

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 TO)
TRANSFER A CERTIFICATE OF) Case No. 2022-00362
CONSTRUCTION PURSUANT TO)
KRS 278.710(3) AND 807 KAR 5:110)

**MOTION FOR DETERMINATION REGARDING SEPARATE APPLICATION
REQUIREMENT FOR NONREGULATED ELECTRIC TRANSMISSION LINE**

Comes now the applicant, Martin County Solar Project, LLC (“Martin County Solar” or “Applicant”), by and through counsel, and hereby moves the Kentucky State Board on Electric Generation and Transmission Siting (the “Siting Board” or “Board”) to determine whether the Applicant’s nonregulated electric transmission line constitutes an associated structure of its merchant electric generating facility, in light of the project’s existing site characteristics and the Siting Board’s recent order in the application of Golden Solar, LLC.¹ In support thereof, Martin County Solar states as follows:

I. INTRODUCTION

On January 26, 2021, Martin County Solar submitted an application for a certificate of construction for an approximately 200 megawatt (MW) merchant solar electric generating facility located in Martin County, Kentucky, docketed with the Siting Board as Case No. 2021-00029 (the “Facility Application”). In its Facility Application, the Applicant noted that the generation facility

¹ *In the Matter of the 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*, Case No. 2020-00243.

will interconnect with the existing onsite 138 kV Inez substation, owned and operated by the Kentucky Power Company (“Kentucky Power”), an American Electric Power Company.² The Applicant’s generation facility will interconnect to the 138 kV Inez substation via a gen-tie line no more than 300 feet in length constructed by the Applicant, and located entirely within the facility’s project footprint.³

On November 15, 2021, the Siting Board issued a final order on the Applicant’s Facility Application, conditionally granting the Applicant’s certificate to construct its generation facility subject to certain mitigation measures appended thereto.

On November 28, 2022, the Applicant submitted an application to bifurcate its facility certificate and partially transfer the rights and obligations thereunder to Martin County II Solar Project, LLC. The requested bifurcation of the facility certificate will permit the project to be developed in phases by the same entity with a single gen-tie line interconnecting both phases of the generation facility to the grid. In Response No. 10 to Siting Board staff’s First Request for Information, the Applicant submitted a site development plan demonstrating a 138 kV transmission line intersecting various project areas near the Applicant’s facility substation and a single gen-tie line connecting to the 138 kV Inez substation in the site’s northern quadrant.

II. THE SITING BOARD’S ORDER IN GOLDEN SOLAR, LLC

On February 21, 2023, the Siting Board issued a final order in the application of Golden Solar, LLC (“Golden Solar”), conditionally granting Golden Solar’s application to construct a merchant solar electric generating facility. In its application, Golden Solar stated that its nonregulated transmission line would run approximately 300 feet outside of the project boundaries

² See Case No. 2021-00029, Application ¶10 and Site Assessment Report (SAR) ¶6.

³ *Id.*

to LG&E/KU's switching station.⁴ Golden Solar did not apply for a construction certificate to construct a nonregulated electric transmission line to interconnect its project with an adjacent substation owned by LG&E/KU. Rather, Golden Solar argued that its nonregulated transmission line was an "associated structure" of the generation facility within the meaning of KRS 278.700(2) because: (1) the transmission line provides only a one-way flow of electricity from the project substation to the utility substation; (2) the scope of the generation facility's application, discovery, and consultant's report established a greater record than is required under a standalone transmission line application; and (3) no separate application requirement for a transmission line less than one mile long and lower than 69 kV voltage is consistent with the Siting Board's precedent.⁵

The Siting Board found that Golden Solar was "not required to file a separate application for a nonregulated electric transmission line."⁶ The Board stated that "[Golden Solar's] nonregulated transmission line, in this instance, can be considered an associated structure of the project because of its minimal length and proximity to the project substation and the LG&E/KU switching station."⁷ The Board cited the minimal length of Golden Solar's transmission line, the proximity of Golden Solar and LG&E/KU substations, and the fact that a KU 161 kV transmission line ran overhead in the project area near the project substation to justify granting a construction certificate without a separate application for the nonregulated electric transmission line.⁸ Thereafter, the Siting Board issued Golden Solar's construction certificate, stating that:

"Golden Solar's application for a Construction Certificate to construct an approximately 100 MW merchant solar electric generating facility and

⁴ Case No. 2020-00243, Application Exhibit B, p. 1.

⁵ Case No. 2020-00243, Final Order, p. 21; *see also*, Golden Solar, LLC, *Post-Hearing Brief re Proposed Gen-Tie's Inclusion in the requested Construction Certificate for a Merchant Electric Generating Facility*.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

nonregulated electric transmission line in Caldwell County, Kentucky is conditionally granted...”⁹

III. BASED ON THE PRECEDENT SET IN GOLDEN SOLAR, MARTIN COUNTY SOLAR’S TRANSMISSION LINE IS AN ASSOCIATED STRUCTURE OF ITS MERCHANT ELECTRIC GENERATING FACILITY

Martin County Solar’s nonregulated electric transmission line, like Golden Solar’s transmission line, provides a one-way flow of electricity from its generation facility to the 138 kV Inez substation. However, unlike Golden Solar’s transmission line, which connected to LG&E/KU’s adjacent *offsite* substation, Martin County’s transmission line will connect to an *onsite* existing substation owned by Kentucky Power. The Board’s justification for finding Golden Solar’s transmission line as an “associated structure” to the facility, in part, relied on the fact that the project substation and utility substation were in close proximity to one another, albeit on separately owned parcels. Whereas LG&E/KU’s substation was bordered by project parcels on three sides, Martin County Solar’s project substation is actually within its project’s boundaries. Because the Inez substation is located within project boundaries, it is more closely associated with the Martin County Solar generation facility than Golden Solar’s line to its facility.

The Siting Board justified Golden Solar’s nonregulated electric transmission line in part due to its minimal length. Golden Solar stated its nonregulated electric transmission line would run approximately 300 feet outside project boundaries. As noted in its application, Martin County Solar’s nonregulated electric transmission line will be no more than 300 feet in total length and located entirely within its project footprint. Both sites have existing overhead transmission lines intersecting with project boundaries near their respective project substations. Because Martin County Solar’s site characteristics and length of its gen-tie line are similar Golden Solar’s, Martin

⁹ Case No. 2020-00243, Final Order, p. 25.

County's transmission line is similarly situated and of minimal length, and is thus part of its facility as an associated structure under the Siting Board's rationale in Golden Solar.

IV. PRAYER FOR RELIEF

Martin County Solar's gen-tie line is an associated structure of its generation facility, if not more so than Golden Solar's gen-tie line, under the Siting Board's rationale in the Golden Solar scenario.

Wherefore, Martin County Solar requests that the Board:

1. determine that Martin County Solar Project, LLC's gen-tie line be considered an associated structure of its generation facility as defined in KRS 278.700(2); and
2. issue an order finding that Martin County Solar Project, LLC's gen-tie line is an associated structure of its generation facility in accordance with the above.

Respectfully submitted,



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