

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

In the Matter of:

<i>Electronic</i> Application of Telesto Energy)	
Project LLC for Certificate of Construction)	Case No.
for an approximately 110 Megawatt Mer-)	2022-00096
chant Electric Solar Generating Facility in)	
Hardin County, Kentucky)	

Application for Certificate of Construction

Telesto Energy Project LLC (“the Applicant” or “Telesto”) files this application requesting from the Kentucky State Board on Electric Generation and Transmission Siting (“the Board”) a certificate of construction for an approximately 110 megawatt (MW) merchant electric solar generating facility pursuant to KRS 278.704. The generating facility will be located in Hardin County, Kentucky.

In support of this Application, Telesto submits herewith Exhibits A-N. To assist the Board and interested persons in locating information required by various statutes and regulations, Telesto 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 Telesto as follows:

I. Applicant

1. Telesto Energy Project LLC is the Applicant for approval of an Application to the Board for a certificate to construct a solar merchant electric generating facility.

2. Telesto is the entity proposing to construct and own the solar merchant generating facility. Its address and phone number are: 3809 Juniper Trace, Suite 100, Austin, TX 78738; 415-523-0020. Communications to Telesto regarding this Application and ESB proceeding should be directed to telestosolar@lightsourcebp.com.

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

Jack Steele, jack.steele@lightsourcebp.com
Blayne Gunderman, blayne.gunderman@lightsourcebp.com

4. Telesto is a limited-liability company organized under the laws of the state of Texas on July 25, 2019, and is and has been authorized to do business in Kentucky since January 23, 2020.

5. Telesto Energy Project LLC is a subsidiary of BP Solar Holding LLC (“BP Solar”), which is its sole member. Telesto is a member-managed LLC, managed by BP Solar.

II. Notice and Public Meeting

6. On April 22, 2022, pursuant to 807 KAR 5:110, Section 2, Telesto submitted a Notice of Intent to file an application for a construction certificate for an approximately 110 MW solar merchant generating facility. By letter dated April 25, 2022, the Board stated that its staff had determined that the notice was administratively complete and the matter was assigned Case No. 2022-00096.

7. According 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.*, Hardin County) at least ninety (90) days prior to filing an application with the Board. Telesto scheduled and held such a public meeting on March 22, 2022. At least two weeks before, Telesto 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 B.2.¹

8. Evidence of Telesto’s public involvement program activities undertaken prior to the filing of the Application — including the public information meeting held March 22, 2022 — is provided in Exhibit B.2-.3 hereto in compliance with KRS 278.706(2)(f). The materials provided at the public information meeting are attached hereto as Exhibit B.2.d. Approximately 30 people attended the March 22, 2022 public information meeting.

9. Telesto undertook additional efforts to obtain local involvement in the siting process, and documents related to these efforts are included in Exhibit B.3.a-b. Telesto held ice cream socials with the Orchard and Ashton Park Neighborhoods which were well attended; project representatives provided handouts and met with local residents at the ice cream socials. Telesto also met with the local Rotary club at a luncheon and provided members in attendance with information on the Project. Another example of the effort by Telesto to obtain local involvement in the siting process is its attendance at the United Way Garden Event on June 14, 2022, with the Elizabethtown FFA to discuss the Project and potential educational opportunities at the site. Materials provided at these local events is attached hereto as Exhibit B.3.b.

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 Hardin County and mailed notice to owners of properties bordering the proposed generating-facility site. *See* Exhibit B.1.²

¹ The Applicant has followed the privacy protection instructions in 807 KAR 5:001 §10 with respect to the lists of notice addressees provided in Exhibit B.2.b and redacted personal information (names and street/ mailing address) of these individuals, who are not and have not requested to be made parties to this proceeding.

² *See* footnote 1 above re redactions made to the listing in Exhibit B.1.b in accordance with privacy protection instructions in 807 KAR 5:001 §10.

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 Hardin County, in which the proposed generating facility is to be located; the proposed facility is not being located within the boundaries of any municipal corporation. It also has been served on the Director of the Hardin County Planning & Development Commission, the chief officer of the public agency charged with the duty of planning land use in Hardin County. 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 Telesto requests a construction certificate will be a photovoltaic facility generating approximately 100 MW alternating current (MWac). The facility will be located on about 650 acres of contiguous property in Hardin County, in an unincorporated area west of the municipal boundary for Elizabethtown, Kentucky.

