

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**ELECTRONIC APPLICATION OF EAST)
KENTUCKY POWER COOPERATIVE, INC.)
FOR CERTIFICATES OF PUBLIC)
CONVENIENCE AND NECESSITY AND)
SITE COMPATABILITY CERTIFICATES)
FOR THE CONSTRUCTION OF A 96 MW)
(NOMINAL) SOLAR FACILITY IN MARION)
COUNTY, KENTUCKY AND A 40 MW)
(NOMINAL) SOLAR FACILITY IN FAYETTE)
COUNTY, KENTUCKY AND APPROVAL OF)
CERTAIN ASSUMPTION OF EVIDENCES)
OF INDEBTEDNESS RELATED TO THE)
SOLAR FACILITIES AND OTHER RELIEF)**

CASE NO.
2024-00129

VERIFIED APPLICATION

Comes now East Kentucky Power Cooperative, Inc. (“EKPC” or the “Company”), by and through the undersigned counsel, pursuant to KRS 278.020(1), KRS 278.216, 807 KAR 5:001, KRS 278.300, and other applicable law and hereby tenders its Application with the Kentucky Public Service Commission (“Commission”) requesting approval for Certificates of Public Convenience and Necessity (“CPCN”) to construct two solar facilities, (a 96 MW facility in Marion County, Kentucky and a 40 MW facility in Fayette County, Kentucky); Site Compatibility Certificates for said solar facilities; and approval to assume certain leases associated with the Marion County solar facility. In support of the Application, EKPC respectfully states as follows:

I. INTRODUCTION

1. EKPC is a not-for-profit, rural electric cooperative corporation established under KRS Chapter 279 with its headquarters in Winchester, Kentucky. Pursuant to various agreements, EKPC provides electric generation capacity and electric energy to its sixteen (16) Owner-Member Cooperatives (“owner-members”), which in turn serve over 570,000 Kentucky homes, farms and commercial and industrial establishments in eighty-seven (89) Kentucky counties. EKPC’s Board has stated its strategic objective is to maintain a generation fleet that prudently diversifies its fuel sources while maximizing the potential of its capital investments and minimizing stranded assets. EKPC is a “utility” as that term is defined in KRS 278.010(3)(a) and a “generation and transmission cooperative” as that term is defined in KRS 278.010(9).

2. In total, EKPC owns and operates approximately 2,963 MW of net summer generating capacity and 3,265 MW of net winter generating capacity. EKPC owns and operates coal-fired generation at the John S. Cooper Station in Pulaski County, Kentucky (341 MW) and the Hugh L. Spurlock Station (1,346 MW) in Mason County, Kentucky. EKPC also owns and operates natural gas-fired generation at the J. K. Smith Station in Clark County, Kentucky (753 MW (summer)/989 MW (winter)) and the Bluegrass Generating Station in Oldham County, Kentucky (501 MW (summer)/567 MW (winter)), landfill gas-to-energy facilities in Boone County, Greenup County, Hardin County, Pendleton County and Barren County (13 MW total), and a Community Solar facility (8.5 MW) in Clark County, Kentucky. Finally, EKPC purchases hydropower from the Southeastern Power Administration at Laurel Dam in Laurel County, Kentucky (70 MW), and the Cumberland River system of dams in Kentucky and Tennessee (100 MW). EKPC also has 200 MWs of interruptible load and approximately 26 MWs in peak reduction mechanisms. EKPC’s record peak demand of 3,754 MW occurred on January 17, 2024.

3. EKPC owns 2,995 circuit miles of high voltage transmission lines in various voltages, mainly 69kV and greater. EKPC also owns the substations necessary to support this transmission line infrastructure. Currently, EKPC has seventy-seven (77) free-flowing interconnections with its neighboring utilities. EKPC's transmission system is operated by PJM Interconnection, LLC ("PJM"), of which EKPC has been a fully integrated member since June 1, 2013. PJM is a regional electric grid and market operator with operational control of over 185,000 MW of regional electric generation. It operates the largest capacity and energy market in North America.

II. FILING REQUIREMENTS

4. Pursuant to 807 KAR 5:001, Section 14(1), EKPC's business address is 4775 Lexington Road, Winchester, Kentucky 40391 and its mailing address is Post Office Box 707, Winchester, Kentucky 40392-0707. EKPC's telephone number is (859) 744-4812 and its fax number is (859) 744-6008. EKPC's email address is: psc@ekpc.coop. EKPC requests that the following individuals be included on the service list:

Chris Adams, EKPC's Director of Regulatory and Compliance Services:

chris.adams@ekpc.coop

L. Allyson Honaker and Brittany Hayes Koenig, Counsel for EKPC:

allyson@hloky.com

brittany@hloky.com

5. Pursuant to 807 KAR 5:001, Section 14(2), EKPC attests that it is a Kentucky corporation, in good standing, and was incorporated on July 9, 1941. A certificate of good standing is attached to this Application as Exhibit 1.

