

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

In the Matter of:

<i>Electronic</i> Application of Caldwell Solar, LLC)	Case No.
for Certificate of Construction for an up to 200)	2020-00244
Megawatt Merchant Electric Solar Generating)	
Facility in Caldwell County, Kentucky)	

Application for Certificate of Construction

Caldwell Solar, LLC (“the Applicant” or “Caldwell”) files this application requesting from the Kentucky State Board on Electric Generation and Transmission Siting (“the ESB” or “the Board”) a certificate of construction for an up to approximately 200 MW merchant electric solar generating facility pursuant to KRS 278.704. The generating facility will be located in Caldwell County, Kentucky.

In support of this Application, Caldwell submits herewith Exhibits A-J. To assist the Board and interested persons in locating information required by various statutes and regulations, Caldwell also submits herewith the Table of Contents required by 807 KAR 5:110 §3(2)(b) and attaches hereto an Index of Regulation Requirements, listing the requirements for a generation application, and the principal place(s) each requirement is addressed in these Application materials. The facts on which the Application is based are contained in the concurrently-filed exhibits, reports, and other information and the statements further made by Caldwell as follows:

I. Applicant

1. Caldwell Solar, LLC is the Applicant for approval of an Application to the Board for a Certificate to Construct a solar merchant electric generating facility.

2. Caldwell is the entity proposing to construct and own the solar merchant generating facility. Its address and phone number are: 8400 Normandale Lake Blvd., Suite 1200; Bloomington, MN 55437; (952) 988-9000. Communications to Caldwell regarding this Application and ESB proceeding should be directed to the attention of Melissa Schmit and Courtney Pelissero.

3. Electronic service on Caldwell of orders and other filings in this proceeding should be directed to its undersigned attorneys of record and to:

Melissa Schmit,	melissa@nationalgridrenewables.com
Courtney Pelissero,	cpelissero@nationalgridrenewables.com

4. Caldwell is a limited-liability company organized under the laws of the state of Delaware, and is authorized to do business in Kentucky (*see* Exhibit A).

5. Caldwell Solar, LLC is a subsidiary of National Grid Renewables Development, LLC (“National Grid Renewables”), which is Caldwell’s sole member. National Grid Renewables is a leading North American independent developer and operator of utility-scale renewable energy and battery storage projects. National Grid Renewables was formerly known as Geronimo Energy, whose team has successfully developed thousands of megawatts of wind and solar projects that are currently in operation or under construction.

6. Caldwell is a manager-managed LLC. Its managers are officers of its sole member (National Grid Renewables) — Blake E. Nixon, CEO, and David Reamer, President.

II. Notice and Public Meeting

7. On July 28, 2020, pursuant to 807 KAR 5:110, Section 2, Caldwell submitted a Notice of Intent to file an application for a construction certificate for an up to 200MW solar merchant generating facility. By letter dated July 30, 2020, the Board stated that its staff had

determined that the notice was administratively complete and the matter was assigned Case No. 2020-00244. Caldwell renewed its Notice of Intent on January 27, 2021, and on July 26, 2021.

8. Pursuant to KRS 278.706(2)(f)(1), a public meeting must have been scheduled and held in the county where the proposed facility will be constructed (*i.e.*, Caldwell County) at least ninety (90) days prior to filing an application with the Board. Caldwell scheduled and held such a public meeting on June 17, 2021.¹ At least two weeks before, Caldwell published notice of the meeting in the newspaper of general circulation in the county and mailed notice thereof to owners of all properties adjacent to the proposed generating facility site. *See* Exhibit C (pp. 14-22).²

9. A KRS 278.706(2)(f) report of Caldwell's public involvement program activities undertaken prior to the filing of the Application — including the public information meeting held June 17, 2021— is provided in Exhibit C hereto. The report also describes other efforts by Caldwell to obtain local involvement in the siting process.

10. Pursuant to KRS 278.706(2)(c), public notice of the proposed solar generating facility project was given within 30 days of the filing of this Application, by published notice in a newspaper of general circulation in Caldwell County and mailed notice to owners of properties bordering the proposed generating-facility site. *See* Exhibit C (pp. 3-13).

11. Pursuant to KRS 278.706(2)(h), a copy of the entire Application filing has been served on the chief executive officer (the Judge-Executive) of Caldwell County in which the

¹ Caldwell held an earlier information meeting, on August 25, 2020, pursuant to an ESB Order entered August 5, 2020, approving a hybrid format conforming to then-current public gathering limitations and social distancing requirements imposed during the COVID-19 state of emergency in Kentucky.

