

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION
AND TRANSMISSION SITING

In the Matter of:

ELECTRONIC APPLICATION OF BRIGHT)	
MOUNTAIN SOLAR, LLC FOR A CERTIFICATE)	
OF CONSTRUCTION FOR AN UP TO 80)	
MEGAWATT MERCHANT ELECTRIC SOLAR)	CASE NO.
GENERATING FACILITY AND RELATED)	2022-00274
NONREGULATED TRANSMISSION LINE OF)	
APPROXIMATELY 4 MILES IN PERRY COUNTY,)	
KENTUCKY PURSUANT TO KRS 278.700 AND)	
807 KAR 5:110)	

ORDER

On September 15, 2023,¹ Bright Mountain Solar, LLC (Bright Mountain) filed an application with the Kentucky State Board on Electric Generation and Transmission Siting (Siting Board) seeking a Construction Certificate to construct an approximately 80-megawatt ground mounted solar photovoltaic electric generating facility (Project) comprising approximately 805 acres of land in Perry County, Kentucky.

There are no intervenors in this matter. Pursuant to a procedural schedule established on September 27, 2023, Bright Mountain responded to two rounds of

¹ Bright Mountain filed its first Notice of Intent to file an Application for a Certificate of Construction for a Merchant Electric Solar Generating Facility in Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110 Using Electronic Filing Procedures on Aug. 15, 2022. On Nov. 15, 2022, Bright Mountain filed its first Notice of Intent to file an Application for a Certificate of Construction for a Merchant Electric Solar Generating Facility in Kentucky Pursuant to KRS 278.700. Then on May 15, 2023, Bright Mountain filed its second Notice of Intent to file an Application for a Certificate of Construction for a Merchant Electric Solar Generating Facility in Kentucky Pursuant to KRS 278.700.

discovery.² A site visit was held on November 9, 2023. Siting Board consultant, Harvey Economics (Harvey), filed its report (Harvey Report) on January 12, 2024. Bright Mountain submitted its response to the Harvey Report on January 19, 2024. A formal hearing was held on February 6, 2024. Bright Mountain filed a post-hearing brief on February 15, 2024. Bright Mountain filed its responses to post-hearing requests for information on February 19, 2024. The matter now stands submitted for a decision.

LEGAL STANDARD

The filing requirements and standard of review for requests to construct a merchant generating facility are set forth in KRS 278.700–.718. KRS 278.704(1) requires that an application be filed with and approved by the Siting Board before the construction of a merchant electric generating facility can commence. KRS 278.706 requires that the application include evidence of public notice and compliance with local planning and zoning ordinances.

KRS 278.708(2) requires Bright Mountain to prepare a site assessment report (SAR) that includes (1) a detailed description of the proposed site; (2) an evaluation of the compatibility of the facility with scenic surroundings; (3) potential changes in property values and land use resulting from the siting, construction, and operation of the proposed facility for property owners adjacent to the site; (4) evaluation of anticipated peak and average noise levels associated with the facility's construction and operation at the property boundary; (5) the impact of the facility's operation on road and rail traffic to and within the facility, including anticipated levels of fugitive dust created by the traffic and any

² Bright Mountain's First Response to Siting Board Staff's First Request for Information (Staff's First Request) (filed Nov. 3, 2023); Bright Mountain's Second Response to Siting Board Staff's Second Request for Information (Staff's Second Request) (filed Dec. 22, 2023).

anticipated degradation of roads and lands in the vicinity of the facility; and (6) any mitigating measures to be suggested by Bright Mountain to minimize or avoid adverse effects identified in the SAR.

KRS 278.710(1) delineates the criteria on which the Siting Board will grant or deny the certificate, which include: (1) impact on scenic surroundings, property values, and surrounding roads; (2) anticipated noise levels during construction and operation of the facility; (3) economic impact on the region and state; (4) whether the proposed facility meets all local planning and zoning requirements existing on the date the application was filed; (5) impact of the additional load on the reliability of jurisdictional utilities; (6) setback requirements; (7) efficacy of mitigation measures proposed by Bright Mountain; and (8) whether Applicant has a good environmental compliance history.

PROPOSED FACILITY

The Project will be located on 805 acres on a reclaimed, mountaintop-removal coal mine site in an unincorporated area of Perry County, Kentucky.³ The project includes approximately 200,000 photovoltaic solar panels, associated ground-mounted racking, 21 inverters, and a main transformer that will connect to the project substation.⁴ A Project substation will connect the Project to the existing Kentucky Power Company Bonnyman Substation via a constructed four-mile long, 69-kilovolt (kV) transmission line.⁵ The

³ Application, Tab 2, Site Assessment Report at 1.

⁴ Application, Tab 2, Site Assessment Report at 1.

⁵ Application, Tab 2, Site Assessment Report at 1-2.

transmission line will generally run through vacant timberland to the point of interconnection (POI) at the existing Bonnyman Substation.⁶

DISCUSSION AND FINDINGS

I. KRS 278.708: SAR Filing Requirements and Mitigation Measures

Mitigation Measures Proposed by Bright Mountain and Siting Board Consultant

As required by KRS 278.708(4), Bright Mountain proposed various mitigation measures consistent with the statutes regarding traffic, noise, roadway preservation, permitting, setbacks, public safety, scenic preservation, and decommissioning.⁷

In accordance with KRS 278.708(5), Harvey recommended mitigation measures in the following areas: site development plan, compatibility with scenic surroundings, anticipated peak and average noise levels, road and rail traffic, dust mitigation, road degradation, economic impact, decommissioning, public outreach and communication, and complaint resolution.⁸

Bright Mountain disagreed with certain recommendations of the Harvey Report's proposed mitigation measures. The Harvey Report recommended that Bright Mountain commit to planting at least two acres of native pollinators.⁹ Bright Mountain stated that, because the project will be on a reclaimed surface coal mine, the area would not support growth without significant and costly topsoil.¹⁰

⁶ Application, Tab 2, Site Assessment Report at 1-2.

⁷ Application, Tab 12, SAR at 11.

⁸ Harvey Report, Section 6 at V-56.

⁹ Harvey Report, Section 6 at V-52.

¹⁰ Bright Mountain's Response to the Harvey Report (filed Jan. 19, 2024) at 1.

The Harvey Report recommended “[t]he Applicant use anti-glare panels and operate the panels in such a way that glare from the panels is minimized or eliminated. The Applicant will immediately adjust solar panel operations upon any complaint about glare from those living, working, or traveling in proximity to the Project.”¹¹ Bright Mountain only contested the second sentence. Bright Mountain noted that the Commission did not require such mitigation in other cases.¹² Bright Mountain also stated that its complaint process would address the glare concerns.¹³ The Harvey Report recommended that construction be limited to the hours of 8:00 a.m. to 6:00 p.m. and no construction on Sundays.¹⁴ Bright Mountain wanted to extend the hours of permissible construction as well as to allow construction on Sundays, when needed, due to delays or deadlines.¹⁵

The Siting Board has reviewed the mitigation measures proposed by Bright Mountain and in the Harvey Report, and finds that, in addition to those Bright Mountain initially proposed, the mitigation measures set forth in Appendix A, and discussed throughout this Order, are appropriate and reasonable because they achieve the statutory purpose of mitigating the adverse effects identified in the site assessment report and the Harvey Report in accordance with KRS 278.708.

Detailed Site Description

KRS 278.708(3)(a)(1–6) requires that the detailed site description in the SAR

¹¹ Harvey Report, Section 6, V-52.

¹² Bright Mountain’s Response to the Harvey Report at 3.

¹³ Bright Mountain’s Response to the Harvey Report at 2.