6. Pursuant to 807 KAR 5:001, Section 15(2)(a), the facts relied upon to show that the proposed construction is required by public convenience and necessity are contained in this Application and Exhibits.

7. Pursuant to 807 KAR 5:001, Section 15(2)(b), EKPC has no franchises or permits necessary for construction of the proposed solar facilities.

8. Pursuant to 807 KAR 5:001, Section 15(2)(c), the project will include constructing two solar facilities. The first will be a 96 MW facility in Marion County, Kentucky (“Northern Bobwhite Project”) and the second will be a 40 MW facility in Fayette County, Kentucky at the Avon substation (“Bluegrass Plains Project”). A more detailed description of the proposed location and construction of the proposed solar facilities is contained in the Direct Testimonies of Julia J. Tucker and Patrick Bischoff, respectively included as Exhibits 2 and 3 to this Application.

9. Pursuant to 807 KAR 5:001, Section 15(2)(c), a description of the manner in which the solar facilities will be constructed, and the names of all public utilities, corporations, or persons with whom the proposed construction is likely to compete is included in the Direct Testimonies of Julia J. Tucker, and Patrick Bischoff, contained in Exhibits 2 and 3 to this Application.

10. Pursuant to 807 KAR 5:001, Section 15(2)(d)1, EKPC is attaching to Exhibit 3 to this Application (the Direct Testimony of Patrick Bischoff) Attachments PB-2 and PB-3, which are copies in portable document format of maps to suitable scale showing the location of the proposed construction, as well as the location to scale of like facilities owned by other utilities located anywhere within the map area with adequate identification as to the ownership of the other facilities. Pursuant to prior Commission Orders, no paper copies of the maps are being filed.¹

¹ See *In the Matter of Emergency Docket Related to the Novel Coronavirus COVID-19*; Case No. 2020-00085, Order, (Ky. P.S.C., July 21, 2022).

11. Pursuant to 807 KAR 5:001, Section 15(2)(d)2, Attachments PB-2 and PB-3 to Exhibit 3 of the Application include plans and specifications and drawings of the proposed plant, equipment, and facilities.

12. Pursuant to 807 KAR 5:001, Section 15(2)(e), EKPC plans to initially finance the proposed construction with general funds and later to refinance with additional items into a larger refinancing package at a later date. Additional information pertaining to the financing of the proposed construction is contained in the testimony of Thomas Stachnik, which is attached hereto as Exhibit 4.

13. Pursuant to 807 KAR 5:001, Section 15(2)(f), EKPC's estimated annual cost of operation for both the Northern Bobwhite Project and Bluegrass Plains Project after they are placed into service is included in Attachment PB-2 to Exhibit 3 to the Application, which, outlines a fixed operations and maintenance ("O&M") rate of \$15.97 per kW-yr.

14. Pursuant to KRS 322.340, engineering plans, specifications and drawings for the proposed construction projects prepared by a registered engineer licensed in Kentucky and signed sealed and dated are included in Exhibit 3 Attachments PB-2 and PB-3.

15. Pursuant to 278.216, a site assessment report for the Northern Bobwhite Project as prescribed in KRS 278.708(3) and (4) is attached to this Application as Attachment PB-2 to Exhibit 3. A Site Assessment Report for the Bluegrass Plains Project is attached to this Application as Attachment PB-3 to Exhibit 3.

III. REQUEST FOR CPCNS AND SITE COMPATABILITY CERTIFICATES

16. EKPC respectfully requests the Commission to grant CPCNs and Site Compatibility Certificates for the construction of two new solar facilities. The Northern Bobwhite Project will be a 96 MW solar facility located on approximately 635 acres in Marion County,

Kentucky. EKPC has obtained lease agreements from each of the affected property owners for this project.² The Bluegrass Plains Project will be a 40 MW solar facility located on approximately 388 acres in Fayette County, Kentucky. EKPC has obtained options to purchase and own this property.

17. EKPC states that the proposed solar projects described above are necessary to provide safe and reliable service to the service area while also satisfying increasing customer demand for renewable energy resources and renewable energy credits (“RECs”). The need for the two solar projects is described in more detail in the Direct Testimony of Julia J. Tucker, attached hereto as Exhibit 2.

