

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

In the Matter of:

| | | |
|---------------------------------------|---|------------|
| ELECTRONIC APPLICATION OF HENDERSON |) | |
| COUNTY SOLAR LLC FOR A CERTIFICATE OF |) | |
| CONSTRUCTION FOR AN APPROXIMATELY 50 |) | CASE NO. |
| MEGAWATT MERCHANT ELECTRIC SOLAR |) | 2020-00391 |
| GENERATING FACILITY IN HENDERSON |) | |
| COUNTY, KENTUCKY PURSUANT TO |) | |
| KRS 278.700 AND 807 KAR 5:110 |) | |

ORDER

This matter comes before the Kentucky State Board on Electric Generation and Transmission Siting (Siting Board) on a filing of a “notice” and a subsequent “renewed request” filed by Henderson County Solar, LLC (Henderson County Solar). On September 24, 2025, Henderson County Solar filed a “Notice of Transfer”. On January 16, 2026, Henderson County Solar filed a “Renewed Request for Relief”. In the renewed request, Henderson County Solar requested the Siting Board to approve a transfer by February 1, 2026.

BACKGROUND

On June 25, 2021, Henderson County Solar filed an application for a certificate to construct an approximately 50 megawatt (MW) merchant solar electric generating facility in Henderson County, Kentucky. At the time of the application, Henderson County Solar was jointly owned by Community Energy Solar, LLC (CES) and Community Energy, Inc.

(CEI).¹ At that time, CEI was an affiliate of CES and served as the Managing Member of Henderson County Solar.² On December 22, 2021, the Siting Board issued a final Order for a conditional construction certificate along with mitigation measures attached as an Appendix.³

On April 20, 2023, Henderson County Solar filed a “Notice re 12/22/21 Final Order” (First Notice). According to the First Notice,

[o]n December 20, 2021, an affiliate of AES Clean Energy Development, LLC acquired all of the issued and outstanding equity interests of Community Energy Solar, LLC (‘Community Solar’), the parent company of McCracken County Solar (sic). As a result, McCracken County Solar is now an indirect wholly-owned subsidiary of AES Clean Energy Development, LLC. AES Clean Energy Development, LLC is owned 75% by The AES Corporation (NYSE: AES).⁴

In the First Notice, Henderson County Solar did not believe that the transfer triggered Siting Board review in accordance with Mitigation Measure 26 of the final Order because the transfer did not attempt to directly transfer the certificate held by Henderson County Solar; nor was it a transfer of the equity interests of Henderson County Solar to an entity other than its parent company at the time the construction certificate was issued.⁵ The First Notice claimed Henderson County Solar retained “ownership” of the

¹ Application at 1.

² Application at 1.

³ Order (Ky. Siting Board Dec. 22, 2021), Appendix A.

⁴ Notice re 12/22/21 Final Order (First Notice) (filed Apr. 20, 2023) at 1. The appearance of typographical error is contained in the Notice.

⁵ First Notice at 2.

certificate issued in this case and Community Energy Solar remained the owner of all of Henderson County Solar's issued and outstanding equity interest.⁶

On September 24, 2025, another notice⁷ (Second Notice) was filed and stated the following

Henderson County Solar LLC ("Henderson County Solar" or the "Applicant"), by and through counsel, and hereby requests approval from the Kentucky State Board on Electric Generation and Transmission Siting (the "Siting Board" or "Board") for transfer of the Construction Certificate granted by the Board in its final order dated December 22, 2021 ("Final Order"), **from AES Clean Energy Development, LLC to Stellar US Asset Co LLC.**⁸ (emphasis added)

.....

Subsequently, Henderson County Solar was then transferred to Stellar US Asset Co LLC, a wholly owned subsidiary of Stellar Renewable Power LLC ("Stellar Renewable Power"), on April 11, 2024, from AES.⁹

The Notice goes on to provide additional information related to the transfer that has already occurred. Subsequent to the Second Notice, the Siting Board received multiple, similarly styled, public comments requesting the Siting Board investigate this matter.¹⁰ Finally, on January 15, 2025, Henderson County Solar filed a "Renewed Request" for Siting Board approval of the transfer and requested an Order be issued by February 1, 2026.¹¹

⁶ First Notice at 2.

⁷ Notice of Transfer (Second Notice) (filed Sept. 24, 2025).

⁸ Second Notice at 1.

⁹ Second Notice at 1-2.

¹⁰ [20260114_Multiple_Public_Comments.pdf](#)

¹¹ Renewed Request at 1.