¹⁴ Harvey Report, Section 6, V-53.

¹⁵ Bright Mountain’s Response to the Harvey Report at 4.

include a description of (1) surrounding land uses for residential, commercial, agricultural, and recreational purposes; (2) the legal boundaries of the proposed site; (3) proposed access control to the site; (4) the location of facility buildings, transmission lines, and other structures; (5) location and use of access ways, internal roads, and railways; and (6) existing or proposed utilities to service the facility.

Bright Mountain submitted the required SAR with its application.¹⁶ The SAR contained a preliminary site plan.¹⁷ Supplemental maps were provided during the pendency of the proceedings.¹⁸ The site plan included: existing roadways, proposed access roads, proposed PV panel area, proposed inverter locations, proposed collection line locations, proposed fence line, proposed O&M building location, and proposed substation location.¹⁹ Supplemental maps showed water features such as delineated streams and wetlands.²⁰ Bright Mountain also provided a separate site plan²¹ for the proposed 69kV nonregulated transmission line, which would be approximately four miles in length and connect to the existing Bonnyman substation.²² The site plan included participating parcels, proposed transmission line route, residential neighborhood parcels, proposed transmission line structures, and the 1-mile transmission line study area.²³ The

¹⁶ Application, Tab 12, Attachment J, SAR.

¹⁷ Application, Attachment A.

¹⁸ Bright Mountain's Response to Staff's First Request, Attachments C, D, and G.

¹⁹ Application, Attachment A

²⁰ Bright Mountain's Response to Staff's First Request, Attachment C.

²¹ Application, Attachment K.

²² Application, Tab 13, page 1.

²³ Application, Attachment K.

legal boundaries of the proposed site are contained in the application²⁴ and in maps of tax parcels.²⁵ The lease agreements and other related documents for parcels associated with the generation facility were also submitted.²⁶

Bright Mountain has certified that the proposed electric transmission line and appurtenances will be constructed and maintained in accordance with accepted engineering practices and the National Electrical Safety Code (NESC).²⁷ Public access to the Project will be restricted by an agricultural-style perimeter fence which will be designed to meet NESC standards.²⁸ The design of the agricultural-style perimeter fence has not yet been finalized but is expected to be comprised of wire-mesh fencing supported by evenly-spaced posts.²⁹ A separate fence, different from the agricultural-style perimeter fence, will enclose the substation area. The fence surrounding the substation area will be chain link and topped with barbed wire.³⁰ “No Trespassing” and “High Voltage Equipment” signs will be placed at locations along the fence, warning the public of the potential hazards within the fence line.³¹ The site manager, an individual employed by

²⁴ Application, SAR, Exhibit B – Legal Property Descriptions.

²⁵ Bright Mountain’s Response to Staff’s First Request, Attachment D.

²⁶ Bright Mountain’s Response to Staff’s First Request, Item 1 and Attachment A.

²⁷ Application, Tab 14.

²⁸ Bright Mountain’s Response to Staff’s First Request, Item 16.

²⁹ Bright Mountain’s Response to Staff’s First Request, Item 16.

³⁰ Bright Mountain’s Response to Staff’s First Request, Item 16.

³¹ Bright Mountain’s Response to Staff’s First Request, Item 16.

Bright Mountain Solar, LLC or Avangrid Renewables, LLC will control access to the site through construction and operation.³²

Bright Mountain has not proposed any mitigation measures aimed at reducing potential visual impacts of the Project on adjacent residents, business, or local drivers, citing the presence of existing vegetation and the elevation of the Project site relative to the surrounding area.³³ Vegetative clearing is anticipated to be required to accommodate the transmission line.³⁴ Approximately 43 acres of clearing are anticipated.³⁵ Electric power necessary for operation of the solar facility, when it is not generating electricity, will be obtained through the Project's interconnection with the Bonnyman Substation, or through a local distribution service line.³⁶ If an on-site O&M building is chosen in the final design, water will be obtained from a potable water well system or an off-site location, and an on-site septic system will be used for sewage disposal.³⁷

The site was previously used for the extraction of energy resources, as the Project is located on the site of a former surface coal mine. Mining activities at the site, previously called the Jakes Branch Job Surface Mine, consisted of contour mining and mountaintop removal mining.³⁸ Mining activities were conducted under permits issued by the Kentucky

³² Bright Mountain's Response to Staff's First Request, Item 17.

³³ Harvey Report, Part I, Section 2, page 3.

³⁴ Bright Mountain's Response to Staff's First Request, Item 59.

³⁵ Bright Mountain's Response to Staff's First Request, Item 59.

³⁶ Harvey Report, Part I, Section 2, page 2.

³⁷ Harvey Report, Part I, Section 2, page 2.

³⁸ Application, Tab 7, Efforts to Locate Near Existing Electric Generating Facilities.

Division of Mine Permits (KDMP) and were concluded in 2015.³⁹ The reclamation bond was released in August 2020.⁴⁰ As the site of a former surface coal mine, the land surface in the Project area has been subject to significant past disturbance.⁴¹

The area surrounding the project site is heavily forested and includes scattered rural residential properties, several small communities and some farmland.⁴² The area is bordered by the North Fork Kentucky River on the south and west sides.⁴³ Project site topography ranges from 1,435 feet on the east side to 970 feet on the west side.⁴⁴ There are three groupings of residences that have been identified as “residential neighborhoods” and are within 2,000 feet of proposed locations of structures or facilities used for the generation of electricity.⁴⁵ A total of 119 residential structures and two non-residential structures would be located within 2,000 feet of the Project boundary line.⁴⁶ There are no schools, hospitals, or nursing homes within 2,000 feet of Applicant’s proposed location of structures or facilities used for generating electricity.⁴⁷

Having reviewed the record of this proceeding, the Siting Board finds that Bright Mountain has complied with the requirements for describing the Project and a site

³⁹ Application, Tab 7, Efforts to Locate Near Existing Electric Generating Facilities.

⁴⁰ Application, Tab 7, Efforts to Locate Near Existing Electric Generating Facilities.

⁴¹ Application, Tab 7, Efforts to Locate Near Existing Electric Generating Facilities.

⁴² Harvey Report, Part I, Section 2, page 3.

⁴³ Harvey Report, Part I, Section 2, page 3.

⁴⁴ Harvey Report, Part I, Section 2, page 3.

⁴⁵ Bright Mountain’s Motion for Deviation from Setback Requirement (filed Nov. 6, 2023).

⁴⁶ Harvey Report, Part I, Section 2, page 1.

⁴⁷ Bright Mountain’s Motion for Deviation from Setback Requirement.

development plan as required by KRS 278.708. With this finding, as noted above, the Siting Board does not intend this to be acceptance of the totality of the filings and reminds applicants of the importance of a thorough application and expected reports. However, the Siting Board finds that it is necessary to impose specific mitigation measures and requirements related to the description of the Project and the proposed site development plan. The Siting Board will require that Bright Mountain keep the Siting Board apprised of changes throughout the development of the Project and, as such, will order Bright Mountain to provide the final site plan before the commencement of construction, for both the solar and transmission facilities. In addition, Bright Mountain will be required to file the final reports through the PJM interconnection process for Siting Board review and approval. The final site plan filed with the Commission should identify and highlight any change, including those to the design and boundaries of the Project, from the proposed site plan provided to the Siting Board during the pendency of this matter. Furthermore, based on the findings and proposals of the Harvey Report, the Siting Board finds that additional mitigation measures are required. These mitigation measures are outlined in Appendix A to this Order and, in particular mitigation measures 1 through 11.

