

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

In the Matter of:

ELECTRONIC APPLICATION OF BANJO CREEK)	
SOLAR LLC FOR A CERTIFICATE OF)	
CONSTRUCTION FOR AN APPROXIMATELY 120)	CASE NO.
MEGAWATT ELECTRIC GENERATING FACILITY)	2023-00263
IN GRAVES COUNTY, KENTUCKY PURSUANT)	
TO KRS 278.700 AND 807 KAR 5:110)	

ORDER

On January 16, 2024, the Intervenors, the Residents of Banjo Creek, filed a motion to continue/reschedule a local public meeting that was scheduled for January 16, 2024, at 5:00 p.m. Central Standard Time. The public comment meeting was changed from in-person to virtual attendance by Order entered January 16, 2024.

In support of its motion, the Intervenors argued that that there was not enough time for proper notice to the public pursuant to KRS 61.820 or KRS 61.823, as appropriate, and the circumstances of the change did not meet the requirements of an emergency pursuant to KRS 278.712(5).

LEGAL STANDARD

KRS 278.712(1) states, in relevant part, that:

The board may convene a local public hearing upon receipt of a request by not less than three (3) interested persons that reside in a county or municipal corporation in which the facility is proposed to be constructed to consider the application for a construction certificate. The board shall convene a local public hearing in response to a request from the planning and

zoning commission, mayor of a city, or county fiscal court of a jurisdiction where the facility is proposed to be located.”¹

DISCUSSION AND FINDINGS

Having considered the motion and the material at issue, the Siting Board finds that under KRS 278.712(1), the Siting Board is not required to convene a local public meeting. The language of the statute specifically states that the Siting Board may convene a local public hearing upon receipt of a request from not less than three interested persons that reside in the county. The Siting Board is only required to hold a local public hearing if a request was received from the planning and zoning commission, mayor of a city, or county fiscal court. In this case, a request was not received from the planning and zoning commission, the mayor of a city, or the county fiscal court but from the Intervenors who are residents.

Additionally, there is not time to reschedule the local public hearing before the evidentiary hearing and still satisfy the notice requirements. Further, hosting it after the hearing would negate the benefit of the meeting because a decision would not be based on the comments without violating due process. Local public comment will be accepted prior to the start of the evidentiary hearing scheduled for January 23, 2024.

IT IS THEREFORE ORDERED that the Intervenor’s motion to continue/reschedule the local public hearing is denied.

¹ KRS 278.712(1).

KENTUCKY STATE BOARD ON ELECTRIC
GENERATION AND TRANSMISSION SITING



Chairman, Public Service Commission

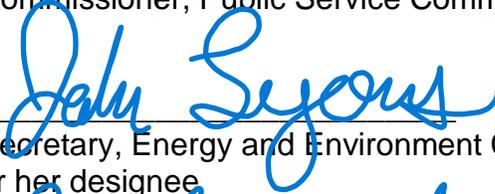


Vice Chairman, Public Service Commission



Commissioner, Public Service Commission

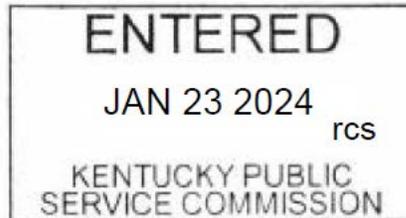
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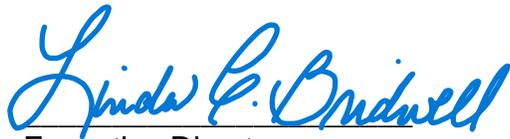
Secretary, Energy and Environment Cabinet,
or her designee



Secretary, Cabinet for Economic Development,
or his designee



ATTEST:



Executive Director
Public Service Commission
on behalf of the Kentucky State
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