² The Applicant is following the privacy protection instructions in 807 KAR 5:001 §10 with respect to the lists of notice addressees provided in Exhibit C and has redacted personal information (names and street/mailling address) of these individuals, who are not and have not requested to be made parties to this proceeding.

proposed generating facility is to be located; the proposed facility is not being located within the boundaries of any municipal corporation. Proof of this service is provided by the attorney's Certificate of Service at the end of this Application.

III. Solar Generating Facility

12. The merchant solar generating facility for which Caldwell requests a construction certificate will be a photovoltaic facility generating up to 200 megawatts alternating current (MWac). The facility will be located on around 3000 acres of contiguous property in Caldwell County.

13. The 807 KAR 5:100 §1 application fee for a merchant generating facility construction certificate, totaling \$200,000.00, was received on behalf of the Board on October 12, 2021.

14. A full description of the proposed facility site as required by KRS 278.706(2)(b) is provided as Exhibit B hereto. The description includes reference to diagrams, listings, maps, and other attached materials (in Exhibits I and J) showing the required types of structures, associated facilities, and Project boundaries.

15. Caldwell states that all necessary air, water, and waste permits have been or will be obtained before construction or operation of the proposed solar facility. These may include permits for the construction process and relating to floodplain development. *See* Exhibit G (list). The Cumulative Environmental Assessment specified in KRS 224.10-280(3) is included as part of Exhibit G. Caldwell will be submitting the Cumulative Environmental Assessment to the Kentucky Energy and Environment Cabinet.

16. A KRS 278.706(2)(d) statement certifying that the proposed plant will be in compliance with

- all local ordinances and regulations concerning noise control and
- any local planning and zoning ordinances

is included in Exhibit D hereto. For Caldwell County, no planning and zoning commission has established setback requirements pursuant to KRS 278.704(3). Thus, the applicable requirement for the site is from KRS 278.706(2)(e), that “all proposed structures or facilities used for generation of electricity are two thousand (2,000) feet from any residential neighborhood, school, hospital or nursing home facility....”³ As shown on Exhibit J, Figure 1, there are no schools, hospitals, or nursing home facilities within 2000 feet of any proposed Caldwell County structure or facility used for electricity generation. There are two clusters of residences that arguably could meet the KRS 278.700(6) definition of a “residential neighborhood” and for which some generation facilities or structures are within 2000 feet of the residences’ area. Caldwell will file a separate request for any deviation needed from the 2000-foot setback requirement as to those clusters of residences.

17. No existing electric generating facilities are (or have been) located on the proposed site for the solar generating facility. Consistent with KRS 278.706(2)(g), Caldwell took into account whether the proposed solar project could be located on, adjoining, or in proximity to the location of existing electric generating facilities. For solar projects like Caldwell, key factors for site selection are favorable geography, willing landowner participation, and access to transmission lines. Land needed to site Caldwell was not available on or adjoining an existing electric generation facility. However, Caldwell’s on-site point of interconnection on the

³ The proposed generating facility does not include an exhaust stack or any wind turbine, making inapplicable the 1000-foot setback from the property boundary of any adjoining property owner. The alternative requirements for a facility proposed be located on the site of a former coal processing plant or on a site where there are existing facilities capable of generating 10 MW or more, KRS 278.706(2)(e), are inapplicable.

Caldwell County to Barkley transmission line, allows the Project to interconnect at the preferred voltage of 161 kV and utilize an existing transmission line.

18. Analyses of the proposed solar generating facility's projected effect on the electricity transmission system and economic impact in Kentucky and the region are provided in Exhibits E and F, respectively. The economic impact analysis (Exh. F) concludes that the construction and operation of the Project would have a positive economic impact, including increases in employment and income, and elevated tax benefits. The total economic impact for Kentucky is estimated at approximately \$47.1M during construction and approximately \$1.3M annually during operation. The total economic impact for the regional socioeconomic area of interest is estimated at approximately \$0.5M during construction and less than \$0.1M annually during operation.

19. Pursuant to KRS 278.706(2)(k), Caldwell states that there have been no violations of federal or state environmental laws, rules, or administrative regulations by Caldwell or any person with an ownership interest, where violations have resulted in criminal convictions or civil or administrative fines exceeding \$5000. There are also no actions (judicial or administrative) pending against Caldwell or its member/parent company, National Grid Renewables.

20. The Site Assessment Report specified in KRS 278.708 and required by KRS 278.706(2)(l) is provided as Exhibit H.

21. The Project is to be decommissioned at the end of its useful life. A decommissioning methodology is provided in Exhibit H. This decommissioning plan lays out the procedures for the site at the end of the Project's operational life. Prior to the commencement of decommissioning, Caldwell will perform the appropriate due diligence requirements and obtain the necessary local, state, and federal approvals to complete decommissioning activities.