Compatibility with Scenic Surroundings

As noted above, the proposed Project site is on a reclaimed mine land with areas of intact heavily forested land on the periphery. The proposed site topography ranges from 1,435 on the east side and 970 feet on the west side.⁴⁸

⁴⁸ Harvey Report at 11-3.

Impact on Property Values

Bright Mountain submitted a property value impact conducted by CohnReznick LLP (CohnReznick), a certified real estate appraiser.⁴⁹ CohnReznick completed a paired analysis and a comparative study analyzing data from numerous solar facilities across the country of property values near solar facilities and determined that this Project would not have an impact on property values of abutting or adjacent residential or agricultural properties.⁵⁰ CohnReznick found no negative impact to property values of abutting or adjacent residential or agricultural properties.⁵¹ CohnReznick found no negative impact to property value for properties near a solar farm, in either the short or long term.⁵²

Harvey conducted further analysis of the data provided by CohnReznick.⁵³ Harvey reviewed different studies related to the value of property near a merchant solar generating Project and found that the overall conclusion of those studies was that solar facilities do not negatively impact property values.⁵⁴ Harvey also met with Perry County Property Valuation Administrator Lonnie Adams who indicated that he does not expect the Bright Mountain project to have any impact on local property values.⁵⁵ Harvey also met with Bill McIntosh the Community Development Coordinator at the Perry County

⁴⁹ Application, Exhibit A at 173.

⁵⁰ Harvey Report at 135.

⁵¹ Application, Exhibit A at 21.

⁵² Application, Exhibit A at 21.

⁵³ Harvey Report, Section 2, at 11-4.

⁵⁴ Harvey Report, Section 5, at V-11-20.

⁵⁵ Harvey Report Section 5 V-18.

Fiscal Court.⁵⁶ Mr. McIntosh was largely unaware of the Bright Mountain project.⁵⁷ Harvey concluded that the current research indicates that the existence of solar facilities does not negatively influence property values, and there is no expected change in property values due to the Bright Mountain Project.⁵⁸ Harvey stated, that due to the topography of the Bright Mountain Project that no mitigation measures are necessary related to impacts to property value.⁵⁹

Having reviewed the record, the Siting Board finds that sufficient evidence to conclude that the proposed Bright Mountain Project will not have any significant adverse impact on nearby property values. The characteristics of the solar facility's operations are passive, and the facility will be temporary, with the land returned to its natural state after a few decades of operation. This facility does not produce any air, noise, waste, or water pollution, nor does it create any traffic issues during operations.

Anticipated Noise Level

Bright Mountain's Sound Assessment was completed by Jacobs Engineering Group Inc. (Jacobs).⁶⁰ Jacobs used representative sound levels from the Federal Transit Administration's Transit Noise and Vibration Impact Assessment Manual to estimate sound levels during the construction phase of this project.⁶¹ Jacobs used a representative, solar-specific pile driver sound level of approximately 85 decibels (dBA)

⁵⁶ Harvey Report, Section 5 at V-16.

⁵⁷ Harvey Report, Section 5 at 19.

⁵⁸ Harvey Report, Section 2 at 11-4.

⁵⁹ Harvey Report, Section 5 at V-21.

⁶⁰ Application, Exhibit G.

⁶¹ Application, Exhibit G at 3.

at 50 feet instead of pile drivers used in general or heavy construction.⁶² Jacobs estimated that the construction sound levels could be up to 73 dBA when equipment is working in proximity to the closest residence.⁶³ Jacobs stated that construction will be a temporary and intermittent activity and noisy construction activities will be limited to the hours of 7:00 a.m. to 9:00 p.m., Monday through Saturday.⁶⁴

Jacobs used representative sound levels supplied by manufacturers to estimate sound levels during the operational phase of this project.⁶⁵ The noise generation during operation will emanate from transformers, a substation, and inverters.⁶⁶ Jacobs estimated that the operational sounds levels could be up to 42 dBA at the closest participating residence and 37 dBA at the closest nonparticipating residence.⁶⁷

In Harvey's Report, Harvey provided further analysis of the Bright Mountain's anticipated noise levels.⁶⁸ Harvey stated, during construction, expected noise emissions are greater than 65 dBA and that the pile driving process is the loudest part of the construction.⁶⁹ Harvey also stated that construction activities are not sustained, and no hearing loss or long-term annoyance to residents is expected.⁷⁰ Harvey stated that during

⁶² Application, Exhibit G at 3.

⁶³ Application, Exhibit G at 7.

⁶⁴ Application, Exhibit G at 4.

⁶⁵ Application, Exhibit G at 5.

⁶⁶ Application, Exhibit G at 5.

⁶⁷ Application, Exhibit G at 7.

⁶⁸ Harvey Report, Section 2 at 11-4.

⁶⁹ Harvey Report, Section 2 at 11-4.

⁷⁰ Harvey Report, Section 2 at 11-4.

operation the expected noise levels from Bright Mountain would be less than 50 dBA which is below the World Health Organization's threshold for potential to cause moderate annoyance.⁷¹ Harvey concluded that noise from the Project's operational components is not likely to be annoying and may not be noticeable.⁷²

The Siting Board finds that noise from the construction phase will be intermittent and temporary but will be significant to the nearest residences. As indicated by both Jacobs and Harvey, the noise will be loudest during the construction phase but will not be permanently damaging to nearby residents. The Siting Board further finds that the operational noise from inverters and the main transformer should have little-to-no effect on residences in the area.

Based on the case record, the Siting Board finds that Bright Mountain's application is in compliance with the statutory requirements for disclosing noise levels. However, the Siting Board further finds that based on the entire record, to ensure the impact of construction noise does not unduly impact nearby residents, Bright Mountain will be required to implement specific mitigation measures to ensure the impact of construction noise does not unduly impact nearby residents. The mitigation measures implemented by the Siting Board are designed to limit the effects of construction noise by controlling the hours of construction in general, as well as the time and manner pile driving can occur. The Siting Board will require Bright Mountain to mitigate construction noise up to 1,000 feet to ensure the surrounding community is not negatively impacted by the construction noise. Bright Mountain may forego noise suppression if it employs a panel installation

⁷¹ Harvey Report, Section 2 at II-4.

⁷² Harvey Report, Section 2 at II-4.

method that does not involve pile driving, so long as the method does not produce noise levels similar to pile driving. These mitigation measures are further outlined in Appendix A to this Order and, in particular, mitigation measures 12 through 14.

Impact on Roads, Railways, and Fugitive Dust

Construction is anticipated to take 18-24 months.⁷³ The major road providing access to the Project site is KY 15.⁷⁴ Sam Campbell Branch Road and Jarets Branch are both local roads that will be used to reach the access point proposed for the Project.⁷⁵ Bright Mountain does anticipate that traffic will increase during the construction phase of the Project and that KY 15 is capable of handling the additional capacity.⁷⁶ Bright Mountain does not anticipate that there will be significant increase in traffic during the operation phase.⁷⁷ Significant damage to the existing roadway infrastructure is not expected.⁷⁸

Harvey found that there would be noticeable increases in traffic volumes on local roads during the construction phase.⁷⁹ This is partially due to the low amount of traffic on the local roads prior to construction, making any increase in traffic noticeable.⁸⁰ Harvey

⁷³ Hearing Video Testimony (HVT) of the February 7, 2024 hearing at 09:52:53-53:02, Andrew House.

⁷⁴ SAR, Exhibit F at 2.

⁷⁵ Harvey Report at V-30 and SAR, Exhibit F at 7.

⁷⁶ SAR, Exhibit F at 8.

⁷⁷ SAR, Exhibit F at 9.