13. The 807 KAR 5:100 §1 application fee for a merchant generating facility construction certificate, totaling \$110,000.00, was received and acknowledged on behalf of the Board on June 15, 2022.

14. A full description of the proposed facility site as required by KRS 278.706(2)(b) is provided in Exhibit C (part A, ¶¶ 1-18). The description includes reference to diagrams, listings, map, and other attached materials showing the required types of structures, associated facilities, and Project boundaries. *See also* Exhibit A.1-3.

15. Telesto 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. The Cumulative Environmental Assessment specified in

KRS 224.10-280(3) is attached hereto as Exhibit J and will be submitted to the Kentucky Energy and Environment Cabinet.

16. In Exhibit K.1 hereto is a KRS 278.706(2)(d) statement certifying that the proposed Project will be in compliance with (a) all local ordinances and regulations concerning noise control and (b) any local planning and zoning ordinances.

17. The Project is proposed to be located in a jurisdiction with a zoning ordinance — the Hardin County Development Guidance System Zoning Ordinance — and an adopted resolution for solar farms as a conditional use (collectively, “the Zoning Ordinance”), attached hereto as Exhibit K.2. Pursuant to KRS 278.706(2)(e), Telesto states that the proposed Project is in compliance with the 100-foot setback requirements of the Zoning Ordinance, and that it will comply with any conditions (including buffers and setbacks) designated by the Board of Adjustment in granting a conditional use permit for the Project.

18. If current challenges to the Zoning Ordinance with respect to solar farms result in a situation in which Hardin County has not established setback requirements pursuant to KRS 278.704(3), the applicable required KRS 278.706(2)(e) statement for the site would be 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 If the situation develops that Hardin County is not a jurisdiction that has established setback requirements pursuant to KRS 278.704(3), Telesto will file a request for deviation from the statutory setback requirement as to any residential neighborhood within 2000 feet.

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 to 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 also inapplicable.

19. 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), Telesto took into account whether the proposed solar project could be located on, adjoining, or in proximity to the location of existing electric generating facilities. Key factors for site selection for solar projects are favorable geography, willing landowner participation, and access to transmission lines. There is a nearby point of interconnection at the Central Hardin 138kV substation owned and operated by East Kentucky Power Cooperative (“EKPC”). *See Exhibit A.1.*

20. Analyses of the proposed solar generating facility’s projected effect on the electricity transmission system and economic impact in Kentucky and Hardin County are provided in Exhibits L and M, respectively.

a. Telesto Solar will interconnect into the EKPC transmission area within PJM. The Project is to have a point of interconnection on the Central Hardin 138kV substation with 110 MW of energy and 73.6 MW capacity. It has been assigned queue position AF2-090 and a feasibility study (Exhibit L.1) and a system impact study (Exhibit L.2) have been completed with PJM and EKPC. The Project is currently undergoing a facilities study with PJM and an affected systems study with LG&E to determine any additional impacts to the grid. In addition, merchant upgrades for the Project have been requested via queue positions AG1-217 and AG1-492 with PJM. The merchant upgrades are expected to be completed prior to the Project’s in-service date.

b. The economic impact analysis (Exhibit M) concludes that the construction and operation of the Project would have a positive economic impact on Kentucky and Hardin County, including increases in employment and income, elevated tax revenues, and a variety of

other ancillary benefits. The total economic impact for Kentucky is estimated at approximately \$59.6 million during construction and approximately \$0.5 million annually during operation.

21. Pursuant to KRS 278.706(2)(k), Telesto states that there have been no violations of federal or state environmental laws, rules, or administrative regulations — where the violations resulted in criminal convictions or civil or administrative fines exceeding \$5000 — by Telesto, its owner-parent BP Solar, or BP Solar’s parent, BP Alternative Energy North America Inc. There are also no pending actions (judicial or administrative) alleging or relating to such violations against Telesto, BP Solar, or BP Alternative Energy North America Inc.

