

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

**In the Matter of:**

<b>In the Matter of the Application of Lost City</b>	<b>)</b>	
<b>Renewables LLC for a Certificate of Construction for</b>	<b>)</b>	
<b>an Approximately 250 Megawatt Merchant Electric</b>	<b>)</b>	<b>Case No. 2024-00406</b>
<b>Solar Generating Facility in Muhlenberg County,</b>	<b>)</b>	
<b>Kentucky Pursuant to KRS 278.700 and 807 KAR</b>	<b>)</b>	
<b>5:110</b>		

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**LOST CITY RENEWABLES LLC’S POST-HEARING BRIEF  
AND MOTION TO STRIKE**

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**POST-HEARING BRIEF**

Lost City Renewables LLC (“Lost City”), by counsel, and pursuant to 807 KAR 5:110, Section 7 and Kentucky State Board on Electric Generation and Transmission Siting (“Siting Board”) order dated June 20, 2025, submits this Brief in support of its post-hearing position. The record in this matter demonstrates that the Siting Board should approve a construction certificate for its application to construct a 250-megawatt merchant electric solar generating facility with reasonable conditions as discussed throughout the record. Notably, the independent consultant that was retained by the Siting Board—Elliot Engineering—supported approval of the construction certificate. No evidence has been produced to contradict Elliot Engineering’s findings.

**LEGAL STANDARD**

The Siting Board, within 180 days of receipt of an application and upon evaluation of the record, including an evidentiary hearing, shall grant or deny a construction certificate based upon the criteria contained in KRS 278.710(1). The analysis below tracks the elements identified in KRS 278.710(1).

## ANALYSIS

Lost City applied to the Siting Board for a construction certificate to construct a 250-megawatt (MW) facility in southeastern Muhlenberg County (the “project”). The project will be located on a portion of a privately owned 1,413-acre parcel of which portions are simultaneously in agricultural production, forested, and fields. The footprint of the project will be constructed on roughly 800 acres. It will interconnect into the Tennessee Valley Authority (“TVA”) grid. The project is located in a rural part of Muhlenberg County. Adjoining properties comprise 21.47 acres of residential land, 67.22 acres of agricultural land, and 11.32 acres of mixed residential and agricultural land.<sup>1</sup>

On January 29, 2025, Lost City filed its application for a construction certificate for the project. During the pendency of the application, 18 neighboring property owners (the “Intervenors”) intervened in this matter.<sup>2</sup> The Siting Board issued Lost City two sets of requests for information regarding the project. The Siting Board also engaged third-party consultant Elliot Engineering (“Elliot”) to conduct a Site Assessment Review of the project, which signaled that the project complied with statutory requirements for approval. It hosted a local public hearing on March 27, 2025, during which public comment was received in Muhlenberg County. On June 13, 2025, the Siting Board held an evidentiary hearing regarding Lost City’s application.

At the evidentiary hearing, Lost City presented five witnesses for testimony and cross-examination by the Siting Board and the Intervenors: Richard Kirkland, MAI, Kirkland Appraisals; Paul Coomes, Professor Emeritus of Economics at the University of Louisville; Sean Joshi, project developer for Lost City; Shane Kelley, Stantec; and Marty Marchaterre, Copperhead

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<sup>1</sup> Site Assessment Report at 2.

<sup>2</sup> Brad Reed, Sherrie Reed, Aaron Cobb, Amy Cobb, Shelia Richards, Frank Richards, Jay Mcelwain, Sudith Whitney, Tim Johnson, Lisa Johnson, Daniel Elitzer, Keira Elitzer, Mike Saye, Brian Cottongim, Danny Mitchell, Dana Mitchell, Stephen Wood, and Rhonda Wood intervened in the matter.

Environmental Consulting. The Siting Board took public comment from members of the public in attendance at the hearing and accepted written public comment submitted via mail or email. At no time during the review of Lost City’s application, prior to the hearing, did the Intervenors submit requests for information to Lost City. The Intervenors also provided no witnesses at the evidentiary hearing. The Intervenors admitted only three photographs of a road abutting the project on cross-examination of Marty Marchaterre. Per the February 12, 2025 Order, the Siting Board will issue its decision on the application by July 28, 2025.

Lost City has satisfied the criteria for a construction certificate pursuant to KRS 278.710. The project is well suited for the site on which it is planned in Muhlenberg County, as confirmed by the Siting Board’s third-party consultant, Elliot Engineering.

**I. KRS 278.710(1)(a)**

In its Site Assessment Review, Elliot Engineering found that Lost City’s project complied with each element of KRS 278.710.<sup>3</sup> The submitted reports, responses to request for intervention, and witness testimony provided at the evidentiary hearing align with Elliot Engineering’s findings. Consideration of the factors identified in KRS 278.710(a) demonstrate that the Siting Board should approve a construction certificate for Lost City.

**(a) Impact of the facility on scenic surroundings, property values, the pattern and type of development of adjacent property, and surrounding roads;’**

Lost City’s proposed project will have no negative impact on the scenic surroundings or property values of neighboring parcels. Lost City has communicated with neighboring landowners and residents of Muhlenberg County regarding the potential project impacts to adjoining properties and the community. Members of the local public have expressed concern about the project’s

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<sup>3</sup> See Elliot Engineering Site Assessment Review (filed May 12, 2025). Elliot Engineering also retained three subject matter experts—E. Clark Toleman MAI, SRA; Watters Unclaimed Property Consulting; and Cloverlake Consulting Services—to evaluate the project’s impact on property values, economics, and environmental issues.

suitability on the proposed site,<sup>4</sup> and Lost City has incorporated adjustments to the project’s design in response to those concerns.<sup>5</sup> The application Lost City filed consisted of an updated project design that addressed public concerns.

Elliot Engineering’s Report indicated that as related to “noise, scenic surroundings, historic and archeological, environmental & fugitive dust” factors provided in KRS 278.710(3)(a)(8), (b), (d), and (e), that the project – as modified by ongoing cooperation with and input from neighbors and local stakeholders – “is fully in compliance with the intent of the Kentucky Revised Statutes.”<sup>6</sup>

### **1. Scenic Surroundings**

Lost City’s project will not negatively impact on the scenic surroundings in the area. Although project development will require a clearing part of the site, in the project design and layout, Lost City took affirmative steps to minimize the amount of vegetative clearing that will occur and strategically located the project on a mix of both currently forested and agricultural land.<sup>7</sup> The property’s composition is common in Muhlenberg County, which is made up of approximately 156,812 forested acres. Lost City’s projected clearing of the proposed project site will impact just 0.39% of all forested land in Muhlenberg County.<sup>8</sup>

Lost City has prepared a detailed Landscape Plan.<sup>9</sup> Lost City will plant approximately 26 acres of trees and bushes as part of its vegetative buffer around the project that will ultimately include approximately 2,048 trees and 4,946 shrubs.<sup>10</sup> The plan establishes buffer areas with neighboring properties that will not disturb any vegetation outside the security fence, 25-foot setbacks on each side of jurisdictional streams, 25-foot setbacks surrounding jurisdictional

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<sup>4</sup> VR 6/13/2025, 2:16:30-2:55:07.