⁷⁸ SAR, Exhibit F at 8.

⁷⁹ Harvey Report at II-5.

⁸⁰ Harvey Report at II-5.

also indicated that construction activities may cause passing to be an issue in some areas.⁸¹

The Siting Board finds that traffic and road degradation issues can be addressed with Bright Mountain mitigation measures, the additional mitigation measures proposed by Harvey, and mitigation measures set forth in Appendix A to this Order and in particular, mitigation measures 17-25.

The Siting Board does anticipate some fugitive dust from the construction phase. Bright Mountain stated it will mitigate the dust from construction by covering soil piles and application of water as necessary.⁸² Dust will not be a factor during the operations phase. The Siting Board requires additional mitigation measures to reduce any potentially harmful effects on the area, which are outlined in Appendix A to this Order. The Siting Board will require Bright Mountain to inform the Siting Board and the Energy and Environment Cabinet of the date construction will commence 30 days prior to ensure the proper permits have been obtained and determine whether proper steps have been taken to comply with the mitigation measures set forth in Appendix A to this Order.

KRS 278.710(1) Criteria

In addition to the evaluation of the factors addressed in the SAR, the Siting Board considered the below described factors set forth in KRS 278.710(1) in rendering its decision.

Economic Impact on Affected Region and the State

⁸¹ Harvey Report at 11-5.

⁸² SAR, Exhibit F at 9.

According to Bright Mountain's economic impact report, the proposed solar facility project will require total capital investment of \$126.5 million including land acquisition, site preparation, solar panel and electrical equipment installation, landscaping and security fencing.⁸³ The Project is expected to generate significant positive economic and fiscal impacts to Perry County and the Commonwealth of Kentucky over its useful life. Such impacts include the creation of hundreds of construction jobs, expansion of the local tax base, and the benefits of having a long-term employer and corporate citizen in the region.⁸⁴ The project will be conducted in two phases: a construction phase and an operation phase.⁸⁵

The IMPLAN model used for the economic impact analysis focused on Perry County specifically as well as the Commonwealth of Kentucky as a whole.⁸⁶ For Perry County, Bright Mountain estimates that approximately 25.4 temporary, full time jobs will be created over the construction phase of the project with a direct payroll of approximately \$1.8 million and an economic output of \$2.0 million.⁸⁷ The indirect (module and supply chain) economic impacts are estimated to contribute another 7.7 jobs with an additional \$0.4 million in payroll and an economic output of \$1.1 million.⁸⁸ The induced economic impacts are estimated to contribute another 2.6 jobs with an additional \$0.1 million in

⁸³ Harvey Report, Part1, Section V at 38 and Application, Tab 10 at Table 5 (sum of JEDI default values).

⁸⁴ Application, Tab 10 at 12.

⁸⁵ Application, Tab 10 at 4 and 12.

⁸⁶ Application, Tab 10 at 12.

⁸⁷ Application, Tab 10 at Table 7 and at 14.

⁸⁸ Application, Tab 10 at Table 7 and at 14.

payroll and an economic output of \$0.4 million.⁸⁹ The total construction phase economic impact is estimated to be 35.7 total full-time equivalent jobs in Perry County with a new payroll of \$2.4 million and an economic output of \$3.5 million.⁹⁰

For the Commonwealth of Kentucky, as a whole, Bright Mountain estimates that approximately 190.5 temporary, full-time jobs will be created over the construction phase of the project with a direct payroll of approximately \$13.8 million and an economic output of \$14.7 million.⁹¹ The indirect (module and supply chain) economic impacts are estimated to contribute another 52.4 jobs with an additional \$3.2 million in payroll and an economic output of \$8.5 million.⁹² The induced economic impacts are estimated to contribute another 36.9 jobs with an additional \$2.0 million in payroll and an economic output of \$6.0 million.⁹³ The total construction phase economic impact is estimated to be 279.8 total full-time equivalent jobs in the Commonwealth of Kentucky with a new payroll of \$19.0 million and an economic output of \$29.2 million.⁹⁴

Bright Mountain states that it conducted the economic analysis with the assumption that most workers for the project will be hired from within the state broadly, if not Perry County, specifically due to the county's size.⁹⁵ Many of these jobs will be filled by workers from construction trades like laborers and electricians (including those with

⁸⁹ Application, Tab 10 at Table 7 and at 14.

⁹⁰ Application, Tab 10 at Table 7 and at 14.

⁹¹ Application, Tab 10 at Table 6 and at 13.

⁹² Application, Tab 10 at Table 6 and at 13.

⁹³ Application, Tab 10 at Table 6 and at 13.

⁹⁴ Application, Tab 10 at Table 6 and at 13.

⁹⁵ Application, Tab 10 at 12.

high-voltage experience) and workers with more specialized skills such as panel assemblers and site excavators.⁹⁶

The ongoing economic impact from the project's operational phase is estimated to be very small relative to the one-time impacts from the construction phase. The ongoing operational phase of the project is expected to modestly support 4.0 jobs in Perry County with a payroll of \$0.2 million and an economic output of \$0.2 million.⁹⁷ The ongoing operational phase of the project is expected to support 11.5 jobs for the Commonwealth of Kentucky with a payroll of \$0.6 million and an economic output of \$1.3 million.⁹⁸ Bright Mountain clarified that the Perry County's impacts for both the construction and operations phases are a portion of the total impacts for the Commonwealth.⁹⁹

Bright Mountain and Perry County are in the process of negotiating an Industrial Revenue Bond (IRB) and a Payment in Lieu of Taxes (PILOT) Agreement.¹⁰⁰ Bright Mountain did not provide specific numbers for the terms of this agreement, citing that since negotiations are ongoing currently, estimates of annual payments are not yet available.¹⁰¹ Furthermore, Bright Mountain stated that final approval of an IRB and PILOT agreement with Perry County cannot be completed until the certificate of construction is granted.¹⁰² The Siting Board notes that this statement runs counter to the prior

⁹⁶ Application, Tab 10 at 13.

⁹⁷ Application, Tab 10 at Table 7 and at 14.

⁹⁸ Application, Tab 10 at Table 6 and at 13.

⁹⁹ Bright Mountain's Response to Staff's First Request, Item 55.

¹⁰⁰ Bright Mountain's Response to Staff's First Request, Items 56 & 57 and Application, Tab 10 at 16.

¹⁰¹ Bright Mountain's Response to Staff's First Request, Item 56.

¹⁰² Bright Mountain's Response to Staff's First Request, Item 56.

experience that it has had with numerous other similar cases. No other possible tax revenues for Perry County or the state of Kentucky were discussed beyond the potential annual PILOT payments.

Harvey evaluated the economic impact of the project and agreed with the findings overall of the economic impact study, stating that the proposed Project represents a positive, albeit small, contribution to the region.¹⁰³ Harvey noted that for maximization of benefits to Perry County, Bright Mountain should hire workers and purchase materials for the project locally within as feasibly as possible.¹⁰⁴

Having reviewed the record, the Siting Board finds that the Bright Mountain Project will have a positive economic impact on the region.

Existence of Other Generating Facilities

Bright Mountain indicated that there are no existing facilities near the proposed site that generate electricity.¹⁰⁵ Bright Mountain stated that the Project was sited in a location with proximity to existing transmission infrastructure, and the Project will tap into an existing 69kv transmission line.¹⁰⁶

Local Planning and Zoning Requirements

Perry County does not have planning and zoning and has not enacted any zoning ordinances or setback requirements. The statutory requirements of KRS 278.706(2)(e) apply unless a deviation is applied for and granted by the Siting Board. KRS

¹⁰³ Harvey Report, Part 1, Section II at 5.