LEGAL STANDARD

The Siting Board is a creature of statute, KRS 278.700 through KRS 278.718. Relevant to this Order, KRS 278.708(1) requires every applicant before the Siting Board to submit a Site Assessment Report (SAR).

KRS 278.708 also provides for

(4) The site assessment report shall also suggest any mitigating measures to be implemented by the applicant to minimize or avoid adverse effects identified in the site assessment report.

(5) The board shall have the authority to hire a consultant to review the site assessment report and provide recommendations concerning the adequacy of the report and proposed mitigation measures. The board may direct the consultant to prepare a separate site assessment report. Any expenses or fees incurred by the board's hiring of a consultant shall be borne by the applicant.

(6) The applicant shall be given the opportunity to present evidence to the board regarding any mitigation measures. As a condition of approval for an application to obtain a construction certificate, the board may require the implementation of any mitigation measures that the board deems appropriate. Ongoing compliance with any mitigation measures that were conditions of construction certificate application approval shall be enforced by the Energy and Environment Cabinet pursuant to KRS 278.710(9).¹²

In the final Order in this matter, the Siting Board found that mitigation measures were necessary in order to meet the criteria outlined in KRS Chapter 278 for a construction certificate. The Siting Board conditioned its “approval on upon the full

¹² KRS 278.700 through KRS 278.718 were amended in 2023 since the final Order in this matter to allow for the addition of the responsibilities of the Energy and Environmental Cabinet. The language regarding the SAR is substantially the same now as it was at the time of the processing of this matter. The prior version of KRS 278.708(6) read “[t]he applicant shall be given the opportunity to present evidence to the board regarding any mitigation measures. As a condition of approval for an application to obtain a construction certificate, the board may require the implementation of any mitigation measures that the board deems appropriate.”

implementation of all mitigation measures and other requirements described herein and listed in Appendix A".¹³ Specifically, Mitigation Measure 26 read as follows:

If any person shall acquire or transfer ownership of, or control, or the right to control the Project, by sale of assets, transfer of stock, or otherwise, or abandon the same, Henderson County Solar or its successors or assigns **shall request explicit approval from the Siting Board with notice of the request provided to the Henderson County Fiscal Court.** In any application requesting such abandonment, sale or change of control, Henderson County Solar shall certify its compliance with KRS 278.710(1)(i).¹⁴ **(Emphasis added)**

KRS 278.710(3)-(4)¹⁵ requires

[a] person that has received a construction certificate for a merchant electric generating facility shall:

(a) File with the Energy and Environment Cabinet the copy of the bond or other similar security that, pursuant to KRS 278.706(2)(m)5., is required by a county or a municipal government or as part of a decommissioning plan, no later than the date upon which the construction of the merchant generating facility commences, and refile an updated copy at least once every five (5) years thereafter;

(b) Not transfer rights and obligation under the certificate without having first applied for and received a board determination that:

1. The acquirer has a good environmental compliance history; and

2. The acquirer has the financial, technical, and managerial capacity to meet the obligations imposed by the terms of the approval or has the ability to contract to meet these obligations;

(c) File with the Energy and Environment Cabinet a notice of the date that construction is complete and the

¹³ Final Order at 24.

¹⁴ Final Order, Appendix A at 6.

¹⁵ KRS 278.710 was amended in 2023 and to some degree takes that amendment into account in its language.

merchant electric generating facility begins producing electricity for sale; and

(d) Following the date the merchant electric generating facility begins producing electricity for sale, file a notice of any transaction involving the transfer or sale of ownership, control, or the right to control the merchant electric generating facility, with lessors of property where the merchant electric generating facility is located, the Energy and Environment Cabinet, the county judge/executive of a county and, if applicable, the mayor of a municipality in which the merchant electric generating facility is located, within ten (10) days of completing the transaction. The notice shall include the name, street address, telephone number, and e-mail address of the person acquiring ownership, control, or the right to control the merchant electric generating facility.

(4) A person that has acquired ownership, control, or the right to control a merchant electric generating facility from the applicant or its successor or assign shall file with the Energy and Environment Cabinet within ten (10) days of completing the acquisition:

(a) A written consent to assume the obligations set forth in the decommissioning plan as of the date the acquisition occurred; and

(b) A notice of adoption of an existing bond or other similar security previously filed pursuant to subsection (3)(a) of this section or a replacement bond or other similar security that complies with KRS 278.706(2)(m)5. An existing bond or other similar security shall be adopted, or a replacement bond or other similar security shall be in place, as of the date the acquisition occurs so that there is no lapse in coverage of the decommissioning bond or other similar security. A person making a filing pursuant to this subsection shall file an updated bond or other similar security that complies with KRS 278.706(2)(m)5. at least once every five (5) years.