<sup>5</sup> Response to KSB RFI 1-54.

<sup>6</sup> Elliot Engineering Site Assessment Review at 47.

<sup>7</sup> Response to KSB RFI 1-18.

<sup>8</sup> *Id.*

<sup>9</sup> Site Assessment Report, Appendix E.

<sup>10</sup> Response to RFI 1-18; Site Assessment Report, Appendix E.

wetlands, and setbacks to avoid panel placement in the 100-year floodplain.<sup>11</sup> Timber produced in the clearing will be sold when practicable,<sup>12</sup> and Lost City will also chip trees for mulch that can be used on site, which can help with erosion control.<sup>13</sup>

Lost City conducted a Wildlife Concerns Analysis,<sup>14</sup> which was not statutorily required, to study the potential impacts the forest clearing would have on wildlife – including deer, coyote, and game bird populations. Based on available information from the Kentucky Department of Fish and Wildlife, the current deer population on the project site is approximately 25 to 42 deer.<sup>15</sup> Any clearing of forested land will minimally impact deer population because deer naturally disperse in their grazing and migration pattern. After the clearing, the deer population will disperse and will continue to migrate to other forested areas outside of the project site.<sup>16</sup> Similarly, coyotes and birds would also disperse without any noticeable impact on the populations.<sup>17</sup> Lost City also conducted a Bat Survey, Federal and State Listed Threatened and Endangered Species Habitat Assessment, and the Eagle and Raptor Survey that evaluated potential impact of the project site to threatened and endangered species.<sup>18</sup>

Lost City's detailed Landscaping Plan mitigates potential impact the site might have on potential wildlife, viewshed, or scenic surroundings. Lost City will revegetate the site using native grass and forb species and will plant at least two acres of native plants for pollinators.<sup>19</sup> These native plants will create habitats for pollinators such as bees, butterflies, and birds that will promote

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<sup>11</sup> Response to KSB RFI 1-20.

<sup>12</sup> Response to KSB RFI 2-4; VR 6/13/2025, 6:06:10-6:06:22.

<sup>13</sup> Response to KSB RFI 2-4; VR 6/13/2025, 6:06:40-6:06:45.

<sup>14</sup> Site Assessment Report, Appendix M.

<sup>15</sup> Response to RFI 1-31; Site Assessment Report, Appendix M. Wildlife Analysis; VR 6/13/2025, 5:26:36-5:28:11

<sup>16</sup> Response to KSB RFI 1-31.

<sup>17</sup> *Id.*

<sup>18</sup> Response to KSB RFI 1-62; Site Assessment Report, Appendix B at 14.

<sup>19</sup> Response to KSB RFI 1-31.

biodiversity and help mitigate any impact to pollinator populations.<sup>20</sup> Lost City also plans to use grazing on the project site – likely sheep – to manage vegetation and reduce the need for mowing or other disruptive activities to local wildlife populations.<sup>21</sup>

Lost City plans to plant around 30,456 linear feet—nearly 6 miles—of vegetative screening around the project site that will consist of 2,048 trees and 4,946 shrubs.<sup>22</sup> Where project boundaries are adjacent to a residence, Lost City plans to have a double planting of vegetation, approximately 40 feet wide. The double planting areas measure approximately 24,309 linear feet around the project.<sup>23</sup> Lost City will prioritize planting vegetative screening during the construction period to reduce viewshed impacts, and all planting will be complete prior to the operation of the facility.<sup>24</sup> Lost City will replace any plantings as necessary.<sup>25</sup> Lost City’s planned viewshed and natural mitigation measures ensure the project will minimize impact on scenic surroundings.

## 2. Property Values

Lost City’s project will not negatively impact property values for adjacent landowners. Elliot Engineering retained E. Clark Toleman, MAI, SRA to review and assess the project’s potential impact on property values. He found that the information provided by Lost City and its consultant, Richard Kirkland, to be reliable, stating:

Considering my analysis of the Lost City Impact Study I have concluded that the report is credible and representative of the market conditions that would exist should the Lost City Solar Project be constructed based on the market evidence and interpretation of the data contained in the Impact Study. The report includes a review of current published studies on property value impacts associated with solar projects, paired sales analysis of solar projects in Kentucky and adjoining states ranging in size from 2.7 to 617 MW, with data from 74 National solar projects, and interviews with real estate professionals and real property assessors.<sup>26</sup>

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<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> Response to KSB RFI 1-32; Site Assessment Report, Appendix M.

<sup>23</sup> *Id.*

<sup>24</sup> Site Assessment Report at 4-5, 10-15.

<sup>25</sup> *Id.*

<sup>26</sup> Elliot Engineering Site Assessment Review at 48.

Lost City retained Kirland Appraisals, LLC (“Kirland”) to conduct a Property Value Impact Analysis. Kirland determined the project will have minimal to no impact on the adjoining property values.<sup>27</sup> Kirland’s Sale/Resale Analysis and Matched Pair Analysis conformed to the standards and practices that the Appraisal Institute established that satisfy to the Uniform Standards of Professional Appraisal Practice.<sup>28</sup> Kirland focused on matched analysis methodology to compare the Lost City project to other comparable projects in Kentucky and around the United States. Kirland’s analysis showed that the project will have “no impact on home values due to abutting or adjoining a solar farm as well as no impact to abutting or adjacent vacant residential or agricultural land where the solar farm is properly screened and buffered.”<sup>29</sup>

Kirland used six key elements that influence property values to reach this conclusion. First, the project will not generate or use hazardous materials.<sup>30</sup> Solar farms do not have known environmental impacts that will cause residual harm to neighboring property owners via the creation of hazardous material.<sup>31</sup> Similarly, solar farms do not generate odor during either the construction or operational phases of development that could negatively impact adjacent properties.<sup>32</sup>

Next, the project is not expected to have a noise effect on neighboring properties during the operation of the project.<sup>33</sup> As indicated in the Noise Assessment for the project, noise will be temporary and intermittent during the construction phase of the project due to increases in vehicular traffic, use of construction equipment, and assembly of the solar facility components.<sup>34</sup>

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<sup>27</sup> Site Assessment Report, Appendix A.

<sup>28</sup> *Id.* at 14.

<sup>29</sup> *Id.* at 2.

<sup>30</sup> *Id.* at 137.

<sup>31</sup> *Id.* at 137.

<sup>32</sup> *Id.* at 137.

<sup>33</sup> *Id.* at 137; Site Assessment Report, Appendix D.

<sup>34</sup> Site Assessment Report, Appendix D at 10-11.