¹⁰⁴ Harvey Report, Part 1, Section V at 42.

¹⁰⁵ Application Tab 7 at 2.

¹⁰⁶ Harvey Report 11-1.

278.706(2)(e) requires that all proposed structures or facilities used for generation of electricity must be 2,000 feet from any residential neighborhood, school, hospital, or nursing home facility. This Project will be closer than that to residences, but there are no schools, hospitals, or nursing homes within 2,000 feet.¹⁰⁷

Impact on Transmission System

The project is located within the territory of the PJM Interconnection LLC (PJM). The project includes a 69 kV nonregulated transmission line, that will be approximately 4 miles in length that will connect the project to the existing Bonnyman Substation.¹⁰⁸ PJM has completed the Feasibility Study and System Impact Study.¹⁰⁹ PJM still must complete a Facilities Study for the Project and it is not expected until the third quarter of 2024.¹¹⁰

Based upon the case record, the Siting Board finds that Bright Mountain has satisfied the requirements of KRS 278.710(f) and that the additional load imposed upon the electricity transmission system by the generation of electricity at the Bright Mountain facility will not adversely affect the reliability of service for retail customers of electric utilities regulated by the Kentucky Public Service Commission. This finding is based upon Bright Mountain's commitment to the interconnection process and protocols consistent with the requirements of KRS 278.212.

Compliance with Setback Requirements

¹⁰⁷ Bright Mountain's Motion for Deviation from the Setback Requirements.

¹⁰⁸ Application, Tab 13 at 1.

¹⁰⁹ Application, Tab 9 at 1.

¹¹⁰ HVT of the February 6, 2024 hearing, 09:51-09:52:27, Andrew House.

There are no applicable setbacks established by Perry County for the Project. KRS 278.706(2)(e) requires that all proposed structures or facilities used for electric generation be at least 2,000 feet from any residential neighborhood, school or hospital or nursing home facility.¹¹¹ KRS 278.700(6) defines “residential neighborhood” as a populated area of five or more acres containing at least one residential structure per acre.¹¹² KRS 278.704(4) authorizes the Siting Board to grant a deviation from the setback requirements in KRS 278.706(2)(e) if requested.¹¹³ Bright Mountain has requested a deviation from the setback requirements in KRS 278.706(2)(e).¹¹⁴ Bright Mountain stated there are three residential neighborhoods within 2,000 feet of the project’s boundaries.¹¹⁵

Residential Neighborhood 1 is located east of the project along Lower Pigeonroost Road. The nearest proposed structure or facility is the substation which is located 1,190 feet away from the boundary of Residential Neighborhood 1¹¹⁶. Residential Neighborhood 2 is located near the intersection of Couchtown Road and Kentucky State Route 451. The nearest proposed structure are solar panels that are located 1,210 feet from the boundary of Residential Neighborhood 2.¹¹⁷ Residential Neighborhood 3 only encompasses the northeastern tip of the Project which is located along State Route 451. The nearest structures are solar panels that are located 1,140 feet from the boundary line of the

¹¹¹ KRS 278.706(2) (e).

¹¹² KRS 278.700(6)

¹¹³ KRS 278.704(4)

¹¹⁴ Bright Mountain’s Motion for Deviation from Setback Requirements.

¹¹⁵ Bright Mountain’s Motion for Deviation from Setback Requirements at 2.

¹¹⁶ Bright Mountain’s Motion for Deviation from Setback Requirement at 3.

¹¹⁷ Bright Mountain’s Motion for Deviation from Setback Requirement at 3.

Residential Neighborhood 3.

The Siting Board finds that the distances to neighborhoods from specific facilities, as proposed by the application, are sufficient to meet the requirements of KRS 278.704(4), and therefore should apply to non-participating landowners. In particular, distances of 696 feet from non-participating homes to panels or string inverters and 1,332 feet to central inverters, as indicated in the record are required as mitigation measures and as a condition to granting the applicant's request for a deviation from the statutory setbacks.¹¹⁸ As such, Bright Mountain shall not place panels, string inverters, substation or central inverters closer to non-participating homes than its plan indicates in this matter.

Regardless, the Siting Board finds that Bright Mountain shall not place solar panels or string inverters, if used, closer than 150 feet from any residence, church or school, 25 feet from non-participating adjoining parcels and 50 feet from adjacent roadways. Bright Mountain shall not place a central inverter, and if used, energy storage system closer than 450 feet from a residence, church, or school. Exceptions to these setbacks for participating landowners are included in Appendix A.

The Siting Board finds, given the totality of the mitigation measures proposed by Bright Mountain, the nature of the surrounding property and the mitigation measures the Siting Board has imposed in Appendix A, the statutory purposes are met by the project. The Siting Board grants a deviation from this requirement as to residences and residential neighborhoods as set forth in Appendix A to this Order. Exceptions to these setback requirements for participating landowners, and easement holders, are included in

¹¹⁸ Bright Mountain's Response to Commission Staff's Post-Hearing Requests for Information (Staff's Post-Hearing Requests) (filed Feb. 19, 2024), Item 3.

Appendix A mitigation measure 15.

History of Environmental Compliance

In the application, Bright Mountain stated it is a wholly owned subsidiary of Avangrid Renewables, LLC.¹¹⁹ Avangrid Renewables, LLC and six of its wholly-owned subsidiaries entered into a settlement agreement with the U.S. Fish and Wildlife Service in 2016 in a matter that involved alleged violations of the Migratory Bird and Treaty Act and the Bald and Golden Eagle Protection Act.¹²⁰ As part of the settlement agreement a civil penalty of \$25,000 was assessed, and there was no admission as to the alleged violations.¹²¹

Transfer of Ownership

Solar developments are often sold to other companies during the planning, construction, and operation of projects. When a construction certificate for a solar facility is sought, the Project and the developers are thoroughly evaluated to ensure that the Project will comply with all statutory and regulatory requirements. After review, the construction certificate is conditionally granted on the condition of full compliance with all mitigation measures, some of which continue into the operation of the project. As noted in the preceding section, the Siting Board not only reviews the history and abilities of the Person¹²² seeking the certificate, but also the entities that have an ownership interest in the Project. Here, the applicant has no resources or employees of its own, and instead

¹¹⁹ Application, Tab 11 at 1.

¹²⁰ Application, Tab 11 at 1.

¹²¹ Application, Tab 11 at 1.

¹²² KRS 278.700(3) defines a person as any individual, corporation, public corporation, political subdivision, governmental agency, municipality, partnership, cooperative association, trust, estate, two (2) or more persons having a joint or common interest, or any other entity.

depends on the resources and employees of affiliates or entities with an ownership interest in it. Bright Mountain will employ the persons responsible for compliance with the construction certificate during construction and the persons responsible for the continued compliance during operations.¹²³ Without Avangrid Renewables, LLC, Bright Mountain would not have the managerial, technical, or financial capability necessary to construct or operate the facility, nor to comply with the conditions required herein. As such, the Siting Board will require approval of the transfer of ownership or control of Bright Mountain, the Person seeking and being granted, with conditions, the construction certificate in this matter. Without knowledge of who is providing the resources and employees to Bright Mountain to ensure ongoing compliance with the measures required herein, there is no way to ensure the requirements are adhered to throughout the life of the Project. To be clear, this condition does not apply to the actual transfer of the facility, but rather the transfer of ownership or control of the Person holding the certificate to construct. The measures related to the transfer of ownership or control of the Person holding the construction certificate are set forth more fully in Appendix A, mitigation measure 25.