18. EKPC has reviewed alternative means to invest in renewable energy resources and is confident that the two solar projects will have the least impact on the surrounding area and the property owners. The two solar projects are also needed to assist EKPC in providing low-cost energy to its owner-members. EKPC’s 2022 Integrated Resource Plan defined solar energy as an economic energy resource for the system.³ The solar energy from these projects will provide low-cost energy during summer peak periods, with limited production during winter peak load periods. EKPC’s portfolio will also be improved with the addition of solar energy to diversify its mix of generation assets. In addition, large industrial and commercial customers are requesting specific renewable energy supply on a more regular basis. Construction of the projects places EKPC in a strategically desirable position to have renewable energy readily available when requested.

² The leases are for an initial term of twenty (20) years with up to four additional consecutive terms of five (5) years each.

³ See *In the Matter of the Electronic 2022 Integrated Resource Plan of East Kentucky Power Cooperative, Inc.*, Case No. 2022-00098, filed April 1, 2022.

19. The parameters of the projects were also carefully calibrated to avoid wasteful duplication of investment and the unnecessary cluttering of landscape with utility infrastructure. In order to evaluate the alternatives thoroughly, EKPC's power supply department conducted studies and issued requests for proposals ("RFP") to determine the best place to construct the solar facilities and the best method of construction. As it did with the development of Cooperative Solar Farm One, EKPC contracted with the National Renewable Cooperative Organization ("NRCO") to assist in issuing the RFPs and evaluating the responses that led to the current proposals. The RFP and responses are contained in Attachment JJT-2 to Exhibit 2 (Direct Testimony of Julia J. Tucker) to the Application.

20. Importantly, each of the projects were already listed in the PJM queue. The Northern Bobwhite Project has now been fully approved with an executed service agreement. Bluegrass Plains is in the final state of the facility study and, once complete, an associated service agreement can be executed.

21. The financing for the projects is addressed in Thomas Stachnik's Direct Testimony attached hereto as Exhibit 4.

22. To confirm the site compatibility of the two solar projects, EKPC completed a Site Assessment Report ("SAR") for each project. Each SAR contains all the information required by KRS 278.708. The SARs are attached at Exhibits PB-2 and PB-3 to Patrick Bischoff's Direct Testimony found at Exhibit 3. EKPC also seeks a deviation from KRS 278.708(3)(a)(7) regarding the setback requirements contained in KRS 278.704(2) as detailed in the Site Assessment Reports attached to Exhibit 3 as Attachments PB-2 and PB-3.⁴

IV. REQUEST FOR APPROVAL PURSUANT TO KRS 278.300

⁴ See, e.g., Exhibit 3, Attachment PB-2, p. 4 and Sections on Mitigation and Compliance; Exhibit 3, Attachment PB-3, Section 2.7.

23. EKPC seeks approval for the assumption of certain lease agreements associated with the Northern Bobwhite Project, which are considered evidences of indebtedness pursuant to KRS 278.300. Copies of the lease agreements necessary for the construction of the Northern Bobwhite Project for which EKPC seeks approval to assume are included in Attachment PB-3 to Exhibit 3. The lease agreements contain the required information for 807 KAR 5:001, Section 18.

24. Pursuant to 807 KAR 5:001 Section 18(1)(a), the information required by 807 KAR 5:001 Section 14 is set forth above and is reiterated herein as if set forth in full.

25. Pursuant to 807 KAR 5:001 Section 18(1)(b), a general description of EKPC's property and the field of its operation, along with the original cost of same and the cost to EKPC are contained in Exhibit 4, Attachment TS-2.

26. Pursuant to 807 KAR 5:001 Section 18(1)(c)-(d), EKPC affirms that this Application does not involve the issuance of any stocks, notes, bonds or other evidences of indebtedness. The assumption of the leases associated with the Northern Bobwhite Project will be paid for out EKPC's existing corporate accounts.

27. Pursuant to 807 KAR 5:001 Section 18(1)(e), the leases to be assumed, and the Northern Bobwhite Project in general, are described in Attachment 3 to the Application and the Attachments thereto.

28. Pursuant to 807 KAR 5:001 Section 18(1)(f), the proposed assumption of leases does not involve the discharge or refunding of any existing obligations.