This increase in noise is expected to be within acceptable ranges and of short duration at any given location within the project. Lost City anticipates it will use intermittent and infrequent pile driver activity.<sup>35</sup> Lost City will limit pile-driving noise impact to affected receptors within 1,000 feet of the construction activity by limiting pile-driving time periods and will use a noise suppression method for pile driving activities occurring within 1,500 feet of a noise sensitive receptor.<sup>36</sup> Any noise generated during construction is temporary and will not negatively impact neighboring property values.<sup>37</sup>

Kirkland also examined traffic patterns. Kirkland found that the minimal maintenance of the project will result in an insignificant increase in traffic. Other potential uses of the site such as a residential subdivision would generate significantly more traffic.<sup>38</sup> Based on Lost City's proposed mitigation measures that will reduce construction phase impacts to traffic in the local area, Kirkland's report finds no property value impact from traffic.<sup>39</sup>

The other two factors Kirkland evaluated are stigma and appearance. Citing other studies and similar projects, Kirkland found that no stigma exists with solar projects.<sup>40</sup> Though individuals may express opposition to solar operations, the presence of the solar facility does not carry the same stigmatizing weight on property values as would an adult institution, prison, or rehabilitation facility.<sup>41</sup> Often, solar projects around the nation are placed near churches or schools and homeowners will put solar panels on their homes or private buildings, both of which indicate a lack of stigma around solar energy.<sup>42</sup>

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<sup>35</sup> *Id.* at 11.

<sup>36</sup> Site Assessment Report at 11.

<sup>37</sup> Site Assessment Report, Appendix A at 137.

<sup>38</sup> *Id.*

<sup>39</sup> Site Assessment Report, Appendix G; Site Assessment Report at 10-15.

<sup>40</sup> Site Assessment Report, Appendix A at 137-138.

<sup>41</sup> *Id.* at 137.

<sup>42</sup> *Id.* at 138.



Finally, solar projects do not have an appearance that will negatively influence adjacent property values. Solar panels are less than 15 feet tall, which is roughly the same height as a greenhouse and is lower than a residential roof.<sup>43</sup> A development of a residential neighborhood would result in significantly greater viewshed impact.<sup>44</sup> Vegetative screening will ease any viewshed impact to neighboring property owners. Moreover, the project is located in a geographical area that does not have planning and zoning regulations. Without such regulations, the property can be developed for any land use, including a residential subdivision that would have greater viewshed impacts than a solar farm.<sup>45</sup>

In summary, the Lost City project will have no negative impact on neighboring property values, as demonstrated by Kirkland's Report and confirmed by Toleman. No evidence has been presented to contradict these findings.

### **3. Pattern and Type of Development of Adjacent Property**

Lost City ensured the project is located on a suitable site. At the outset of developing any project, Lost City selects a general area that will allow the project to inject the maximum amount of power to the existing electric grid infrastructure. Once Lost City selects a geographic location for a project, Lost City then finds parcels of land that are large enough to support a merchant generating solar facility in the area. Lost City selected this site because a TVA substation, also named Lost City, is located roughly 10.5 miles from the project site.<sup>46</sup> A project transmission consultant studied the load that the TVA system could handle and found it to be compatible with a 250-megawatt solar project.<sup>47</sup>

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<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at 138.

<sup>45</sup> Site Assessment Report, Appendix A at 138.

<sup>46</sup> VR 6/13/2025, 4:47:15-4:48:41.

<sup>47</sup> Response to KSB RFI 1-19.

Lost City selected a parcel further from the TVA interconnection point because the land immediately surrounding the TVA transmission network was identified as land currently in agricultural production. Lost City was aware that similar projects in the region faced heavy local opposition to the removal of land from agricultural production for the siting of a solar project. Lost City determined the project site would protect farmland currently in agricultural production and alleviate some community concerns.<sup>48</sup>

Preserving the integrity of the project site is essential to preserving the development of the project and surrounding properties. Elliot Engineering noted in the Consultant’s Report that solar power plants can minimize impact to wildlife by “protect[ing] water quality and avoiding erosion.”<sup>49</sup> Lost City commissioned a draft Stormwater Pollution Prevention Plan to outline best practices to manage and reduce flood risks to the site.<sup>50</sup> The Project avoids locating solar panels, inverters, and security fences in the 100-year floodplain.

Stormwater best management practices include the use of vegetative filter strips, sediment traps and basins, silt fence, rock check dams, and the planting of vegetation along with construction sequencing and planning around weather events.<sup>51</sup> Before Lost City engages in any vegetation clearing, it will set aside topsoil from disturbed areas and will re-distribute the topsoil in applicable areas after site grading occurs.<sup>52</sup> In combination with the revegetation of the project site with native grasses and other native plant species, along with the vegetation screening and the existing mature vegetation that will remain on the site, Lost City will further reduce stormwater runoff, erosion, and flooding risks at the project site.<sup>53</sup>

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<sup>48</sup> VR 6/13/2025, 4:47:15-4:48:41, 4:49:12-4:49:23; Response to KSB RFI 1-19.

<sup>49</sup> Elliot Engineering Site Assessment Review at 19.

<sup>50</sup> Site Assessment Report, Appendix I.

<sup>51</sup> Response to KSB RFI 1-27.

<sup>52</sup> Response to KSB RFI 1-24; Site Assessment Report, Appendix I.

<sup>53</sup> Response to KSB RFI 1-25; Response to KSB RFI 1-28.

Lost City has also accounted for streams and wetland features on the property through a Stream and Wetland Delineation.<sup>54</sup> Of the 79 wetlands, 56 are isolated and would have no impact on downstream watersheds.<sup>55</sup> The remaining 23 wetlands and the above listed perennial and intermittent streams are considered jurisdictional.<sup>56</sup> The Kentucky Department of Water recommended Lost City observe 25-foot setbacks from jurisdictional streams and wetlands, and Lost City is committed to maintaining a 25-foot buffer from these features on the project site.<sup>57</sup>

The project is well suited for this site. During operations, the facility will not alter the rural nature of the area, as it will not increase residential density of the area and as it will maintain the relatively quiet environment of the area. The project will not impact how other neighboring property owners use their land.

#### **4. Surrounding Roads**

Lost City, as part of being a good neighbor to adjoining property owners and citizens of Muhlenberg County, has taken steps to ensure that it monitors traffic patterns relating to site construction and maintains the roads surrounding the project. Lost City conducted a Traffic Impact Study<sup>58</sup> that concluded traffic will increase during project construction but will be insignificant during the operation.<sup>59</sup> Lost City will implement construction ridesharing and a construction traffic management plan to reduce traffic surrounding the project.<sup>60</sup> To further minimize traffic impact to neighboring property owners, Lost City has committed to adopting all traffic mitigation measures proposed in the Traffic Impact Study.<sup>61</sup> Lost City also re-designed its project to

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<sup>54</sup> Site Assessment Report, Appendix K at 13.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> Response to KSB RFI 1-26; VR 6/13/2025, 6:22:20-6:23:42.

<sup>58</sup> Site Assessment Report, Appendix G.

<sup>59</sup> *Id.* at 7-8.

<sup>60</sup> Response to KSB RFI 1-13.