Decommissioning

Bright Mountain submitted a decommissioning plan with the application.¹²⁴ The decommissioning plan and the applicable property leases contain covenants to remove

¹²³ Bright Mountain's Response to Staff's First Request, Item 5.

¹²⁴ SAR, Exhibit J.

all underground components.¹²⁵ The applicable property leases contain covenants to return the land to a condition reasonably similar to its original condition.¹²⁶

The Siting Board finds that Bright Mountain must return the land to its original use, to the extent possible, at the end of the Project's life. Returning the land back to its original state and use after decades of operation is an important part of the Siting Board's finding regarding the impact of the facilities on scenic surroundings, property values, and the economy. The relatively "temporary" nature of the facilities compared to other types of more permanent developments, such as thermal merchant generation facilities, industrial operations, or housing, is a prime consideration of the Siting Board in granting a certificate, with conditions, in this matter. An inability or unwillingness to return the land back to its prior state after the life of the facility, including leaving underground facilities in excess of three feet, increases the permanence of the facility. As such, the Siting Board requires the removal of all components above and below ground. Removal of all underground components and regrading or recompacting the soil for agricultural use will mitigate any damage to the land, thus returning the land to a state that provides at least as great of an economic impact as it does today. The Siting Board will also require additional mitigation measures related to decommissioning, which are outlined in Appendix A to this Order, mitigation measures 26 through 29.

¹²⁵ SAR, Exhibit J at 5 and Bright Mountain's Response to Staff's First Request, Item 1, Attachment A.

¹²⁶ Bright Mountain's Response to Staff's First Request, Item 1, Attachment A.

III. Requirements under KRS 278.714

KRS 278.714(2) directs the Siting Board to consider the following criteria in considering an application for the construction of the unregulated transmission line as proposed by Bright Mountain:

- Location of proposed line and structures to support it;
- Proposed right-of-way limits;
- Existing property lines that will be crossed and names of owners;
- Distance from neighborhoods, schools, public and private parks;
- Voltages and capacities;
- Length of line;
- Terminal points;
- Substation connections; and
- Statement of compliance for construction and maintenance with engineering practices and the NESC.

Full Description of the Proposed Route of Transmission Line

Bright Mountain also filed an application for a nonregulated transmission line pursuant to KRS 278.714.¹²⁷ Bright Mountain proposes to construct a new 69 kV electric transmission line to transmit the power generated by Bright Mountain to the existing Kentucky Power Bonnyman Substation, approximately 2.5 miles east of the proposed Project.¹²⁸ Bright Mountain stated that the nonregulated transmission line will be approximately four miles in length and will connect to the Project's substation to the regional electric grid at the point of intersection.¹²⁹ The proposed transmission line will

¹²⁷ Application for a Certificate of Construction for an Up to 80-Megawatt Merchant Electric Solar Generating Facility and Related Nonregulated Transmission Line of Approximately 4 Miles in Perry, County Kentucky (filed on Sept. 15, 2023).

¹²⁸ Application, Attachment J at 4.

¹²⁹ Application Tab 13 at 2.

tie into the existing 69 kV electric transmission line on the project site.¹³⁰ The nonregulated transmission line will have a voltage of 69 kV and will have a right of way of 100 feet.¹³¹ The transmission line will generally run in an easterly direction away from the Project site.¹³² Bright Mountain has filed several maps for the proposed transmission line route.¹³³

The Siting Board finds additional requirements are necessary to ensure protections exist in the case the transmission route is different than the route supported by the record of this matter. This will be set forth more fully in Appendix A at mitigation measure 32.

Detailed Description of the Proposed Transmission Line and Appurtenances

KRS 278.714(2)(c) states that a full description of the proposed electric transmission line and appurtenances is required, including the following: initial and design voltages and capacities; length of the line; terminal points; and substation connections.

Bright Mountain submitted a map showing the existing property lines that the proposed transmission line is proposed to cross.¹³⁴ Bright Mountain submitted copies of the leases currently procured for the route of the transmission line.¹³⁵ Bright Mountain stated that the proposed line route and the final location is of associated structures are subject to change due to further engineering design.¹³⁶

¹³⁰ Application, Tab 13 at 2.

¹³¹ Application Tab 13 at 2

¹³² Harvey Report at III-7.

¹³³ Application, Tab 13, Attachment K.

¹³⁴ Application, Tab, 13 Attachment K.

¹³⁵ Bright Mountain's Response to Staff's First Request, Attachment B.

¹³⁶ Bright Mountain's Response to Staff First Request, Item 9.

The Siting Board finds additional requirements are necessary to ensure protections exist in the case the transmission route is different than the route supported by the record of this matter. This will be set forth more fully in Appendix A to this Order, specifically mitigation measures 32 through 34.

Compliance with NESC

KRS 278.714(2)(d) requires that the Applicant provide a statement that the proposed electric transmission line and appurtenances will be constructed and maintained in accordance with accepted engineering practices and the NESC. Bright Mountain confirmed that the proposed electric transmission line would be built and maintained in accordance with accepted engineering practices and the NESC.¹³⁷

Requirements under KRS 278.714(3)

The Siting Board is also tasked with examining the following additional criteria in rendering its decision regarding construction of the proposed transmission line.

Scenic Impact

For the proposed non-regulated transmission line, the Project features under consideration for scenic compatibility include 64 proposed towers to support the transmission line, the approximately four mile route of the transmission line from the expected substation within the proposed Bright Mountain generating facility to the terminus at the Bonnyman Substation, and the cleared right of way for the transmission line.¹³⁸ Bright Mountain stated that the location of the proposed transmission line

¹³⁷ Application, Tab 14 at 2.

¹³⁸ Application, Tab 13 at 1.

traverses through vacant timberland to the point of interconnection at the existing Bonnyman Substation.¹³⁹

The Harvey Report concluded that based on the distance, angle of view and growth of vegetation, trees and shrubs may block some of the view of some poles. But in general, existing vegetation will not likely shield the transmission line and support poles from full view. The Harvey Report found that since the participating landowners have granted an easement to Bright Mountain for the transmission line that distance to the transmission line is not significant concern.¹⁴⁰

Compliance with all Legal Requirements

KRS 278.714(3) frames the decision to be made by the Siting Board for proposed nonregulated transmission lines:

Action to grant the certificate shall be based on the board's determination that the proposed route of the line will minimize significant adverse impact on the scenic assets of Kentucky and that the Applicant will construct and maintain the line according to all applicable legal requirements. In addition, the board may consider the interstate benefits expected to be achieved by the proposed construction or modification of electric transmission facilities in the Commonwealth. If the board determines that locating the transmission line will result in significant degradation of scenic factors or if the board determines that the construction and maintenance of the line will be in violation of applicable legal requirements, the board may deny the application or condition the application's approval upon relocation of the route of the line, or changes in design or configuration of the line.

As previously discussed, the Siting Board finds that overall, the proposed transmission line would not have a significant adverse impact on the scenic assets of

¹³⁹ Application, Tab 2 at 2.

¹⁴⁰ Harvey Report at V-8.

Perry County, Kentucky. Bright Mountain has complied, to date, with all applicable conditions relating to electrical interconnection with utilities by following the PJM interconnection process. The Siting Board finds that Bright Mountain proposed transmission line meets the requirements of KRS 278.714(3), subject to the mitigation measures and conditions imposed in this Order and the attached Appendix A to this Order.

Based upon the case record, the Siting Board finds Bright Mountain application for a construction certificate for a nonregulated transmission line should be approved. The transmission line will have minimal effects on the scenic surroundings and Bright Mountain has stated it will abide by the NESC in the construction and operation of the transmission line.

