

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

In the Matter of:

ELECTRONIC APPLICATION OF GREEN RIVER)	
SOLAR, LLC FOR A CERTIFICATE TO)	
CONSTRUCT AN APPROXIMATELY 200)	
MEGAWATT MERCHANT SOLAR ELECTRIC)	CASE NO.
GENERATING FACILITY IN BRECKINRIDGE)	2020-00387
COUNTY AND MEADE COUNTY, KENTUCKY)	
PURSUANT TO KRS 278.700 AND 807 KAR)	
5:110)	

ORDER

On November 22, 2024, Green River Solar, LLC (Green River Solar) filed a motion for a declaratory order that Siting Board approval is not necessary for an anticipated transaction or, in the alternative, approval of the transaction. Green River Solar stated the transaction was necessary to obtain construction financing for the project.

BACKGROUND

Green River Solar filed an application to construct an approximately 200-megawatt (MW) merchant solar generating facility in Meade and Breckinridge counties, Kentucky, on June 30, 2021.¹ During the pendency of the case, Green River Solar responded to two rounds of discovery,² a site visit was conducted, the Siting Board

¹ Application (filed June 30, 2021).

² Green River Solar's Response to Siting Board Staff's First Request for Information (filed Aug. 27, 2021) and Green River Solar's Response to Siting Board Staff's Second Request for Information (filed Sept. 23, 2021).

hired a consultant who issued a report about the project,³ Green River Solar responded to the consultant's report,⁴ and a hearing was held on November 1, 2021. The Siting Board evaluated the entire record before issuing the final Order on December 22, 2021. Green River Solar filed several motions that requested the Siting Board reconsider Mitigation Measure 26 in the December 22, 2021 Order that restricts transfers of ownership of the project.⁵ The Siting Board declined to remove Mitigation Measure 26 and continued to require Siting Board approval for transfers of the project.⁶

On November 22, 2024, Green River Solar filed a motion and requested that the Siting Board issue a declaratory order in anticipation of a transfer that may need to occur in order to obtain funding during the construction of the project.⁷ Green River Solar requested a declaratory order that the transaction does not require Siting Board approval. In the alternative, should the Siting Board find the transaction does require approval, Green River Solar requested Siting Board approval for the anticipated transfer.⁸

DISCUSSION AND FINDINGS

Green River Solar stated that to obtain funding during construction for the project certain transfers of Green River Solar will need to occur.⁹ Green River is a wholly

³ Green River Solar Site Assessment Report by BBC Consulting (filed Sept. 29, 2021).

⁴ Green River Solar's Response to Consultant Report (filed Oct. 15, 2021).

⁵ Green River Solar's Motion for Rehearing (filed Jan. 21, 2022), Motion for Ruling on Pending Motion on Rehearing (filed July 15, 2022), and Final Request for Clarification (filed Aug. 31, 2022).

⁶ August 12, 2022 Order (Ky. Siting Board Aug. 12, 2022) and September 20, 2022 Order (Ky. Siting Board Sept. 20, 2022).

⁷ Green River Solar, LLC's Application for Declaratory Order (filed Nov. 22, 2024).

⁸ Application for Declaratory Order at 1.

⁹ Application for Declaratory Order at 2.

owned subsidiary of NextEra Energy, Inc. (NextEra).¹⁰ ESI Energy, LLC (ESI) is also a wholly owned subsidiary of NextEra.¹¹ ESI will create a wholly owned subsidiary (Holding Company).¹² After Green River Solar is transferred into the Holding Company, one of the Holding companies would be the Borrower.¹³ The Borrower would enter the Construction Revolving Credit Facility with commercial lenders and pledge its ownership interests to the commercial lenders as collateral to the loans that would be borrowed under a group of commercial lenders.

Green River Solar stated that NextEra, or its affiliates, will continue to be responsible for the day-to-day operation and management of Green River Solar.¹⁴ Green River Solar stated that NextEra will retain control of the operations and management, and compliance with the Mitigation Measures in the December 22, 2021 Order.¹⁵ Green River Solar stated that NextEra, or its affiliates, will be responsible for supplying the necessary staff to comply with all Siting Board requirements.¹⁶

Having considered the motion, the Siting Board finds that the motion for a declaratory Order should be denied. Based upon the motion and being otherwise sufficiently advised, the Siting Board finds that the transfer of Green River Solar into a holding company for construction financing should be approved. NextEra was an original party to the proceedings and the Siting Board fully investigated its environment

¹⁰ Application for Declaratory Order at 2–3.