<sup>61</sup> Site Assessment Report, Appendix G at 4; Response to KSB RFI 1-14; Site Assessment Report at 10-15.

incorporate a larger portion of land accessible by access roads to minimize traffic disruptions to neighbors.<sup>62</sup>

In its Report, Elliot Engineering noted that all internal project roads are to be all-weather gravel, and that Lost City should avoid using oversized trailers for deliveries and limit the overall weight of deliveries during construction.<sup>63</sup> Lost City agrees to adopt Elliot Engineering's recommendations. Lost City will follow all county, state, and federal roadway regulations during the construction and operation of the project, including regulations around weight limits on various county and state roads.<sup>64</sup> It will survey all roads surrounding the project site and identify critical roadway considerations and traffic patterns.<sup>65</sup> Using this survey, Lost City will develop road use agreements with Muhlenberg County and the Kentucky Transportation Cabinet. It will take responsibility to repair damage or wear on the roads caused by project construction.<sup>66</sup> Lost City will submit a road survey of all roads surrounding the project that will be used during the construction period to Muhlenberg County officials as part of the road agreement.

Simply put, the site is well suited for the project. Lost City has made appropriate steps to ensure limited visual, environmental, and property impacts to the surrounding areas. Based on professional studies and mitigation measures, the project will not cause adverse impact to scenic surroundings, property values, or the use of surrounding properties or roads.

**(b) Anticipated noise levels as expected as a result of construction and operation of the proposed facility;**

The project will not cause substantial or prolonged noise impact to nearby sensitive noise receptors. Lost City submitted a Noise Analysis Report that found that project construction would

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<sup>62</sup> VR 6/13/2025, 4:42:00-4:42:12.

<sup>63</sup> Elliot Engineering Site Assessment Review at 43.

<sup>64</sup> Response to KSB RFI 1-5.

<sup>65</sup> Response to KSB RFI 2-1.

<sup>66</sup> Site Assessment Report at 9; Response to KSB RFI 1-9.

impact noise sensitive receptors in temporary, intermittent intervals over the 12-18 months of construction.<sup>67</sup> Pile driving will produce the greatest noise for sensitive receptors, but pile drivers will constantly move through the site. Pile drivers will only remain in the same location for 1 to 2 days.<sup>68</sup> Though construction will generate noise, all sensitive noise receptors around the project site are already subject to noise generated by agricultural activity such as farm machinery, traffic sounds, and wildlife noises.<sup>69</sup>

Lost City has agreed to adopt the mitigation measures proposed in the Noise Analysis Report to mitigate construction noise effects.<sup>70</sup> Lost City will limit the time of construction activities and deliveries to 7:00 a.m. and 7:00 p.m., Monday through Saturday, and will limit pile driving activities to 8:00 a.m. and 5:00 p.m., Monday through Friday. Only non-noise producing activities, including field visits, planning meetings, mowing, and surveying, will occur between 6:00 a.m. and 10:00 p.m. Monday through Sunday.<sup>71</sup> Lost City will limit pile driving activities within 1,000 feet of noise receptors to a reduced period, and will use a noise suppression technique if the pile driving occurs within 1,500 feet of a sensitive noise receptor.<sup>72</sup> It will follow the final site layout it will submit to the Siting Board upon approval of the construction application.<sup>73</sup> Lost City will notify residents and businesses within 2,400 feet of the project about the construction and its corresponding noise mitigation. It has also developed a complaint resolution program that will allow it to effectively address neighbors' concerns.<sup>74</sup> Ultimately, any construction phase noise will have no lasting harm on neighboring properties.<sup>75</sup>

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<sup>67</sup> Site Assessment Report, Appendix D at 18.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> Site Assessment Report at 10-15.

<sup>71</sup> Site Assessment Report, Appendix D at 17.

<sup>72</sup> *Id.* at 18.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*; Response to KSB RFI – 1-3.

<sup>75</sup> Site Assessment Report, Appendix A at 137.

During the operational phase of the project, the project will emit very low levels of noise that are “likely to be masked by existing daytime ambient sound sources and inaudible” from a residential receptor.<sup>76</sup>

Elliot Engineering found Lost City to be in full compliance with statutes and regulations regarding project noise.<sup>77</sup> No evidence has been presented to challenge this finding.

**(c) The economic impact of the facility upon the affected region and the state;**

The project will positively impact Muhlenberg County and the region. Elliot Engineering retained Watters Unclaimed Property Consulting to review and assess the project’s potential economic impact. Watters found:

Based upon the representations of the Applicant through its revised Report, there is a positive, significant, short-term initial economic during the Construction Phase for the Commonwealth of Kentucky, Muhlenberg County, and the region. During the longer Operational (generation) phase, there are positive sustained economic benefits for the state and Project area.<sup>78</sup>

First, the project will positively impact job creation. Lost City estimates that the one-year construction of the project will create approximately 739 jobs, which would result in around \$41 million in new labor income.<sup>79</sup> The project will support approximately 8 workers to operate the project, which will continue to provide local economic benefit.<sup>80</sup> Though not quantifiable, Lost City also expects the project to generate positive economic spin-off because construction workers will spend earned money from the project in Muhlenberg County and throughout the region.<sup>81</sup>

Second, Lost City will pursue an Industrial Revenue Bond with the Muhlenberg Fiscal Court. The current property tax value for the parcel is \$14,500 annually. However, Lost City

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<sup>76</sup> Site Assessment Report, Appendix D at 18.

<sup>77</sup> Elliot Engineering Site Assessment Review at 47

<sup>78</sup> *Id.* at 49.

<sup>79</sup> Application, Attachment G at 1.

<sup>80</sup> VR 6/13/2025, 4:57:15-4:47-20.

<sup>81</sup> Revised Economic Analysis (filed in response to KSB RFI 1-66) at 2

anticipates that the Industrial Revenue Bond and the Payment in Lieu of Taxes agreement would generate annual payments to Muhlenberg County of approximately \$199,000 annually over the life of the project.<sup>82</sup> Additionally, the project is expected to generate \$290.1 million in taxable investment, of which \$10.2 million will be paid to the Commonwealth and \$11.7 million will be paid directly to local jurisdictions.<sup>83</sup>

Lost City is committed to partnering with Muhlenberg County to have a positive economic impact on the county and region. Lost City will hire an engineering, procurement, and construction firm (“EPC firm”) that focuses on hiring and training local labor.<sup>84</sup> The EPC firm will directly hire workers, but Lost City will impose its mandate to hire as many local workers as possible on the EPC firm. Lost City’s commitment to hiring local labor will bolster the positive economic benefit the project will provide to Muhlenberg County.

The analysis from both Coomes and Watters confirms that the project will have positive economic impact in the region. No evidence has been submitted to contradict this finding.

