

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

In the Matter of the Application of Mt Olive Creek)
Solar, LLC for a Construction Certificate to Construct) **Case No. 2020-00226**
a Merchant Electric Generating Facility)

MOTION TO APPROVE FORM OF SECOND PUBLIC MEETING

Comes Mt Olive Creek Solar, LLC (hereinafter, the “Applicant”) pursuant to KRS 278.706(2)(f) and the Commission’s Order dated March 16, 2020 (the “Order”) in the case entitled “Electronic Emergency Docket Related to the Novel Coronavirus COVID-19”, No. 2020-00085, and for its Motion to approve the format for its Second Public Meeting, states as follows:

1. Mt Olive Creek Solar, LLC will be the Applicant for approval of a Siting Board Application, the notice of intent to file of which was filed pursuant to 807 KAR 5:110, Section 2 on July 10, 2020.
2. On August 6, 2020, the Applicant held a public meeting as required by KRS 278.706(f)(1) and in accordance with the Commission’s order dated July 21, 2020.
3. Notice of that meeting was provided, as demonstrated by the Applicant’s filing of July 24, 2020.
4. One member of the public attended the August 6, 2020, meeting in person. That individual works for a local fencing company that Carolina Solar Energy had notified about the project, and is also a grandson of one of the landowners who has agreed to lease land to the Applicant for the proposed facility. In addition to Applicant’s staff and landowners who have

agreed to lease land to the Applicant for the proposed facility, two individuals unaffiliated with Applicant joined the meeting virtually, both of whom are adjoining landowners.

5. After the August 6, 2020, public meeting, the Applicant entered into a new lease for the facility's use for 12 additional acres on a parcel of land (the "New Parcel") adjacent to the existing facility footprint on T Wethington Road. The addition of the New Parcel creates six additional adjoining properties to the proposed facility.

6. Pursuant to KRS 278.706(f), a public meeting must be scheduled and conducted in the county where the proposed facility will be constructed. That statute also requires notice of the meeting to be mailed to all owners of property adjoining the proposed facility.

7. The landowners who have adjacent properties to the New Parcel would have received constructive notice of the August 6, 2020, public meeting by way of notice published in *The Times Journal*, but did not receive notice directly mailed to them.

8. The Applicant proposes to hold another public meeting, specifically for the purpose of providing opportunity for the landowners who have adjacent properties to the New Parcel to participate. Because a public meeting in compliance with the Commission's July 21, 2020, Order has already been held, the Applicant proposes the following format for the second public meeting;

- (a) Two weeks prior to the second meeting, the Applicant will cause to be published another notice in *The Times Journal*, and will mail notice to property owners adjoining the New Parcel. The notice will not be mailed to the landowners who previously were mailed notice of the August 6, 2020 meeting.

- (b) The notice mailed to the new adjoining landowners will specifically request that they contact the Applicant two or more days prior to the scheduled meeting to advise if they want to attend the meeting in-person. If no landowner adjoining the New Parcel, or member of the public, notifies the Applicant that they wish to participate in-person, the public meeting will solely be a virtual meeting. If a landowner or member of the public wishes to participate in-person, the public meeting will be projected for viewing “live” at a physical location in Russell County to be communicated to each individual who signs up to attend in person, at which a representative of the Applicant will be present and a mechanism will be provided for any in-person attendees to address questions to representatives of the Applicant;
- (c) The notice published in the local newspaper will indicate that the meeting will be held virtually unless an in-person meeting is requested, and will communicate instructions for how to notify Applicant at least two days in advance in order to request an in-person meeting. All notices of and advertisements for the public meeting will specify how the public can access and participate in the public meeting via the online virtual platform;
- (d) All representatives and experts making presentations for the Applicant at the public meeting will do so via a live “virtual” platform (such as Zoom); and
- (e) The virtual platform used for the public meeting will allow members of the public to view the public meeting live, online, without cost, by registering with a valid email address, and will allow participants to ask representatives of the Applicant questions about the project, either orally or in writing.

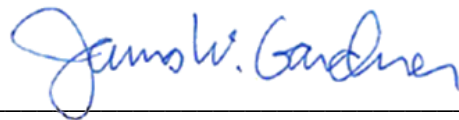
9. The Applicant believes that these measures comply with the reasoning of the Commission in approving the format of the August 6, 2020, public meeting, including the following reasons:
- (a) Because of the Covid-19 pandemic, the Public Service Commission in its March 16, 2020 Order in Case No. 2020-00085 limited in-person activities at the Commission and encouraged teleconferences instead.
 - (b) In the Order, the PSC relied on the Executive Order 2020-215 by Governor Beshear, who declared a State of Emergency. He further issued directives limiting and restricting in-person meetings and out-of-state travel. These limitations affect the ability of Mt Olive Creek Solar, LLC to travel and conduct in-person meetings.
 - (c) In the words of the Commission, the Applicant believes that “[t]he process and protocols proposed by Mt Olive Creek for its public meeting strikes a balance in being able to provide information on the solar project development in Russell County and to receive comment from the public on the project as required by KRS 278.706(2)(f) and doing so in a manner that takes into account the current public gathering limitations and social distancing requirements imposed by the COVID-19 State of Emergency in Kentucky.”
10. The format and method for conducting the public meeting outlined in paragraph 8 above provides “new” adjoining landowners with multiple options for “attending” the public meeting and receiving information about the project, including a mechanism for attending the public meeting at a physical location, and therefore satisfies both the letter and the spirit of the requirements of KRS 278.706(2)(f), while also

accommodating the health and safety concerns raised by the current COVID-19 State of Emergency. Because all of the above methods will be employed by Applicant and all will be described in the newspaper and in a letter notice to specific adjacent landowners, Applicant requests an Order from the Siting Board that based on the facts that collectively the above activities satisfy the requirements of KRS 278.706(2)(f).

11. The meeting will take place over Zoom video conference on Thursday, October 8 at 6:30pm ET. If an in-person meeting is requested in accordance with the protocols described above, the meeting's in-person location will be provided to the Siting Board within three days after the meeting.

WHEREFORE, the Applicant moves the Siting Board to issue an order declaring that the format and method of conducting the second public meeting described in paragraph 8 above satisfies the requirement of a "public meeting" in the county as required by KRS 278.706(2)(f).

Respectfully submitted,



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