

**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 OF)
CONSTRUCTION FOR AN APPROXIMATELY)
200 MEGAWATT MERCHANT ELECTRIC) Case No. 2020-00387
SOLAR GENERATING FACILITY IN)
BRECKINRIDGE AND MEADE COUNTY,)
KENTUCKY, PURSUANT TO KRS 278.700)
AND 807 KAR 5:110)

**GREEN RIVER SOLAR LLC'S
APPLICATION/MOTION FOR
DECLARATORY ORDER**

Comes now Green River Solar LLC, (“Green River”), by and through counsel, and does hereby respectfully move the Kentucky Siting Board on Electric Generation and Transmission Siting (“Siting Board”) for an order declaring that Green River is not required to obtain a certificate to construct a nonregulated electric transmission line that is ancillary to the operation of a solar generating facility, exclusively used to transmit electricity from the facility’s substation to the point of interconnect at the 161 kV Meade substation. The transmission line is located entirely on the two parcels of land where the facility’s substation and point of interconnect are located. **A response is requested by September 29, 2023 to support the project timeline.** In support of this motion, Green River states as follows:

I. BACKGROUND

Green River tendered its application to construct a 200 MW merchant electric solar generating facility in Breckinridge and Meade County (the “Project”) with the Siting Board on June 30, 2021. Following two rounds of information requests and a visit to the site of the proposed

solar facility, a hearing was held in this case on November 1, 2021. At the hearing, Green River presented the testimony of five witnesses. Following an additional round of post-hearing data requests, the case stood ready for adjudication on November 15, 2021. The Siting Board issued its Final Order on December 22, 2021. The Siting Board granted rehearing in part and denied rehearing in part on August 12, 2022 and denied a motion for clarification in an Order on September 20, 2022. There is currently an action pending in Meade County Circuit Court on a small portion of the Siting Board's Final Order, unrelated to the present declaratory ruling request.

II. ARGUMENT

Green River must construct a transmission line to connect its solar generating facility to the point of interconnection, which is the 161 kV Meade substation owned by Big Rivers Electric Corporation ("BREC"). The new transmission line will be 161 kilovolts and less than 350 feet in length. The transmission line will be located on two parcels of land: one parcel is the same parcel where the Project substation will be located and is owned by the Project, and the second parcel is the land on which the 161 kV Meade substation is located and is owned by Big Rivers Electric Corporation. Because the short transmission line is being constructed as a part of the generating facility, separate approval to construct the transmission line is not necessary.

A preliminary plan for the construction of the transmission line is attached hereto as **Attachment A**. The proposed right-of-way limits will be 50 feet on either side of the centerline, for a total width of 100 feet. There are no residential neighborhoods, schools, or public or private parks within one (1) mile of the proposed facilities. The proposed electric transmission line and appurtenances will be constructed and maintained in accordance with accepted engineering practices and the National Electrical Safety Code.

In addition, the language of KRS 278.714 supports the argument that the Kentucky legislature intended for applications to the Siting Board for the construction of transmission lines be for those lines that are far greater in length and scope than that which Green River will construct. In Section 2(b) of KRS 278.714, applicants must submit information on the transmission line's right-of-way limits; existing property lines the line will cross and the corresponding names of affected property owners; and the line's proximity to residential neighborhoods, schools, and parks. The statute focuses on the location of the transmission line relative to other properties and community developments. This leads to the reasonable interpretation that lawmakers intended KRS 278.714 to require applications for transmission lines that could impact other properties and neighboring landowners' use of their property.