**(d) Whether the facility is proposed for a site upon which existing generating facilities capable of generating ten megawatts (10MW) or more of electricity are currently located;**

Although the Lost City project is not co-located with existing electricity generating infrastructure, this is not uncommon in Kentucky. Approximately three dozen projects have been approved by the Siting Board since 2020 that did not have existing generating facilities on site. The project will interconnect to an existing substation and transmission line owned by TVA and will connect via the least impactful pathway from the collector substation to the point of interconnection.<sup>85</sup> As Elliot Engineering noted in the Consultant’s Report, Lost City will seek a

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<sup>82</sup> *Id.* at 1-2.

<sup>83</sup> *Id.* at 13.

<sup>84</sup> VR 6/13/2025, 4:51:28-4:54:23.

<sup>85</sup> Application at 9; Response to KSB RFI 1-38.

crossing agreement to avoid the 200 foot easement for the existing 69kV transmission line Pennyryle Rural electric Cooperative has on the property.<sup>86</sup>

**(e) Whether the proposed facility will meet all local planning and zoning requirements that existed on the date the application was filed;**

No local planning and zoning requirements existed at the time Lost City filed this application. Muhlenberg County is a member of a Joint Planning Commission that has never enacted any planning and zoning regulations for merchant solar generating facilities. As such, there are no setback requirements or applicable noise ordinances.

**(f) Whether the additional load imposed upon the electricity transmission system by use of the merchant electric generating facility will adversely affect the reliability of service for retail customers of electric utilities regulated by the Public Service Commission;**

Lost City will interconnect its project with TVA. As part of this process, Lost City has entered into a TVA Transitional Serial Interconnection Facilities Study Agreement.<sup>87</sup> TVA will review the project for its compatibility with the existing TVA infrastructure. The additional load the project will put on the TVA transmission system will have no negative impact on the system as TVA will only approve the project if it is compatible with existing TVA transmission infrastructure.

**(g) Except where the facility is subject to a statewide setback established by a planning and zoning commission as provided in KRS 278.704(3) and except for a facility 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, whether the exhaust stack of the proposed merchant electric generating facility and any wind turbine is at least one thousand (1,000) feet from the property boundary of any adjoining property owner and 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, unless a different setback has been requested and approved under KRS 278.704(4). If a planning and zoning commission has established setback requirements that differ from those under KRS 278.704(2), the applicant shall provide evidence of compliance. If the facility is proposed to be located on site of a former coal processing plant and the facility will use on-site waste coal as a fuel**

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<sup>86</sup> Elliot Engineering Site Assessment Review at 43.

<sup>87</sup> Application, Attachment F.



**source, the applicant shall provide evidence of compliance with the setback requirements provided in KRS 278.704(5);**

Lost City's project is neither proposed to be located on the site of a former coal processing plant nor will use any waste coal as a fuel source. No existing electricity generating facilities are on-site at the project location. Additionally, the project will not include any exhaust stacks or wind turbines as part of the facility, so there is no statutorily established 1,000-foot setback requirement from the property boundary of any adjoining property owner to the solar facility.

The project is not located within 2,000 feet of a residential neighborhood, school, hospital, or nursing home facility. Residences are located within 2,000 feet of the project's panels, but these homes are not part of a residential neighborhood. KRS 278.700(6) defines a residential neighborhood as an area of five or more acres containing at least one residential structure per acre. Using lot sizes, no five or more parcels near the project that contain residential structures have a density of one residence per acre. The residences around the project site do not meet the density requirement to qualify as a residential neighborhood.<sup>88</sup>

Intervenors and public commenters in this matter have interpreted the statutory density requirement to consist of an area with irregular boundaries narrowly tailored to only include the residential structures on parcels with no regard for the lots on which the dwellings sit. This approach is highly subjective and impossible to replicate.

KRS 278.700(6) should not be interpreted as a density requirement comprised of any possible amalgamation of residential structures based on creative boundary drawing. The use of lot size to determine a density requirement for a residential neighborhood creates a standard, logical test for the Siting Board to use. As such, the 2,000-foot setback requirement in KRS 278.704 is inapplicable to this project because there is no five-acre area containing five or more

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<sup>88</sup> Response to KSB RFI 2-19.

parcels with residences around the project. This is further confirmed in Lost City's Response to Item 19 to the Second Request for Information.

Additionally, Muhlenberg County is a member of a Joint Planning and Zoning Commission and has not enacted any ordinance applicable to this project regarding setbacks. Elliot Engineering noted in the Consultant's Report that Lost City has designed the project with the following setbacks, "100 feet from all occupied structures, 25 feet from non-participating parcels, 450 feet from central inverters to all occupied structures, 50 feet from edge of road pavement."<sup>89</sup> In fact, Lost City has implemented setbacks from the nearest solar panel to residential structures to be **339 feet or greater feet** to mitigate any potential impact to the residence owner.<sup>90</sup> To further minimize any viewshed impacts to neighboring property owners, Lost City will use over 30,000 feet of vegetative screening around the property, and in areas adjacent to a residence it will do a double planting of vegetation to measure approximately 40 feet in width.<sup>91</sup> Lost City also modified the preliminary site layout to shifted the project substation to be farther from the nearest residential structure (e.g., doubled the distance to over 1,200 feet).<sup>92</sup>

The Siting Board has approved other construction certificate applications for solar projects with setbacks to residences of 150 feet.<sup>93</sup> Kirkland reviewed other solar facility projects in his Property Value Impact Analysis, and specifically mentioned that the Walton 2 project has a 120-foot setback<sup>94</sup> and the Mount Olive Creek project has a 150-foot setback.<sup>95</sup> In fact, the Siting Board

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<sup>89</sup> Elliot Engineering Site Assessment Review at 47.

<sup>90</sup> Site Assessment Report, Appendix B. Page 10 of Appendix B shows the closest residence to be 339.59 feet to the nearest panel.

<sup>91</sup> Response to RFI 1-32; Site Assessment Report, Appendix E.

<sup>92</sup> See VR 6/13/2025, 4:41:57.

<sup>93</sup> Site Assessment Report, Appendix A at 34.

<sup>94</sup> *Id.* at 37.

<sup>95</sup> *Id.* at 41.

commonly approves construction certificates for solar projects with 150 foot setbacks from panels to residences.<sup>96</sup>

Lost City has conscientiously designed the project site to create as little potential impact to neighboring properties as possible. Through its site design and vegetative screening plans, Lost City has planned to mitigate any viewshed or property impacts the project may have on neighboring residences. Lost City has also committed to creating a complaint resolution program to address any ongoing concerns that may arise for neighbors.<sup>97</sup>

If the Siting Board determines that there is a residential neighborhood as defined by KRS 278.700 within 2,000 feet of the project, Lost City respectfully requests that the Siting Board grant a deviation from the statutory setback requirement, as authorized by KRS 278.704(4).

