

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

In the Matter of:

ELECTRONIC APPLICATION OF BRIGHT )  
MOUNTAIN SOLAR, LLC FOR A )  
CERTIFICATE OF CONSTRUCTION FOR AN )  
UP TO 80 MEGAWATT MERCHANT )  
ELECTRIC SOLAR GENERATING FACILITY )  
AND AN APPROXIMATELY 4 MILE )  
NONREGULATED ELECTRIC )  
TRANSMISSION LINE IN PERRY COUNTY, )  
KENTUCKY, PURSUANT TO KRS 278.700, )  
ET SEQ. AND 807 KAR 5:110, ET SEQ. )

Case No. 2022-00274

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**BRIGHT MOUNTAIN SOLAR, LLC'S**  
**POST-HEARING BRIEF**

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Comes now Bright Mountain Solar, LLC (“Bright Mountain” or “Applicant”), by and through counsel, pursuant to 807 KAR 5:110, Section 7 and the Kentucky State Board on Electric Generation and Transmission Siting (“Board”) Order of February 8, 2024 in this proceeding, and submits its brief and positions regarding certain topics that were raised during the February 6, 2024 Formal Hearing relative to Bright Mountain’s Application for Construction Certificate (“Application”).

**I. Commitment to Transfer Project Leases from Holding Entity to Project Entity**

The testimony of Bright Mountain Region Manager, Development, and lead Project developer Andrew House at the Hearing established that the applicable leases for the Bright Mountain Solar Project (“Project”) are currently held in the name of Aurora Solar, LLC (“Aurora”) and that Aurora and Bright Mountain are both wholly-owned subsidiaries of Avangrid Renewables, LLC (“Avangrid”). Aurora is a development holding company for all of Avangrid’s United States

solar projects, and routinely it transfers a project's applicable leases to the project entity prior to the start of construction.

Mr. House was further asked if a written agreement between Avangrid, Aurora, and Bright Mountain existed to *require* Aurora to transfer the Project's leases to Bright Mountain, and only to Bright Mountain. Mr. House was unaware of such an agreement at the time of the Hearing. On February 7, 2024, a letter agreement was executed to formalize the parties' intentions to effect that transfer. A true and correct copy of said agreement is attached hereto as Exhibit A and provides as follows:

This letter is provided in response to a question raised during the February 6, 2024, hearing regarding the proposed Bright Mountain Solar Project which is to be constructed in Perry County. The question related to the project permit being requested in the name of Bright Mountain Solar, LLC while the leases and easements for the Bright Mountain Solar Project are held by Aurora Solar, LLC.

Please be advised that both Bright Mountain Solar, LLC and Aurora Solar, LLC are wholly owned subsidiaries of Avangrid Renewables, LLC. I am an authorized representative for both entities. During the early stages of development of our solar energy projects, it is our standard practice to secure leases, easements, and other agreements with landowners in the name of Aurora Solar, an early-stage development holding company. As we mature the project, we assign the real estate, interconnection and other development assets into Bright Mount Solar, LLC.

As the authorized representative for both entities, as of February 8, 2024, I have instructed Aurora Solar, LLC to assign the associated leases to Bright Mountain Solar, LLC, and no other entity, to be completed no later than 90 days prior to the commencement of construction.

I hope this letter addresses your question.

Likewise, a true and correct copy of a statement from Avangrid's corporate secretary confirming Mr. House's testimony that Bright Mountain and Aurora are both wholly-owned subsidiaries of Avangrid is attached hereto as Exhibit B.

Consistent with Mr. House' testimony and the legally-binding commitments in Exhibit A, Bright Mountain believes the Board's concerns have been fully addressed such that no condition or mitigating measure needs to be imposed in the Certificate regarding lease transfer.

However, if the Board elects to adopt a mitigating measure regarding the transfer of the Project's leases, Bright Mountain respectfully requests the Board adopt the following language: "Aurora Solar, LLC shall assign the leases for the property where the Project is to be sited to Bright Mountain Solar, LLC no later than 90 days prior to commencement of construction on the Project."

## **II. Modification of Consultant's Proposed Noise Mitigation Measures**

The Board's Consultant recommended two mitigating measures related to noise control, which Bright Mountain in its Response to Consultant's Report requested be eliminated or modified.