The Siting Board has found that nonregulated transmission lines that are relatively small and have little impact on surroundings, are "associated structures" pursuant to KRS 278.700(2) and do not require a separate application for a certificate of construction.¹ Similarly, on May 26, 2023 the Siting Board granted a declaratory order to Pine Grove Solar finding that:

Pine Grove Solar filed a request for a declaratory order that the project does not require a separate application nonregulated transmission line because the transmission line proposed is an ancillary project for the proposed solar facility. Pine Grove Solar indicated the entirety of the transmission line will be located on one parcel of property that is to be used in the project. The transmission line will be a maximum of 150 feet in length and interconnect with a new LG&E/KU substation, which is located on the same parcel of property. The Siting Board finds Pine Grove Solar's motion for a declaratory order should be granted and the transmission line proposed is approved. The transmission line is very short and is contained within parcels of property to be used for the Project.²

¹ Case No. 2020-00243, *Electronic Application of Golden Solar, LLC for a Certificate of Construction for an Approximately 100 Megawatt Merchant Electric Solar Generating Facility in Caldwell County, Kentucky (KY Siting Board, Feb.21. 2023)at 20-21.*

² Case No. 2022-00262, *Electronic Application of Pine Grove Solar, LLC for a Certificate of Construction for an Approximately 50 Megawatt Merchant Electric Solar Generating Facility in Madison County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110 (KY Siting Board May 26, 2023) at 17.*

Green River's proposed transmission line will neither cross any other parcel of land nor obstruct neighbors' property usage as both the construction of and the existence of the transmission line will be exclusive to Green River's property at the site of the solar generating facility. The line's purpose is limited in scope to connecting Green River's generating facility to a BREC switchyard. The construction of the transmission line is ancillary to the operation and development of the solar generating facility. Consistent with KRS 278.706(2)(g), Green River made efforts to locate the solar generating facility where existing electric generating facilities are located. The location that Green River selected is close to the Big Rivers 161 kV Meade substation. It is reasonable that the construction of the solar generating facility would require a connecting transmission line from the solar generating activity to the existing electric switchyard. Maps included as part of the Project's responses also identify the location of the substation and the point of interconnection. Additionally, the transmission line will have no impact on non-participating property owners' use of their land. Consistent with the spirit of KRS 278.714, the proposed transmission line will not adversely affect neighboring properties.

The transmission line that Green River seeks to construct, measuring less than 350 feet in length and located on Project parcels and the existing 161 kV Meade substation point of interconnect, is an essential component of the solar generation facility. It's function and existence are exclusively related to the proposed solar generating facility. Thus, the Siting Board should evaluate the less than 350-foot transmission line as part of the solar generating facility. In its application for a solar generating facility, Green River previously tendered the Siting Board a filing fee of \$50,000, pursuant to 807 KAR 5:100. As Green River has argued above, the transmission line construction will occur in conjunction with that proposed facility, so the solar generating application filing fee should preclude the payment of an additional filing fee.

III. CONCLUSION

WHEREFORE, Green River respectfully requests that the Siting Board declare that Green River is not required to file an application for approval of a certificate to construct a nonregulated electric transmission line that will exist exclusively on the parcels described above. Green River believes that the nonregulated electric transmission line described in this Application was included in the construction certificate previously granted by the Siting Board, however, since the transmission line was only included in the Interconnection Agreement and the maps attached to the Application, Green River filed this Application out of an abundance of caution.

This 25th day of August, 2023.

Respectfully submitted,



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VERIFICATION

STATE OF KENTUCKY

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COUNTY OF FAYETTE

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Comes now Lina Jensen, Director of Development, NextEra Energy Resources, on behalf of Green River Solar, LLC and, after being duly sworn, does hereby verify, swear and affirm that the averments set forth in this Application are true and correct based upon my personal knowledge and belief, formed after reasonable inquiry, as of this 25th day of August, 2023.

Lina Jensen

Lina Jensen

Director of Development, NextEra Energy Resources

The foregoing Verification was verified, sworn to and affirmed before me, a NOTARY PUBLIC, by Lina Jensen, Director of Development, NextEra Energy Resources, on behalf of Green River Solar, LLC on this 25th day of August, 2023.



Brittany Hayes Koenig

NOTARY PUBLIC

My Commission Expires: 7-28-2027