**(h) The efficacy of any proposed measures to mitigate adverse impacts that are identified pursuant to paragraph (a), (b), (e), or (f) of this subsection from the construction or operation of the proposed facility;**

When filing its application for a construction certificate with the Siting Board, Lost City proposed 49 mitigation measures for the project.<sup>98</sup> Lost City remains committed to implementing these mitigation measures to lessen any project impact on adjoining or neighboring landowners or properties. Elliot Engineering also recommended 8 mitigation measures in its Consultant's Report,<sup>99</sup> which Lost City believes it has already agreed to implement in its proposed mitigation measures:

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<sup>96</sup> See, e.g., *Weir Creek Solar LLC*, Case No. 2024-00099 (KSB Dec. 3, 2024); *Bright Mountain Solar LLC*, Case No. 2022-00274 (KSB Mar. 13, 2024); *Pine Grove Solar LLC*, Case No. 2022-00262 (KSB May 26, 2023); *Thoroughbred Solar LLC*, Case No. 2022-00115 (KSB Apr. 10, 2023); *Bluebird Solar LLC*, Case No. 2021-00141 (KSB Aug. 3, 2022); *McCracken County Solar LLC*, Case No. 2020-00392 (KSB Oct. 30, 2021); *Ashwood Solar I LLC*, Case No. 2020-00280 (KSB June 21, 2021); *Northern Bobwhite Solar LLC*, Case No. 2020-00208 (KSB June 18, 2021); *Horseshoe Bend Solar LLC*, Case No. 2020-00220 (KSB June 11, 2021); *AEUG Madison Solar, LLC*, Case No. 2020-00219 (KSB June 9, 2021).

<sup>97</sup> Response to KSB RFI 1-3.

<sup>98</sup> Site Assessment Report at 10-15.

<sup>99</sup> Elliot Engineering Site Assessment Review at 50.

1. Prior to construction, a final site layout plan will be submitted to the Siting Board upon completion of the final site design. Deviations from the preliminary site layout should be clearly indicated on the revised graphic. Those changes could include, but are not limited to, location of solar panels, inverters, transformers, substation, operation and maintenance building, transmission line route, or other Project facilities and infrastructure.

2. Final changes in the Project boundaries from the information that formed this evaluation will be submitted to the Siting Board for review.

3. Lost City will provide the date construction activities (excluding activities such as site clearing and geotechnical investigations) will commence to the Siting Board and the Kentucky Energy and Environment Cabinet (KEEC) approximately 30 days prior to that date.

4. Lost City plans to use low voltage Direct Current (DC) wiring, fiber optic cables, and network cables and cables, where appropriate.

5. Lost City will prepare and implement a fire prevention and management plan (see Appendix H for a draft fire management plan) for construction and operation. The Project will include a perimeter firebreak road in the buffer area outside the security fence. Interior access road surfaces and driveways will be all-weather surfaces capable of supporting travel by a minimum 50,000-pound fire or emergency apparatus and will act also as additional firebreaks.

6. Prior to construction, Lost City, or its contractor will provide a finalized Emergency Response Plan to the local fire district, first responders and any County Emergency Management Agency. Lost City will provide site specific training for local emergency responders at their request. Access for fire and emergency units will be set up after consultation with local authorities.

7. Lost City, or its contractor, will control access to the site during construction or operation. All construction entrances will be gated and locked when not in use.

8. Lost City's access control strategy will include appropriate signage to warn potential trespassers. Lost City will ensure that all site entrances and boundaries have adequate signage, particularly in locations visible to the public, local residents, and business owners.

9. The perimeter security fence will be installed prior to activation of any electrical installation work in accordance with National Electrical Safety Code (NESC) standards. The substation will have its own separate security fence and locked access installed in accordance with NESC standards.

10. Lost City will prepare a plan outlining how solar panels and related equipment will be installed to minimize the risks associated with strong winds and other inclement weather. This plan will be filed with the Siting Board at least 30 days prior to the start of construction.

11. Existing vegetation between site boundary and nearby roadways and homes will be left in place, to the extent feasible, to help minimize visual impacts and screen the Project from nearby homeowners and travelers. Lost City will not remove any existing vegetation except to the extent it must remove such vegetation for the construction and operation of Project components.

12. To minimize viewshed impacts and provide screening, Lost City prepared a landscape plan (Appendix E) and will implement planting of native vegetation (e.g., trees and bushes) as a visual buffer to mitigate visual viewshed impacts, in areas where those viewshed impacts occur from residences or roadways directly adjacent to the Project and there is not adequate existing vegetation. In these areas, Lost City will add a double planting of native vegetation (40 feet thick and at least six feet at maturity (in four years)). The double planting will be between Project infrastructure and residences, or other occupied structures, with a line of sight to the facility to the reasonable satisfaction of the affected adjacent property owners. Planting of vegetative buffers/screening will be done over the construction period; however, Lost City will

prioritize vegetative planting at all periods of construction to reduce viewshed impacts. All planting will be done prior to the operation of the facility.

13. Lost City will carry out visual screening consistent with the landscape plan and the maps included, and ensure that the proposed new vegetative buffers are successfully established and developed as expected over time. Should vegetation used as buffers die over time, Lost City will replace plantings as necessary.

14. To the extent that an affected adjacent property owner indicates to Lost City that a visual buffer is not necessary, Lost City will obtain that property owner's written consent and submit such consent in writing to the Siting Board.

15. Lost City will cultivate at least two acres of native, pollinator friendly species on-site and has identified potential pollinator areas in its preliminary design plan (Appendix B).

16. Based on previous experience constructing solar projects, Lost City believes that noise concerns resulting from pile driving activities are most effectively managed through limiting pile driving activities within a certain radius to certain hours during the day to avoid potentially impacting nearby receptors. To this end, Lost City proposes to limit pile driving activities within 1,000 feet of potentially impacted receptors to a reduced period.

17. Construction activities, processes, and deliveries will be limited to the hours between 7:00 AM and 7:00 PM, Monday through Saturday; construction activities that create a higher level of noise, such as pile-driving, will be limited to 8 AM to 5 PM local time, Monday through Friday. Non-noise causing and non-construction activities can take place on the site between 6 AM and 10 PM. local time, Monday through Sunday, including field visits, arrival, departure, planning, meetings, mowing, surveying, etc.

18. If the pile-driving activity occurs within 1,500 feet of a noise-sensitive receptor, Lost City will 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 solar site, or any other comparable method). Lost City may forego using noise suppression measures if it employs a panel installation method that does not use pile driving, so long as that method does not create noise levels similar to pile driving.

19. Lost City will notify residents and businesses within 2,400 feet of the project boundary about the construction plan, the noise potential, any mitigation plans, and its Complaint Resolution Program referred to in Item 43 of this Section, at least one month prior to the start of construction.

20. Lost City will place panels, inverters, and substation equipment consistent with the distances to noise receptors to which it has committed in its maps and site plans.

21. Lost City will develop a road use agreement with the Muhlenberg County Road Department (MCRD) and the Muhlenberg County Fiscal Court. Such an agreement might include special considerations for overweight loads, routes utilized by heavy trucks, road weight limits, and bridge weight limits. It also might include use of a flag person during heavy commute periods, prioritize access for local residents, and implement staggered work shifts during daylight hours to manage construction traffic flow near the Project site.