¹¹ Application for Declaratory Order at 2.

¹² Application for Declaratory Order at 3.

¹³ Application for Declaratory Order at 3.

¹⁴ Application for Declaratory Order at 3.

¹⁵ Application for Declaratory Order at 4.

¹⁶ Application for Declaratory Order at 4.

compliance history and its financial, technical, and managerial capacity to construct and operate the project. The Siting Board has taken notice from the November 9, 2023, order that ESI has violated the Migratory Bird Treaty Act, but still has a good record of environmental compliance.¹⁷

The transaction is only for financing purposes. The commercial lenders that were not party to the original consideration of the case are not going to have a controlling interest in the project, and substantially the same entities will ensure compliance with the Siting Board's orders post transfer as they are today. As the substantially same entities that ensure Green River Solar's compliance with mitigation measures today will continue to do so post transfer, the Siting Board finds that the request to obtain funding during the construction for the Project should be approved subject to the continuing compliance with the December 22, 2022 Order. The Siting Board further finds that when the transfers of the project occur, Green River Solar will file proof into the record. In addition, when the financing is complete, notice shall be filed listing the lienholder, the amount of indebtedness as well as the portion of indebtedness as it relates to this project. This information should be updated to reflect any financing changes.

IT IS THEREFORE ORDERED that:

1. Green River Solar's application for declaratory Order is denied.
2. Green River Solar's request to obtain a transfer for funding during construction for the Project is granted.

¹⁷ Order (Ky. Kentucky Siting Board November 9, 2023) at 3.

3. Green River Solar shall provide proof to the Siting Board, in post-case correspondence referencing this case number, within 20 days of the transfer transaction closing.

4. Green River shall provide notice to the Siting Board, in post-case correspondence referencing this case number, of the ultimate lienholder, the total amount of indebtedness as well as the indebtedness related to this project, within 20 days of the financial transaction closing.

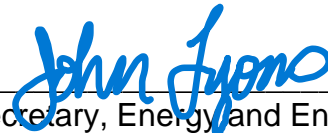
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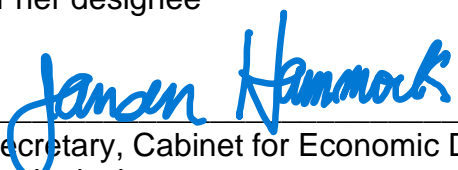
KENTUCKY STATE BOARD ON ELECTRIC
GENERATION AND TRANSMISSION SITING


Chairman, Public Service Commission


Commissioner, Public Service Commission



Commissioner, Public Service Commission

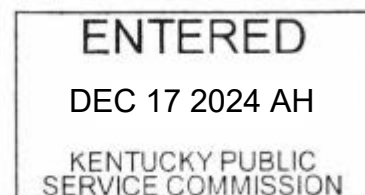

Secretary, Energy and Environment Cabinet,
or her designee


Secretary, Cabinet for Economic Development,
or his designee

by HH
by permission

ATTEST:


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



*Courtney Pelissero
Attorney
National Grid Renewables
8400 Normandale Lake Blvd.
Suite 1200
Bloomington, MINNESOTA 55437

*Dixie G Cherry
Resident Representative
101 Queen Ann Court
Princeton, KENTUCKY 42445

*Honorable Jason R Bentley
Attorney at Law
McBrayer PLLC
201 East Main Street
Suite 900
Lexington, KENTUCKY 40507

*William D. Young
Caldwell County Judge Executive
100 East Market Street
Princeton, KENTUCKY 42445

*Kathryn A Eckert
Frost Brown Todd, LLC
400 West Market Street
32nd Floor
Louisville, KENTUCKY 40202-3363

*Katherine Yunker
McBrayer PLLC
201 East Main Street
Suite 900
Lexington, KENTUCKY 40507

*Melissa Schmit
Attorney
National Grid Renewables
8400 Normandale Lake Blvd.
Suite 1200
Bloomington, MINNESOTA 55437