Caldwell expects that general decommissioning activities will occur as follows: removal of panels; removal of weather stations, inverters, electrical equipment to a depth of at least three feet, racking, and scrap; removal of piles to a depth of at least three feet; removal of access roads, and so forth. Decommissioning of the Project, including the removal of materials followed by site restoration, should be completed in approximately 12 to 18 months. See Exhibit H, Attachment E.

WHEREFORE, the Applicant respectfully requests that the Board issue a final Order regarding this Application:

- 1) Approving a KRS 278.704 certificate of construction for the proposed solar merchant generating facility; and,
- 2) Granting all other relief to which Applicant may be entitled.

Dated: October 12, 2021

Respectfully submitted,

/s/ Jason R. Bentley

Jason R. Bentley
Katherine K. Yunker
Kathryn A. Eckert
McBrayer PLLC
201 East Main St., Suite 900
Lexington, KY 40507
(859) 231-8780
jbentley@mmlk.com
kyunker@mcbayerfirm.com
keckert@mcbayerfirm.com

*Counsel for Applicant,
Caldwell Solar, LLC*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Application and all the accompanying filings (Table of Contents, Index, Exhibits, etc.) were served this 12th day of October, 2021, via electronic mail upon the following at an email address authorized for such service:

Larry Curling, Judge Executive of Caldwell County

/s/ Jason R. Bentley

Attorney for Applicant

KRS 278. __	Description	Filing
278.706(2)(a)	The name, address, and telephone number of the person proposing to construct and own the merchant generating facility	Application paragraphs 1-2
(2)(b)	A full description of the proposed site, including a map showing the distance of the proposed site from residential neighborhoods, the nearest residential structures, schools, and public and private parks that are located within a two (2) mile radius of the proposed facility	Application paragraph 14; Exh. B; Exh. J; Exh. I (Figure 1)
(2)(c)	Evidence of public notice that shall include the location of the proposed site and a general description of the project, state that the proposed line is subject to approval by the board, and provide the telephone number and address of the Public Service Commission. Public notice shall be given within thirty (30) days immediately preceding the application filing to: <ol style="list-style-type: none"> <li data-bbox="440 932 959 999">1. Landowners whose property borders the proposed site; and <li data-bbox="440 999 1068 1100">2. The general public in a newspaper of general circulation in the county or municipality in which the facility is proposed to be located 	Application paragraph 10; Exh. C
(2)(d)	A statement certifying that the proposed plant will be in compliance with all local ordinances and regulations concerning noise control and with any local planning and zoning ordinances. The statement shall also disclose set back requirements established by the planning and zoning Commission as provided under KRS 278.704(3)	Application paragraph 16; Exh. D
(2)(e) [1st]	If the facility is not proposed to be located on a site ... in an area where a planning and zoning commission has established a setback requirement pursuant to KRS 278.704(3), a statement that ... all proposed structures or facilities used for generation of electricity are two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility....	Application paragraph 16; Exh. D; Exh. J (Figure 1)
(2)(e)[2nd]	If the facility is proposed to be located on a site of a former coal processing plant and the facility will use on-site waste coal as a fuel source, a statement that the proposed site is compatible with the setback requirements provided under KRS 278.704(5).	N/A

KRS 278. ____	Description	Filing
[3rd]	If the facility is proposed to be located in a jurisdiction that has established setback requirements pursuant to KRS 278.704(3), a statement that the proposed site is in compliance with those established setback requirements	Application paragraph 16; Exh. D
(2)(F)(1)	<p>A complete report of the applicant's public involvement program activities undertaken prior to the filing of the application, including:</p> <p>The scheduling and conducting of a public meeting in the county or counties in which the proposed facility will be constructed at least ninety (90) days prior to the filing of an application, for the purpose of informing the public of the project being considered and receiving comment on it</p>	Application paragraphs 7-11; Exh. C
(2)	Evidence that notice of the time, subject, and location of the meeting was published in the newspaper of general circulation in the county, and that individual notice was mailed to all owners of property adjoining the proposed project at least two (2) weeks prior to the meeting	Application paragraph 8; Exh. C
(3)	Any use of media coverage, direct mailing, fliers, newsletters, additional public meetings, establishment of a community advisory group, and any other efforts to obtain local involvement in the siting process	Exh. C
(2)(g)	A summary of the efforts made by the applicant to locate the proposed facility on a site where existing electric generating facilities are located	Application paragraph 17
(h)	Proof of service of a copy of the application upon the chief executive officer of each county and municipal corporation in which the proposed line is to be located, and upon the chief officer of each public agency charged with the duty of planning land use in the general area in which the line is proposed to be located.	Application paragraph 11 and p. 7 (Certificate of Service)
(i)	An analysis of the proposed facility's projected effect on the electricity transmission system in Kentucky	Exh. E
(2)(j)	An analysis of the proposed facility's economic impact on the affected region and the state	Exh. F