22. The Site Assessment Report (SAR) specified in KRS 278.708 and required by KRS 278.706(2)(l) is provided as Exhibit C. The SAR refers to analyses, studies, maps, and other materials that are Exhibits A, D-I, and K.2 to this Application.

23. The Project is to be decommissioned at the end of its useful life, anticipated to be approximately 35 years. A decommissioning plan is provided in Exhibit N. This decommissioning plan lays out the procedures for the site at the end of the Project’s operational life. Before decommissioning begins, Telesto will perform the appropriate due diligence requirements and obtain the necessary local, state, and federal approvals to complete decommissioning activities. Telesto expects that decommissioning activities will occur generally in the order identified in the plan. Decommissioning of the Project, including the removal of materials followed by site restoration, should be completed in approximately twelve (12) months. *Id.*

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.

Respectfully submitted

/s/ Katherine K. Yunker

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

*Counsel for Applicant,
Telesto Energy Project 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 24th day of June, 2022, via electronic mail upon the following at an email address authorized for such service:

Harry L. Berry, Judge Executive of Hardin County

Adam C. King, AICP, Director of the Hardin County Planning & Development

Commission

/s/ Katherine K. Yunker

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 ¶¶ 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 ¶¶ 12, 14; Exh. C ¶¶ 1-14; Exh. A.3
(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"> 1. Landowners whose property borders the proposed site; and 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 ¶ 10; Exh. B.1
(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)	Exhs. K.1 and K.2; <i>see also</i> Application ¶¶ 16-17; Exh. C ¶ 17
(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....	<i>See</i> Application ¶ 18

KRS 278. ____	Description	Filing
.706(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
[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	Exh. K.1; Application ¶ 16
(2)(f)	A complete report of the applicant's public involvement program activities undertaken prior to the filing of the application, including:	Application ¶¶ 7-9; Exh. B.2
(1)	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	Application ¶ 7; Exhs. B.2.a, c, d, e
(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	Exh. B.2.a-d
(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	Application ¶ 9; Exh. B.3
(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 ¶ 19
(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 ¶ 11 and p.8 (Certificate of Service)

KRS 278. ____	Description	Filing
.706(2)(i)	An analysis of the proposed facility's projected effect on the electricity transmission system in Kentucky	Application ¶ 20.a; Exhs. L.1 and L.2
(j)	An analysis of the proposed facility's economic impact on the affected region and the state	Exh. M; Application ¶ 20.b
(k)	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). The status of any pending action, whether judicial or administrative, shall also be submitted.	Application ¶ 21
(l)	A site assessment report as specified in KRS 278.708.	Exh. C
278.704(2)	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.	N/A, <i>but see</i> Application ¶¶ 18-19
.704(3)	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.	Exh. K.2
278.708(1)	A site assessment report ... as required under KRS 278.706(2)(1)	Exh. C
(2)	A site assessment report ... prepared by the applicant or its designee.	Exh. C
.708(3)(a)	A description of the proposed facility that shall include a proposed site development plan that describes:	Exh. C part A (¶¶ 1-18); Exhs. A, E.1, H, K.2

KRS 278. ____	Description	Filing
.708(3)(a)	<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; 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 	<ol style="list-style-type: none"> 1. ¶ 11, Exhs. A, E.1 2. ¶ 12, Exhs. A.1, A.2 3. ¶ 13, Exh. A.1 4. ¶ 14 5. ¶ 15, Exh. A.1 6. ¶ 16 7. ¶ 17, Exhs. A.1, K.2 8. ¶ 18, Exh. H
(3)(b)	An evaluation of the compatibility of the facility with scenic surroundings;	Exh. C part B (¶¶ 19-23); Exhs. E, F, G
(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. C part C (¶¶ 24-27); Exhs. E.1, E.2, E.3
(d)	Evaluation of anticipated peak and average noise levels associated with the facility's construction and operation at the property boundary; and	Exh. C part D (¶¶ 28-37); Exhs. A.1, A.3, H
(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. C part E (¶¶ 38-41); Exh. I
.708(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. C part F (¶¶ 42-50); Exhs. A.1, A.3, A.4, F

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 ¶ 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.8
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 ¶ 6
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 order no. 2; <i>see</i> Application p.1