22. Lost City will fix or pay for repairs for damage to roads and bridges resulting from any transport to the site according to the road use agreement. For damage resulting from vehicle transport in accordance with all permits, those permits will control.

23. Lost City will comply with all laws and regulations regarding the use of roadways.

24. Lost City will consult with the Kentucky Transportation Cabinet (KYTC) regarding truck and other construction traffic and obtain necessary permits from the KYTC.

25. Lost City will consult with the MCRD regarding truck and other construction traffic and obtain any necessary permits from the MCRD.

26. Lost City will develop special plans and obtain necessary permits before transporting heavy loads, especially the substation transformer, onto state or county roads.

27. Lost City will develop and implement a traffic management plan to minimize the impact on traffic flow and keep traffic safe. Any such traffic management plan will also identify any traffic-related noise concerns during the construction phase and develop measures that would address those noise concerns.

28. Lost City will implement ridesharing between construction workers when feasible, use appropriate traffic controls, or allow flexible working hours outside of peak hours to minimize any potential traffic delays during AM and PM peak hours.

29. Lost City will properly maintain construction equipment and follow best management practices related to fugitive dust throughout the construction process, including the use of water trucks. Dust impacts will be kept at a minimal level to be in compliance with 401 KAR 63:010.

30. Lost City will finalize a stormwater pollution prevention plan (SWPPP) prior to construction to manage stormwater and protect water quality (Appendix I).

31. Lost City prepared a geotechnical desktop study (Appendix J), stream and wetland delineation (Appendix K), and a Phase I Environmental Site Assessment (Appendix L) to identify potential groundwater and surface water concerns.



32. Lost City prepared a wildlife concerns analysis to evaluate potential impacts on wildlife (Appendix M).

33. Lost City will improve and maintain access to two private cemeteries that occur on the Project site (Appendix B). The cemeteries are located outside Project security fences.

34. Lost City will design and construct the Project layout to maintain sufficient buffer between solar equipment / security fences with a natural gas pipeline that crosses the Project area (Appendix B) layout includes a minimum of 20-foot buffer between the security fence line and solar panels/racking systems. Lost City will coordinate with the natural gas pipeline company on the Project.

35. If any Person as defined by KRS 278.700(3) will acquire or transfer ownership of, or control, or the right to control Lost City, by sale of assets, transfer of stock, or otherwise, or abandon the same, Lost City or its successors or assigns will request explicit approval from the Siting Board with notice of the request provided to the Muhlenberg County Fiscal Court. In any application requesting such abandonment, sale, or change of control, Lost City and any proposed entity with an ownership interest in Lost City will certify its compliance with KRS 278.710(1)(i).

36. Lost City will comply with the decommissioning requirements set forth in KRS 278.706(2)(m) and has prepared a decommissioning plan (Application Attachment H). This plan will commit Lost City to remove all facility components, above ground and below ground, regardless of depth, from the Project site. Upon its completion, this plan will be filed with the Siting Board or its successors. The decommissioning plan will be finalized at least one month before the construction of the Project.

37. Lost City will file a bond with the Muhlenberg County Fiscal Court, equal to the amount necessary to effectuate the explicit or formal decommissioning plan naming Muhlenberg

County as a third party obligee (or secondary, in addition to individual landowners and KEEC) beneficiary, in addition to the lessors of the subject property insofar as the leases contain a decommissioning bonding requirement so that Muhlenberg County will have the authority to draw upon the bond to effectuate the decommissioning plan. The acceptance of the county of allowing the filing the bond with an entity other than the Fiscal Court, through the Muhlenberg County Treasurer, can be evidenced by a letter from the Muhlenberg County Judge-Executive, the Muhlenberg County Fiscal Court, or the Muhlenberg County Attorney. The bond(s) will be in place at the time of commencement of Project construction. The bond amount will be reviewed every five years at Lost City's expense to determine and update the cost of the removal amount. This review will be conducted by an individual or firm with experience or expertise in the costs of removal or decommissioning of electric generating facilities. Certification of this review will be provided to the Siting Board or its successors and the Muhlenberg County Fiscal Court. Such certificate shall be by letter and will include the current amount of the anticipated bond and any change in the costs of removal or decommissioning.

38. The bond or other similar security will be provided by an insurance company or surety that shall at all times maintain at least an "Excellent" rating as measured by the AM Best rating agency or an investment grade credit rating by any national credit rating agency and, if available, shall be noncancelable by the provider or the customer until completion of the decommissioning plan or until a replacement bond is secured.

39. The bond or other similar security will provide that at least thirty (30) days prior to its cancellation or lapse, the surety will notify the applicant, its successor or assign, each landowner, the KEEC, and Muhlenberg County of the impending cancellation or lapse. The notice will specify the reason for the cancellation or lapse and provide any of the parties, either jointly or

separately, the opportunity to cure the cancellation or lapse prior to it becoming effective. The applicant, its successor, or its assign will be responsible for all costs incurred by all parties to cure the cancellation or lapse of the bond. Each landowner, or the KEEC with the prior approval of each landowner, may make a demand on the bond and initiate and complete the decommissioning plan.

40. Lost City will communicate with each affected landowner at the end of the merchant electric generating facility's useful life so that any requests of the landowner that are in addition to the minimum requirements set forth in the decommissioning plan and in addition to any other requirements specified in the lease with the landowner may, in the sole discretion of the applicant or its successor or assign, be accommodated.

41. As applicable to individual lease agreements, Lost City, its successors, or assigns will abide by the specific land restoration commitments agreed to by individual property owners, as described in each executed lease agreement.

42. Lost City or its assigns will provide notice to the Siting Board, if, during any two-year (730 days) period, it replaces more than 20 percent of its facilities. Lost City will commit to removing the debris and replaced facility components from the Project site and from Muhlenberg County upon replacement. If the replaced components are properly disposed of at a permitted facility, they do not have to be physically removed from Muhlenberg County. However, if the replaced facility components remain in the County, Lost City will inform the Siting Board of the location where the components are being disposed.

43. Any disposal or recycling of Project equipment, during operations or decommissioning, will be done in accordance with applicable laws and regulations.

44. Due to the interconnection of the solar facility to an existing TVA substation and transmission line, the Project is subject to National Environmental Policy Act (NEPA) review. In the case of solar power purchase agreements, TVA requires development of an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) to document the review and the associated public involvement, such as comment period(s) and public meetings, if applicable. TVA's obligation to purchase renewable power will be contingent upon the satisfactory completion of the appropriate environmental review (an EA or EIS) and TVA's determination that the Proposed Action would be "environmentally acceptable." To be deemed acceptable, TVA must assess the impact of the Project on the human environment to determine whether (1) any significant impacts would result from the location, operation, and/or maintenance of the proposed Project and/or associated facilities, and (2) the Project would be consistent with the purposes, provisions, and requirements of applicable federal, state, and local environmental laws and regulations. The EA or EIS will also list the unavoidable adverse environmental impacts and associated BMPs and mitigation measures that will be employed by the Project. These commitments will appear in the publicly available Finding of No Significant Impact or Record of Decision document anticipated to be issued by TVA with finalization of the EA or EIS. Lost City will provide the Siting Board with the NEPA documentation.

