations for Fleming Solar at the public meeting will do so via a live “virtual” platform (such as MS Teams);
- (b) The virtual platform used for the public meeting will allow members of the public to view the public meeting live, on-line, without cost, by registering with a valid email address, and will allow participants to ask representatives of Fleming Solar questions about the project, either orally or in writing;
- (c) The public meeting will be projected for viewing “live” at a physical location in Fleming County to be designated in the notices of and advertisements for the public meeting (most likely the Fleming County Fiscal Court meeting room), at which a representative of Fleming Solar will be present and a mechanism will be provided for any in-person attendees to address questions to representatives of Fleming Solar;
- (d) All notices of and advertisements for the public meeting will (i) specify how the public can access and participate in the public meeting via the online virtual platform, (ii) encourage the public to participate in the public meeting virtually, NOT in-person, (iii) specify that in-person attendance at the public meeting will be consistent with guidelines and directives from the CDC and the Office of the Governor in effect at the time of the meeting regarding such meetings, including, but not limited to, social distancing and the requirement that masks be properly worn at all times, and (iv) specify that in order to allow for social distancing, the number of attendees at the in-person meeting will be limited and spaces allocated to the public on a first-come, first-served basis, and include instructions for how to sign-up for the available spaces.
- (e) In addition, Fleming Solar will make a large-scale (24 inches by 36 inches) layout map of the proposed solar facility, which otherwise would have been made available to the public for inspection at a public meeting, available to the public by displaying the map in the entrance to the Fleming County Fiscal Court the day of the public meeting, and will include this information in the notices of and advertisements for the public meeting.²

² Fleming Solar Motion to Approve Form of Public Meeting at 2–3.

Fleming Solar asserts that the proposed public meeting format provides the public with multiple options to attend the meeting and receiving information about the proposed solar facility and therefore satisfies the requirements of KRS 278.706(2)(f) while accommodating the health and safety concerns raised by the current COVID-19 State of Emergency. Fleming Solar further asserts that it will publish notice of the public meeting and mail notice to all owners of property adjoining the proposed solar facility as required by KRS 278.706(2)(f)(2).

Having reviewed the motion and being otherwise sufficiently advised, the Siting Board finds that the protocols and process proposed by Fleming Solar to schedule and conduct its public meeting is consistent with the language and intent of KRS 278.706(2)(f). We note that KRS 278.706(2)(f) requires a completed application to include, among other things, a report identifying the various public outreach engagements performed by the applicant prior to the filing of an application. In particular, KRS 278.706(2)(f) provides, in relevant parts, as follows.

(2) A completed application shall include the following:

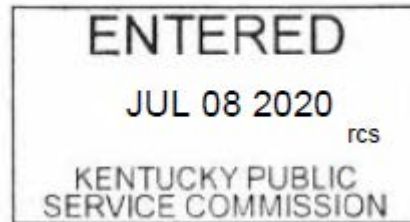
- (f) A complete report of the applicant's public involvement program activities undertaken prior to the filing of the application, including:
 1. The scheduling and conducting of a public meeting in the county or counties in which the proposed facility will be constructed at least ninety (90) days prior to the filing of an application, for the purpose of informing the public of the project being considered and receiving comment on it;
 2. Evidence that notice of the time, subject, and location of the public meeting was published in the newspaper of general circulation in the county, and that individual notice was mailed to all owners of property adjoining the proposed project at least two (2) weeks prior to the meeting;

The process and protocols proposed by Fleming Solar for its public meeting strikes a balance in being able to provide information on the solar project development in Fleming County and to receive comment from the public on the project as required by KRS 278.706(2)(f) and doing so in a manner that takes into account the current public gathering limitations and social distancing requirements imposed by the COVID-19 State of Emergency in Kentucky. Accordingly, Fleming Solar's motion should be approved as proposed. The Siting Board expects the details of the public meeting that will be reported in the application will mirror the format that has been proposed in the motion.

IT IS THEREFORE ORDERED that:

1. Fleming Solar's motion to approve form of public meeting is granted.
2. Within three days of the publication of the public notice, Fleming Solar shall submit a copy of the newspaper advertisement that will notify the public of the proposed public meeting format.
3. Within three days of the mailing of the notice to adjacent property owners, Fleming Solar shall submit a copy of the notice of the public meeting format that is required to be provided to owners of property adjacent to the solar project.

By the Kentucky State Board on Electric
Generation and Transmission Siting



ATTEST:

A handwritten signature in blue ink, consisting of stylized initials and a surname, positioned above a horizontal line.

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

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