KRS 278. __	Description	Filing
(k)	<p>A detailed listing of all violations by it, or any person with an ownership interest, of federal or state environmental laws, rules, or administrative regulations, whether judicial or administrative, where violations have resulted in criminal convictions or civil or administrative fines exceeding five thousand dollars (\$5,000).</p> <p>The status of any pending action, whether judicial or administrative, shall also be submitted.</p>	Application paragraph 19
(l)	A site assessment report as specified in KRS 278.708.	Exh. H
278.704(2)	<p>Except as provided [by locally-established setback requirements or through a deviation granted pursuant to KRS 278.704(4)] ... all proposed structures or facilities used for generation of electricity are two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility.</p>	Application paragraph 16 ; Exh. I
.704(3)	<p>If the merchant electric generating facility is proposed to be located in a county or a municipality with planning and zoning, then setback requirements from a property boundary, residential neighborhood, school, hospital, or nursing home facility may be established by the planning and zoning commission.</p>	N/A
278.708(1)	A site assessment report ... as required under KRS 278.706(2)(1)	Exh. H
(2)	A site assessment report ... prepared by the applicant or its designee.	Exh. H
.708(3)(a)	<p>A description of the proposed facility that shall include a proposed site development plan that describes:</p> <ol style="list-style-type: none"> 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; 	Exh. H, Section 1, Exh. J

KRS 278. ____	Description	Filing
	5. Location and use of access ways, internal roads, and railways; 6. Existing or proposed utilities to service the facility; 7. Compliance with applicable setback requirements as provided under KRS 278.704(2), (3), (4), or (5); and 8. Evaluation of the noise levels expected to be produced by the facility	
(3)(b)	An evaluation of the compatibility of the facility with scenic surroundings;	Exh. H, Section 2
(c)	The 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 facility	Exh. H, Section 3, Exh. H, Attachment D
(d)	Evaluation of anticipated peak and average noise levels associated with the facility's construction and operation at the property boundary; and	Exh. H, Section 4, Exh. H, Attachment B
(e)	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 anticipated degradation of roads and lands in the vicinity of the facility	Exh. H, Section 5, Exh. H, Attachment F
(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	Exh H, Section 6

807 KAR 5:	Description	Filing
100 §1	[A]n application fee of \$1,000 per megawatt of electricity generating capacity, based on the manufacturer’s nameplate rated capacity of the proposed construction, except that the initial application fee for each application for each plant shall be in an amount not less than \$40,000 and not more than \$200,000.	Application paragraph 13 (noting amount and how/when paid)
110 § 1(3)	The application shall be signed by at least one attorney of record in his individual name and shall include his address.	Application p. 7
110 §2	Notice of Intent to File Application. (1) At least thirty (30) days but no more than six (6) months prior to filing an application to construct a ... merchant electricity generating plant ..., an applicant shall file ... a Notice of Intent to File Application	Application paragraph 7
110 §3(2)(b)	[The application shall] Contain a table of contents that lists, for each document enclosed, <ol style="list-style-type: none"> 1. The number of the tab behind which each document is located; 2. The statutory provision pursuant to which the document is submitted; and 3. The name of the person who will be responsible for responding to questions concerning information contained in the document. 	Table of Contents, filing sequence, no.2 (see Application p. 1)

807 KAR 5:	Description	Filing
110 § 1(3)	The application shall be signed by at least one attorney of record in his individual name and shall include his address.	Application p. 7
110 §2	Notice of Intent to File Application. (1) At least thirty (30) days but no more than six (6) months prior to filing an application to construct a ... <i>merchant electricity generating plant, or</i> nonregulated electric transmission line, an applicant shall file ... a Notice of Intent to File Application.	Application paragraph 7
100 §3(2)(b)	[The application shall] Contain a table of contents that lists, for each document enclosed, <ol style="list-style-type: none"> 1. The number of the tab behind which each document is located; 2. The statutory provision pursuant to which the document is submitted; and 3. The name of the person who will be responsible for responding to questions concerning information contained in the document. 	Table of Contents, filing sequence no. 2 (<i>see</i>