CONCLUSION

After carefully considering the criteria outlined in KRS Chapter 278, the Siting Board finds that Bright Mountain has presented sufficient evidence to support the issuance of a Construction Certificate to construct the proposed merchant solar facility and nonregulated transmission line. The Siting Board conditions its approval upon the full implementation of all mitigation measures and other requirements described herein and listed in Appendix A to this Order. A map showing the location of the proposed solar generating facility is attached hereto as Appendix B.

IT IS THEREFORE ORDERED that:

1. Bright Mountain's application for a Construction Certificate to construct an approximately 80-MW merchant solar electric generating facility in Perry County, Kentucky, and an approximately four-mile nonregulated electric transmission line in Perry

County is conditionally granted subject to full compliance with the mitigation measures and conditions prescribed in Appendix A.

2. Bright Mountain shall fully comply with the mitigation measures and conditions prescribed in Appendix A.

3. In the event mitigation measures within the body of this Order conflict with those prescribed in Appendix A, the measures in Appendix A shall control.

4. This case is closed and removed from the commission's docket.

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KENTUCKY STATE BOARD ON ELECTRIC
GENERATION AND TRANSMISSION SITING



Chairman, Public Service Commission

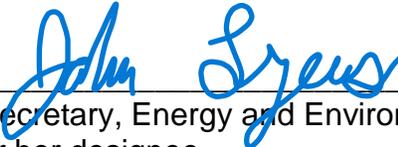


Vice Chairman, Public Service Commission



Commissioner, Public Service Commission

lex KAC
w/permission



Secretary, Energy and Environment Cabinet,
or her designee



Secretary, Cabinet for Economic Development,
or his designee

ATTEST:



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



APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION AND TRANSMISSION SITING IN CASE NO. 2022-00274 DATED MAR 13 2024

MITIGATION MEASURES AND CONDITIONS IMPOSED

The following mitigation measures and conditions are hereby imposed on Bright Mountain Solar LLC (Bright Mountain) to ensure that the facilities proposed in this proceeding are constructed as ordered.

1. A final site layout plan shall be submitted to the Siting Board upon completion of the final site design. Deviations from the preliminary site layout should be clearly indicated on the revised graphic. Those changes could include, but are not limited to, location of solar panels, inverters, transformers, substation, operation and maintenance building, transmission line route, or other Project facilities and infrastructure.

2. Any change in the Project boundaries from the information that formed this evaluation shall be submitted to the Siting Board for review.

3. The Siting Board will determine whether any deviation in the boundaries or site layout plan is likely to create a materially different pattern or magnitude of impacts.

4. Prior to construction, Bright Mountain shall provide a finalized Emergency Response Plan to the local fire district, first responders, and any County Emergency Management Agency. Bright Mountain shall provide site specific training for local emergency responders at their request. Access for fire and emergency units shall be set up after consultation with local authorities.

5. Bright Mountain or its contractor will control access to the site during construction and operation. All construction entrances will be gated and locked when not in use.

6. Bright Mountain's access control strategy shall also include appropriate signage to warn potential trespassers. Bright Mountain must ensure that all site entrances and boundaries have adequate signage, particularly in locations visible to the public, local residents, and business owners.

7. The security fence must be installed prior to activation of any electrical installation work in accordance with National Electrical Safety Code (NESC) standards. The substation shall have its own separate security fence and locked access installed in accordance with NESC standards.

8. If any components of the facility are visible to neighboring homes after construction, Bright Mountain shall assess the feasibility of a screening plan, including consulting with neighbors to determine whether there are adverse impacts to their viewshed. If a screening plan is considered, regardless of whether it is ultimately implemented, notice of such consideration shall be filed with the Siting Board.

9. Existing vegetation between solar arrays and nearby roadways and homes shall be left in place to the extent feasible to help minimize visual impacts and screen the Project from nearby homeowners and travelers.

10. Bright Mountain shall not remove any existing vegetation around the site's perimeter unless existing vegetation needs to be removed, except to the extent it must remove such vegetation for the construction and operation of the Project components.

11. To the extent that an affected adjacent property owner indicates Bright Mountain that a visual buffer is not necessary, Bright Mountain will obtain that property owner's written consent and submit such consent in writing to the Siting Board.

12. Bright Mountain is required to limit construction activity, process, and deliveries to the hours between 8:00 a.m. and 6:00 p.m. local time, Monday through Saturday. The Siting Board directs that construction activities that create a higher level of noise, such as pile-driving, will be limited to 9:00 a.m. to 5:00 p.m. local time, Monday through Friday. Non-noise causing and non-construction activities can take place on the site between 7:00 a.m. and 10:00 p.m. local time, Monday through Sunday, including field visits, arrival, departure, planning, meetings, mowing, surveying, etc.

13. If the pile driving activity occurs within 1,500 feet of a noise-sensitive receptor, Bright Mountain shall implement a construction method that will suppress the noise generated during the pile driving process (i.e., semi-tractor and canvas method; sound blankets on fencing surrounding the solar site; or any other comparable method). Bright Mountain can forego using noise suppression measures if it employs a panel installation method that does not use pile driving, so long as that method does not create noise levels similar to pile driving.

14. Bright Mountain shall notify residents and businesses within 2,400 feet of the Project boundary about the construction plan, the noise potential, any mitigation plans, and its Complaint Resolution Program referred to in Item 30 of this Appendix, at least one month prior to the start of construction.

15. Bright Mountain shall place panels, inverters, and substation equipment consistent with the distances to noise receptors to which it has committed in its maps and

site plans. Nevertheless, Bright shall not place solar panels or string inverters, if used, closer than 150 feet from a residence, church, or school, 25 feet from non-participating adjoining parcels, or 50 feet from adjacent roadways. Bright Mountain shall not place a central inverter, and if used, energy storage systems, closer than 450 feet from any adjacent residences, church, or school. These further setbacks shall not be required for residences owned by landowners involved in the Project that explicitly agree to lesser setbacks and have done so in writing. All agreements by participating landowners to lesser setbacks must include language advising the participating landowners of the setbacks otherwise required herein. All agreements by participating landowners to lesser setbacks must be filed with the Siting Board prior to commencement of the Project.

16. Bright Mountain shall fix or pay for repairs for damage to roads and bridges resulting from any vehicle transport to the site. For damage resulting from vehicle transport in accordance with all permits, those permits will control.

17. Bright Mountain shall comply with all laws and regulations regarding the use of roadways.

18. Bright Mountain shall implement ridesharing between construction workers when feasible, use appropriate traffic controls, or allow flexible working hours outside of peak hours to minimize any potential traffic delays during AM and PM peak hours.

19. Bright Mountain shall consult with the Kentucky Transportation Cabinet (KYTC) regarding truck and other construction traffic and obtain necessary permits from the KYTC.

20. Bright Mountain shall consult with the Perry County Road Department (PCRD) regarding truck and other construction traffic and obtain any necessary permits from the PCRD.

21. Bright Mountain shall develop special plans and obtain necessary permits before transporting heavy loads, especially the substation transformer, onto state or county roads.

22. Bright Mountain shall comply with any road use agreement executed with PCRD. Such an agreement might include special considerations for overweight loads, routes utilized by heavy trucks, road weight limits, and bridge weight limits.

23. Bright Mountain shall develop and implement a traffic management plan to minimize the impact on traffic flow and keep traffic safe. Any such traffic management plan shall also identify any traffic-related noise concerns during the construction phase and develop measures that would address those noise concerns.

24. Bright Mountain shall properly maintain construction equipment and follow best management practices related to fugitive dust throughout the construction process, including the use of water trucks. Dust impacts shall be kept at a minimal level. The Siting Board requires Bright Mountain's compliance with 401 KAR 63:010.