29. Pursuant to 807 KAR 5:001 Section 18(1)(g), EKPC affirms that it is not a water district.

30. Pursuant to 807 KAR 5:001 Section 18(2)(a) and 807 KAR 5:001 Section 12(2)(a)-(i), EKPC is filing the following information that is contained in the Direct Testimony of Thomas Stachnik as Exhibit 4, Attachment TS-1, and made a part of this Application by reference:

- Financial exhibit - 807 KAR 5:001 Section 12(2);
- Amount and kinds of stock authorized - 807 KAR 5:001 Section 12(2)(a);
- Amount and kinds of stock issued and outstanding - 807 KAR 5:001 Section 12(2)(b);
- Terms of preference or preferred stock – 807 KAR 5:001 Section 12(2)(c);
- Brief description of each mortgage on property - 807 KAR 5:001 Section 12(2)(d);
- Bonds authorized and issued; related information – 807 KAR 5:001 Section 12(2)(e);
- Notes outstanding; related information – 807 KAR 5:001 Section 12(2)(f);
- Other indebtedness; related information – 807 KAR 5:001 Section 12(2)(g);
- Dividend information – 807 KAR 5:001 Section 12(2)(h);
- Detailed income statement and balance sheet – 807 KAR 5:001 Section 12(2)(i).

31. Pursuant to 807 KAR 5:001 Section 12(1)(a), the information provided above pursuant to 807 KAR 5:001 Section 12(2) covers operations for a twelve month period, ending not more than ninety days prior to the Application filing date.

32. Pursuant to 807 KAR 5:001 Section 18(2)(b), a copy of EKPC's Trust Indenture was filed and approved in Case No. 2012-00249.⁵

33. Pursuant to 807 KAR 5:001 Section 18(2)(c), a copy of maps and plans and cost estimates for the proposed solar projects are included in Exhibit 3 and the Attachments thereto.

⁵ See *In the Matter of the Application of East Kentucky Power Cooperative, Inc. for Approval to Obtain a Trust Indenture*, Order, Case No. 2012-00249 (Ky. P.S.C. Aug. 9, 2012).

34. Pursuant to KRS 278.300, the assumption of the lease agreements for the Northern Bobwhite Project is for a lawful purpose for EKPC to provide electric service to its owner-members and ultimately their end-use members. The addition of the Northern Bobwhite Project to EKPC's generation portfolio is not inconsistent with the performance by EKPC of its service and will not impair EKPC's ability to perform its service to provide safe and reliable electric service. In fact, the addition of the Northern Bobwhite Project will allow EKPC to offer an additional renewable energy source. The Northern Bobwhite Project and the assumption of the lease agreements are appropriate for EKPC to perform its duties to its owner-members and ultimately the end-use members.

V. CONCLUSION

35. Issuance of the requested CPCNs and Site Compatibility Certificates and approval of the assumption of the leases associated with the Northern Bobwhite Project are consistent with Kentucky law and advance EKPC's efforts to achieve its strategic objectives and Sustainability Plan. The solar facilities are needed and will not result in wasteful duplication and assumption of evidences of indebtedness is for a lawful object within the corporate purposes of EKPC, is necessary for and appropriate and consistent with the proper performance of its service to the public, will not impair its ability to perform that service and is reasonably necessary and appropriate for such purpose.

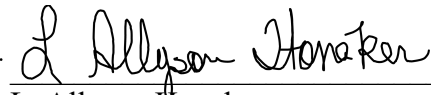
WHEREFORE, on the basis of the foregoing, EKPC respectfully requests the Commission to:

- 1) Grant CPCNs for the construction of the two solar facilities described herein;
- 2) Issue Site Compatibility Certificates for both of said solar facilities;

- 3) Grant approval for the assumption of evidences of indebtedness to assume the leases described herein;
- 4) Grant a deviation from the setback requirements of KRS 278.708(3)(a)(7); and,
- 5) Grant and all other relief to which EKPC may be entitled.

This 26th day of April, 2024.

Respectfully Submitted,



L. Allyson Honaker
Brittany Hayes Koenig
Honaker Law Office, PLLC
1795 Alysheba Way, Suite 6202
Lexington, KY 40509
(859) 368-8803
allyson@hloky.com
brittany@hloky.com

Counsel for East Kentucky Power Cooperative, Inc.

EXHIBIT LIST

EXHIBIT	TITLE	WITNESS
1	Certificate of Good Standing	Don Mosier
2	Direct Testimony of Julia J. Tucker Attachment JJT-1 – Solar RFP Responses and Evaluations (CONFIDENTIAL) Attachment JJT-2 – EKPC Sustainability Plan	Julia J. Tucker
3	Direct Testimony of Patrick Bischoff Attachment PB-1 – NRCO 2021 Solar Proposal Attachment PB-2 – Northern Bobwhite Site Assessment Report (PARTIALLY CONFIDENTIAL) Attachment PB-3 – Bluegrass Plains Site Assessment Report	Patrick Bischoff
4	Direct Testimony of Thomas Stachnik Attachment TS-1 – Financial Exhibit and Related Information Attachment TS-2 – Description of Property, Original Cost, Etc.	Thomas Stachnik