

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

In the Matter of:

ELECTRONIC APPLICATION OF MARTIN	)	
COUNTY SOLAR PROJECT, LLC, FOR A	)	
CONSTRUCTION CERTIFICATE TO	)	
CONSTRUCT A MERCHANT ELECTRIC	)	Case No. 2021-00029
GENERATING FACILITY IN MARTIN	)	
COUNTY, KENTUCKY PURSUANT TO KRS	)	
278.700 AND 807 KAR 5:110	)	

**MARTIN COUNTY SOLAR LLC’S  
MOTION TO SUPPLEMENT PENDING MOTION FOR DEVIATION**

Martin County Solar LLC (“Martin County Solar” or “Applicant”), by counsel, moves the Kentucky State Board on Electric Generation and Transmission Siting (“Board”) to allow the Applicant to supplement its pending Motion for Deviation filed on July 7, 2021.

Applicant filed a Motion for Deviation, pursuant to KRS 278.704(4), on July 7, 2021, seeking a deviation from the 2,000-foot setback requirement in KRS 278.704(2) to allow it to place generating equipment 590 feet from the nearest residential neighborhood and to place invertors no closer than 1,000 feet from the residential neighborhood. At the time, Martin County Solar believed only one Neighborhood, as defined by KRS 278.700(6), would be located within 2,000 feet of the facility. As such, the Motion for Deviation only contains facts relating to the single neighborhood. Since the Motion for Deviation was filed, Martin County Solar has reevaluated whether a second Neighborhood may be located within 2,000 of the facility and determined that a

second Neighborhood should be included in the analysis of setbacks.<sup>1</sup>

For reference, the Kentucky Rules of Civil Procedure generally allow pleading modifications where new information has been developed since the pleading was filed. CR 15.04 states, in part, “upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit him to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented.” Similarly, the Siting Board’s standard instructions for responding to Siting Board requests for information states that the applicant “shall make timely amendment to any prior response if [applicant] obtains information that indicates the response was incorrect when made or, though correct when made, is not incorrect in any material respect”. Accordingly, Martin County Solar now wishes to update the facts provided in its Motion for Deviation with information developed after filing the Motion for Deviation. Until Martin County Solar developed and prepared its responses to the Siting Board’s requests for information, filed on July 19, 2021, it believed that only one Neighborhood, as defined by KRS 278.700(6), would be located within 2,000 feet of the project. The Applicant now believes two Neighborhoods will be within 2,000 feet of the facility and thus, moves the Siting Board to allow supplemental information to be considered in addition to the information provided in its Motion for Deviation.

Wherefore, Martin County Solar respectfully requests that the Siting Board accept for consideration the Applicant’s Supplement to Motion for Deviation being filed contemporaneously with this Motion.

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<sup>1</sup> See Martin County Solar Response to Siting Board’s Initial Request for Information, Response to Request #4 (“Upon re-evaluation, applicant added Neighborhood #1 at 1,200 ft from project footprint. Neighborhood #2 (along Dye Bottom Road) is 1,300 feet away from project footprint.”)

Respectfully submitted,



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