DISCUSSION AND FINDINGS

Having considered the notices and filings, as well as the record, the Siting Board finds that Henderson County Solar should show cause as to why its construction certificate should not be revoked for failing to comply with the mitigation measures, specifically mitigation measure 26.

Henderson County Solar filed its First Notice of a transfer approximately 16 months after the first transfer was completed. The Siting Board notes that the first transfer occurred two days prior to the final Order being issued in this matter, and nothing was filed in the record to notify the Siting Board at that time. In addition, the First Notice claims that no transfer of the construction certificate would occur as the result of the transfer so no approval was needed. The First Notice also explicitly did not request the Siting Board approval of the transfer.

The Second Notice, requesting approval of the second transfer, specifically asked for approval of the transfer of the construction certificate from “AES Clean Energy Development, LLC to Stellar US Asset Co LLC”.¹⁶ The entity listed as possessing the certificate is not the entity listed in the final Order in this matter as being granted the conditional construction certificate. As with the first transfer, the second transfer has already occurred. Approximately 17 months passed between the second transfer and a filing purporting to notify the Siting Board of the transaction. The post-transaction filing being made more significant given that Henderson County Solar acknowledges that the second transfer is a type that would require Siting Board approval and requested such.¹⁷

The Siting Board notes that the construction certificate granted in December of 2021 was conditional upon full compliance with the mitigation measures in Appendix A. In this case, Henderson County Solar appears to have completed two transfers of ownership and did not request approval prior to either transfer. Henderson County Solar also appears to have failed to notify the Siting Board of either transaction until months

¹⁶ Second Notice at 1.

¹⁷ Second Notice at 5.

after the transaction was completed. The Siting Board acknowledges the delay in resolving the request filed in September of 2025 but emphasizes that, like the first transfer, Henderson County Solar filed a notice requesting retroactive approval of a transaction. Requests for retroactive approval could be seen as an applicant seeking to usurp the authority of the Siting Board given its role in ensuring that merchant generating facilities are owned by persons with good environmental compliance and the managerial, technical and financial abilities to comply with all applicable statutes, regulations and Orders of the Siting Board.

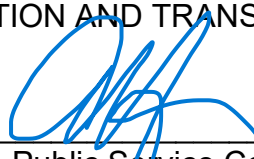
Based on the information currently in the record, the Siting Board finds that Henderson County Solar should file a response within twenty days of service of this Order addressing why its construction certificate should not be revoked. A copy of this Order will also be mailed to the current Henderson County Judge-Executive who also served as the *ad hoc* representative on this matter originally.

Finally, the Siting Board notes that Henderson County Solar stated it intended to begin construction in February 2026. Upon review of the administrative record, Henderson County Solar has not filed its final site plan nor has the Siting Board had the opportunity to review it for material changes or any other issues related to the Mitigation Measures set for in the final Order. Given the timing questions raised by the transfers referenced above, the Siting Board cautions Henderson County Solar that any additional violations of the final Order mitigation requirements in this case could be viewed as willful or intentional and thus may give rise to additional administrative actions which could impact the validity of the conditional construction certificate.

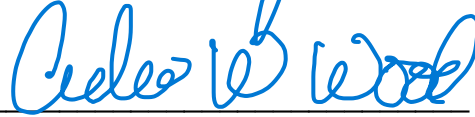
IT IS THEREFORE ORDERED:

1. Henderson County Solar shall file a response to this Order no later than 20 days after service of this Order.
2. A copy of this Order shall be mailed to the Henderson County Judge Executive.
3. Counsel for the parties shall enter an appearance or appearances within ten days of the date of entry of this Order.
4. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.
5. Nothing in this Order shall be construed as preventing the Siting Board from issuing additional Orders.


KENTUCKY STATE BOARD ON ELECTRIC
GENERATION AND TRANSMISSION SITING



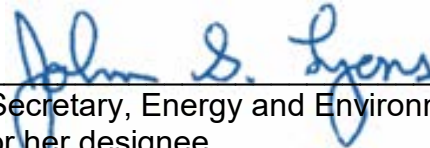
Chairman, Public Service Commission



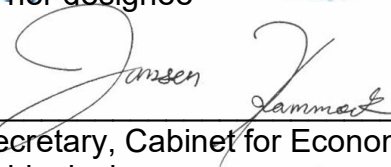
Commissioner, Public Service Commission



Commissioner, Public Service Commission



Secretary, Energy and Environment Cabinet,
or her designee



Secretary, Cabinet for Economic Development,
or his designee

by AH
w/ permission

Herbert McKee, ad hoc member



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ATTEST:



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