25. If any Person as defined by KRS 278.700(3) shall acquire or transfer ownership of, or control, or the right to control Bright Mountain, by sale of assets, transfer of stock, or otherwise, or abandon the same, Bright Mountain or its successors or assigns shall request explicit approval from the Siting Board with notice of the request provided to the Perry County Fiscal Court. In any application requesting such abandonment, sale, or change of control, Bright Mountain shall certify its compliance with KRS 278.710(1)(i).

26. As applicable to individual lease agreements, Bright Mountain, its successors, or assigns will abide by the specific land restoration commitments agreed to by individual property owners, as described in each executed lease agreement.

27. Bright Mountain has filed a complete and explicit decommissioning plan with the Siting Board. Bright Mountain shall commit to remove all facility components, above-ground and below-ground, regardless of depth, from the Project site. Upon its completion, this plan shall be filed with the Siting Board or its successors.

28. Bright Mountain or its assigns shall provide notice to the Siting Board, if, during any two-year (730 days) period, it replaces more than 20 percent of its facilities. Bright Mountain shall commit to removing the debris and replaced facility components from the Project site and from Perry County upon replacement. If the replaced components are properly disposed of at a permitted facility, they do not have to be physically removed from Perry County. However, if the replaced facility components remain in the county, Bright Mountain must inform the Siting Board of the location where the components are being disposed.

29. Any disposal or recycling of Project equipment, during operations or decommissioning, shall be done in accordance with applicable laws and requirements.

30. Bright Mountain shall initiate and maintain the Complaint Resolution Program provided to the Siting Board in the case record to address any complaints from community members. Bright Mountain shall also submit annually a status report associated with its Complaint Resolution Program, providing, among other things, the individual complaints, how Bright Mountain addressed those complaints, and the ultimate

resolution of those complaints identifying whether the resolution was to the complainant's satisfaction.

31. Bright Mountain shall provide Perry County Fiscal Court contact information for individuals within the company that can be contacted with concerns. This shall include contact information for the general public to reach individuals that can address their concerns. Bright Mountain shall update this contact information yearly, or within 30 days of any change in contact information.

32. Bright Mountain shall adhere to the proposed transmission route presented in the application. Should Bright Mountain find it necessary to include any parcel of land not included in this response in order, to finalize the route of the proposed transmission line, Bright Mountain shall return to the Siting Board to request an amendment to the location of the transmission line.

33. In order to minimize the impacts provided for in KRS 278.714(3) Bright Mountain shall submit a final layout of the transmission line and make all reasonable efforts to minimize a new right of way and instead try to co-locate with the current transmission facility.

34. Bright Mountain shall discuss potential screening plan agreements with the landowners leasing land to Bright Mountain for the transmission line to determine if any screening strategies that might mitigate and reduce the visual impact to the affected residences and continue to address complaints through the construction phase of the transmission line.

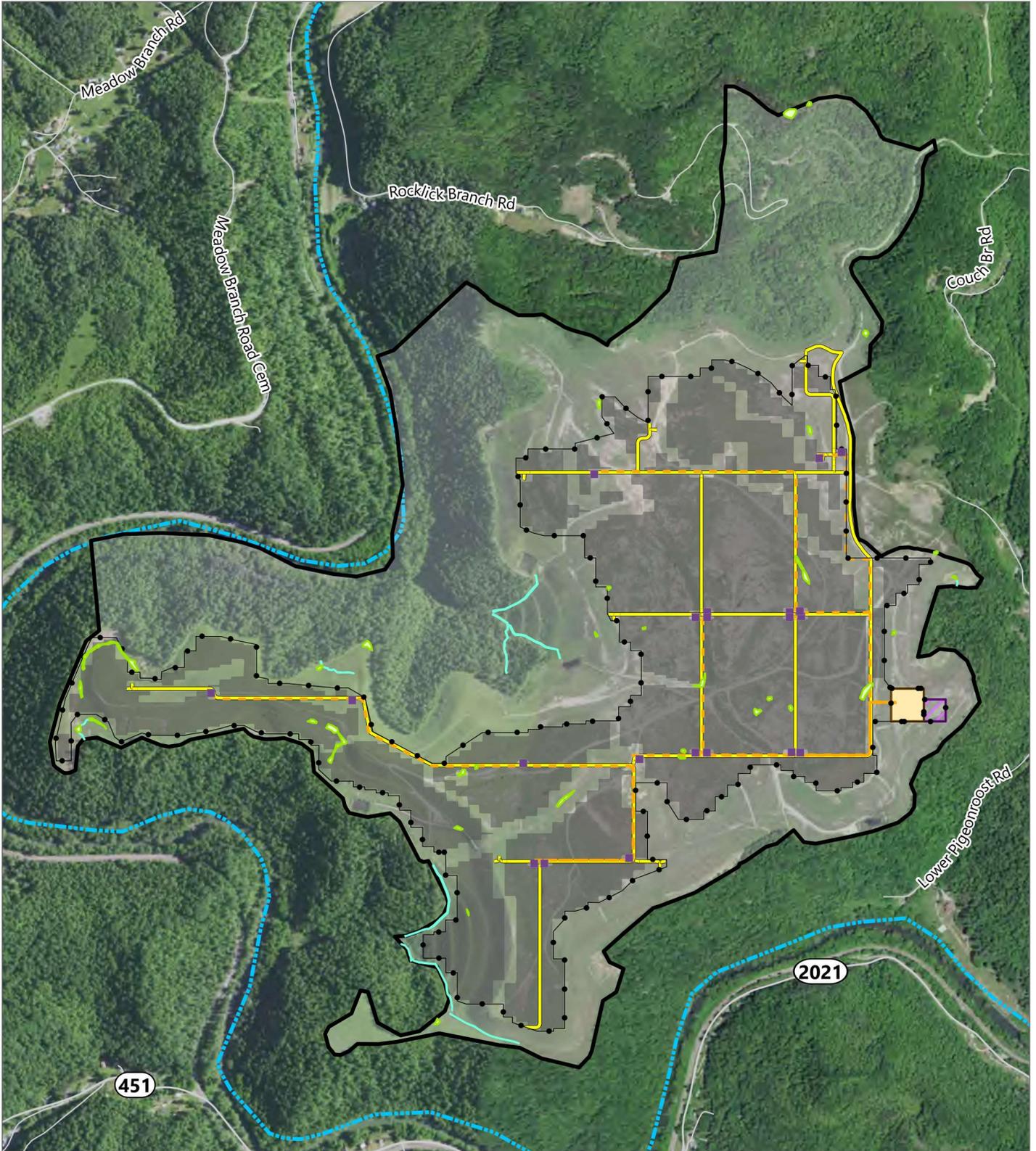
35. Within 30 days of entry, Bright Mountain shall send a copy of this Order to all the adjoining landowners who previously were required to receive notice of this Project.

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY STATE BOARD ON
ELECTRIC GENERATION AND TRANSMISSION SITING IN
CASE NO. 2022-00274 DATED MAR 13 2024

ONE PAGE TO FOLLOW

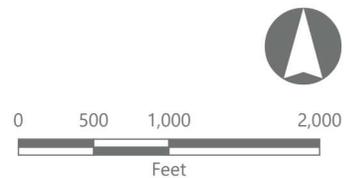
Water Features Site Map



Bright Mountain Solar Project

Perry County, Kentucky

- Inverter
- Access Road
- Collection Line
- Fenceline
- North Fork Kentucky River
- Delineated Stream
- Delineated Wetland
- Collection Substation
- O&M Area
- PV Panel Area
- Project Area



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