

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

In the Matter of:

THE ELECTRONIC APPLICATION OF	)	
SEBREE SOLAR II, LLC FOR A CERTIFICATE	)	
TO CONSTRUCT AN APPROXIMATELY 150	)	
MEGAWATT MERCHANT SOLAR ELECTRIC	)	CASE NO. 2022-00131
GENERATING FACILITY IN HENDERSON	)	
COUNTY, KENTUCKY PURSUANT TO	)	
KRS 278.700, ET SEQ. AND 807 KAR 5:110	)	

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**SEBREE SOLAR II, LLC’S  
APPLICATION FOR DECLARATORY ORDER**

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Comes now Sebree Solar II, LLC, (“Sebree II”), 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 Sebree II is not required to obtain Siting Board approval for the anticipated equity transaction, or in the alternative to approve the anticipated equity transaction. Sebree II is requesting review of this **Application and respectfully requests a decision from the Siting Board within 60 days from the date of this filing.** In support of this motion, Sebree II states as follows:

**I. BACKGROUND**

Sebree II, an indirect subsidiary of NextEra Energy Resources, LLC (“NEER”), tendered its application to construct a 150 MW merchant electric solar generating facility in Henderson County (the “Project”) with the Siting Board on April 18, 2023<sup>1</sup>. Following requests for information and a visit to the site of the proposed solar facility, a hearing was held in this case on

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<sup>1</sup> Application (filed April 18, 2023).

August 17, 2023. Sebree II responded to post-hearing requests for information and the case stood ready for adjudication. The Siting Board issued an order granting a Certificate of Construction.<sup>2</sup> The Siting Board granted rehearing in part and denied rehearing in part on December 15, 2023. Sebree II previously requested approval of Tax, Construction and Back Leverage Financings from the Siting Board and received approval.<sup>3</sup> In this application, Sebree II requests approval of a non-controlling equity investment transaction (unanticipated at the time of the prior request) that is very analogous to the Tax and Back Leverage Financings that were previously approved.

## II. ARGUMENT

### *Equity Investment in Non-Controlling Interests*

NEER, or an affiliate thereof, intends to consummate a transaction with a financial investor (“Equity Investor”) in which NEER will transfer to a newly formed Delaware limited liability company (the “Joint Venture”) a portfolio (the “Portfolio”) of renewable energy and storage projects, including Sebree II. Internal transfers of Sebree II among NEER and its affiliates may be involved in establishing a structure from which NEER will contribute the Portfolio to the Joint Venture. NextEra Energy, Inc. will remain the ultimate indirect owner of NEER and Sebree II in connection with any such internal transfers or internal reorganization.

The Joint Venture will have two classes of common equity: Class A Units and Class B Units. In exchange for the contribution of the Portfolio on the closing date, NEER will receive (directly or indirectly) 100% of the Class A Units. Pursuant to a contribution agreement, in exchange for a cash contribution to the Joint Venture, the Equity Investor will receive 100% of the Class B Units.

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<sup>2</sup> October 12, 2023 Order (Ky. S.B. October 12, 2023).

<sup>3</sup> June 11, 2025 Order (Ky. S.B. June 11, 2025).

NEER will maintain management control of the Joint Venture and responsibility for the day-to-day operation of the Sebree II Project. The Equity Investor will own a non-controlling, passive interest in the Joint Venture, with customary protections given to minority investors in renewable energy projects (e.g., veto rights over certain major decisions made by the Joint Venture). This governance structure will be analogous to the tax equity financings previously approved for Sebree II.<sup>4</sup>

Similar to NEER's back leverage transactions previously approved by the Siting Board, the Equity Investor will be permitted to pledge the Class B Units in connection with any debt financing obtained by the Equity Investor for purposes of funding its capital contributions to the Joint Venture. Although unlikely, it is possible that the providers of such debt financing could foreclose upon the Class B Units (and thus become owners of the Equity Investor's passive, non-controlling interest in the Portfolio and Sebree II) if such financing were to be in default and lenders had the right to exercise remedies.

### **III. CONCLUSION**

WHEREFORE, based on the foregoing, Sebree II respectfully requests an Order from the Siting Board declaring that the anticipated equity transaction does not require Siting Board approval, or in the alternative that the Siting Board grant approval for the anticipated transaction to assist Sebree II in financing the Project.

This 29<sup>th</sup> day of April 2026.

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<sup>4</sup> June 11, 2025 Order.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

This is to certify that foregoing electronic filing was transmitted to the Commission on April 29, 2026, that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085, no paper copies of the filing will be made.

Heather S. Temple  
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