Those proposed measures, located at page V-53 of Harvey Economics' report, provide:

3. If pile driving activity occurs within 1,000 feet of a noise sensitive receptor, the Applicant shall implement a construction method that will suppress the noise generated during the pile driving process (i.e., semi-tractor and canvas method; sound blankets on fencing surrounding the Project site; or any other comparably effective method).
4. The Applicant should limit the construction activity, process and deliveries to the hours of 8:00 am to 6:00 pm, Monday through Saturday. No construction work should be conducted on Sundays.

At the Hearing, testimony further reinforced the advisability of adopting the adjustments proposed by Bright Mountain to these two conditions. First, Bright Mountain's sound expert, Mark Bastache, Principal Acoustical Engineer at Jacobs, testified that "pile driving" associated with solar installations such as the Project does not involve traditional construction pile drivers (which are typically included in noise studies), but rather the significantly quieter "Vermeer-style" drivers that are more akin to a fence post installer. For this proposition, Mr. Bastache testified that data he used and relied upon for the lesser sound levels produced by the "Vermeer-style" equipment came from a publication out of the United Kingdom. The full citation to the publication referenced and relied up by Mr. Bastache for his opinion that Recommendation 3 above should not be adopted is British Standards Institute (2009). *Code of practice for noise and vibration control on construction*

*and open sites – Part 1: Noise.* Table C.3, Item 2 “Hydraulic hammer rig.” BS 5228-1:2009+A1:2014. Therefore, Bright Mountain respectfully requests that Recommendation 3 above not be adopted.

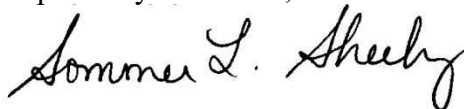
For these same reasons—and based upon Hearing testimony from Mr. House and Mr. Sean Hollowell, Project Manager at Environmental Design & Research (“EDR”) and lead consultant for the Project regarding the Project’s quite substantial setback distances from sensitive receptors—modification of Recommendation 4 as proposed by Applicant in its Response is appropriate. As modified, this mitigation measure would permit construction during hours as follows:

The Applicant shall limit construction activities to the hours between 7:00 a.m. to 9:00 p.m. Monday through Saturday. Construction shall not be conducted on Sundays unless it is necessary to make up for delays or to meet deadlines. Non-noise causing and non-construction activities can take place on the site prior to 7:00 a.m.

(See also Bright Mountain’s Response to Consultant’s Report at p. 4).

Bright Mountain appreciates the opportunity to clarify its positions with respect to these matters.

Respectfully submitted,



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Sommer L. Sheely  
Dylan F. Borchers  
BRICKER GRAYDON LLP  
100 South Third Street  
Columbus, OH 43215-4291  
Telephone: (614) 227-2300  
Facsimile: (614) 227-2390  
Email: [ssheely@brickergraydon.com](mailto:ssheely@brickergraydon.com)  
[dborchers@brickergraydon.com](mailto:dborchers@brickergraydon.com)

*Counsel for Applicant Bright Mountain Solar, LLC*



February 7, 2024

Kentucky Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40601

Re: Bright Mountain Solar Project

Ladies and Gentlemen:

This letter is provided in response to a question raised during the February 6, 2024, hearing regarding the proposed Bright Mountain Solar Project which is to be constructed in Perry County. The question related to the project permit being requested in the name of Bright Mountain Solar, LLC while the leases and easements for the Bright Mountain Solar Project are held by Aurora Solar, LLC.

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I hope this letter addresses your question.

Sincerely,

DocuSigned by:  
*Sara Parsons* 024  
7E3636F16E82493...

Sara Parsons  
Authorized Representative  
Aurora Solar LLC  
Bright Mountain Solar LLC

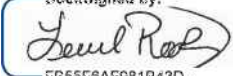
**AVANGRID RENEWABLES, LLC**  
**Secretary's Certificate**

I, LEONARD RODRIGUEZ, the duly elected and qualified Secretary of AVANGRID RENEWABLES, LLC, an Oregon limited liability company (“**Avangrid**” or the “**Company**”), hereby certify the following:

1. Bright Mountain Solar, LLC, a Delaware limited liability company (“**Bright Mountain Solar**”), is solely owned and member-managed by the Company.

2. Aurora Solar LLC, an Oregon limited liability company (“**Aurora Solar**”) is solely owned and member-managed by the Company.

IN WITNESS WHEREOF, I have hereunto set my hand the 7<sup>th</sup> day of February, 2024.

DocuSigned by:  
  
F855F8AF981B43D...  
Leonard Rodriguez, Secretary  
Avangrid Renewables, LLC  
Sole and Managing Member of  
Bright Mountain Solar, LLC and  
Aurora Solar LLC