45. Lost City will initiate and maintain a Complaint Resolution Program provided to the Siting Board to address any complaints from community members. Lost City will also submit annually a status report associated with its Complaint Resolution Program, providing, among other things, the individual complaints, how Lost City addressed those complaints, and the ultimate resolution of those complaints identifying whether the resolution was to the complainant's

satisfaction. Lost City will submit a final report within 30 days after commencement of electric generation.

46. Lost City will provide the Muhlenberg County Fiscal Court contact information for individuals within the company that can be contacted with concerns. This will include contact information for the general public to reach individuals that can address their concerns. Lost City will update this contact information yearly, or within 30 days of any change in contact information.

47. Lost City will comply with all requirements in KRS 278.710 for monitoring by KEEC.

48. Lost City will submit a status report every six months until the Project commences construction to the Siting Board to update the Siting Board on the progress of the Project. The report will reference the Project case number.

49. Within 30 days of entry, Lost City will send a copy of the Siting Board's final order to all the adjoining landowners who previously were required to receive notice of this Project.

**(i) Whether the applicant has a good environmental compliance history; and**

Neither Lost City nor any entity with direct ownership interest in the project has violated state or federal environmental laws or regulations, and there are no pending environmental actions against Lost City or any entity with ownership interest in the project.<sup>100</sup>

**(j) Whether the decommissioning plan is complete and complies with the requirements of KRS 278.706(2)(m) and any other local requirements that may apply.**

Lost City submitted a decommissioning plan with its application that details the process by which it will restore the project site. Lost City will remove facilities and restore the site to pre-construction conditions if possible.<sup>101</sup> The decommissioning plan is consistent with the

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<sup>100</sup> Application, Section 11.

<sup>101</sup> Application, Attachment H.

requirements in KRS 278.706(2)(m).<sup>102</sup> The project is expected to have a 30 year useful life with opportunities to extend the life of the project through replacement and repowering of equipment.<sup>103</sup> Lost City plans to commence decommissioning within 12 months of the project ceasing to produce electricity.<sup>104</sup> During decommissioning, Lost City will deactivate the solar arrays and remove all electronic components and wiring, and will remove the steel piles supporting the system. All components will be properly disposed of or recycled according to regulation at the time of decommissioning.<sup>105</sup> The inverter and transformer stations will be deactivated, disassembled, and removed;<sup>106</sup> the electrical cabling will be removed from underground, regardless of the depth of burial;<sup>107</sup> the substation may remain based on interconnection or will be decommissioned to return to the land to a substantially similar state as it was prior to the project;<sup>108</sup> and the fencing will be removed and landowners may determine whether to keep the access roads.<sup>109</sup> Lost City will replace topsoil on disturbed areas and revegetate the property in consultation with the landowner and the regulations in effect at the time of decommissioning.<sup>110</sup> As required by KRS 278.706(2)(m), Lost City will obtain a surety to ensure sufficient funds exist to carry out the decommissioning plan.

**(k) Conclusions on the elements of KRS 278.710(1)(a)**

As fully discussed above, the evidence of record in this matter demonstrates that the Siting Board should grant a construction certificate to Lost City. In addition to the voluminous

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<sup>102</sup> *Id.*

<sup>103</sup> *Id.* at 1.

<sup>104</sup> *Id.* at 2.

<sup>105</sup> *Id.* at 4.

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.* at 5.

<sup>110</sup> *Id.* at 6.

information provided by Lost City, Elliot Engineering’s independent conclusions demonstrates that the proposed site is suitable for this project.

**II. Lost City has committed to working with the public to ensure all stakeholder concerns are considered, addressed, and resolved in the development, construction, and operation of the project.**

Lost City has committed to working with the public to address any concerns regarding this project. Lost City has held two public meetings in Muhlenberg County where residents were invited to ask questions to address concerns. The first meeting occurred on October 29, 2024,<sup>111</sup> and the second occurred on May 5, 2025.<sup>112</sup> In addition, representatives of Lost City attended the local public hearing on March 27, 2025, that was hosted by the Siting Board.

In addition to meeting with the public in formal settings, Lost City representatives are interested in having productive communications with neighbors and residents. Lost City adjusted its project design based on some of those concerns. Lost City reorganized its initial site design to increase the distance from adjacent properties to solar panels and the substation, and relocated the substation further into the project site to not impact neighboring properties.<sup>113</sup> Lost City increased the buffer distances between the project boundary and residences,<sup>114</sup> and is planting double the vegetative screening where the project boundary abuts a residential property.<sup>115</sup> To assuage traffic concerns, Lost City identified construction and operation access locations and created an additional access location on Free Lane.<sup>116</sup> Lost City has also worked to alleviate public concern regarding the natural elements of the property by leaving as much vegetation in place as possible, creating setbacks from jurisdictional wetlands, enhancing vegetative screening around the property, and

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<sup>111</sup> Application, Attachment E at 1.

<sup>112</sup> Local Public Meeting, March 27, 2025.

<sup>113</sup> Response to KSB RFI 1-54.

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*; Response to KSB RFI 1-32; Site Assessment Report, Appendix E.

<sup>116</sup> Response to KSB RFI 1-54; VR 6/13/2025, 4:40:59-4:42:30.

creating a Stormwater Pollution Prevention Plan.<sup>117</sup> To address safety concerns, Lost City developed a Fire Prevention Plan and added a firebreak.<sup>118</sup>

In addition to the required studies and reports for an application before the Siting Board, Lost City has filed additional reports for both the Siting Board and the public to review. These documents were filed on January 29 and March 21, 2025 with the Siting Board, and they have been publicly accessible since that date. The Wildlife Concerns Analysis, Stream and Wetland Delineation, Geotechnical Desktop Study, Stormwater Pollution Prevention Plan, Fire Prevention Plan, and Bat Study, Eagle-Raptor Survey, Cultural Resource Desktop Review and Site Reconnaissance, Archaeological Desktop Review and Site Reconnaissance, and Federal and State Listed Threatened and Endangered Species Habitat Assessment are not required for the Siting Board to review a construction certificate application; yet Lost City chose to submit these additional documents to better inform the Siting Board and the public that the project complies with regulatory requirements and the site is well suited for the project.

Lost City has also engaged Gaylan Spurlin, former County Clerk of Muhlenberg County, as the Lost City local representative during the development process. Mr. Spurlin lives in the area, owns a farm, and is available to attend public meetings and answers calls from Muhlenberg County residents about the project. Lost City has also worked with a local attorney in the development of this process.<sup>119</sup> Lost City may, if needed, engage a local representative during the operational phase to address public questions or concerns.<sup>120</sup>

Lost City has a website, <https://lostcitysolar.com>, with links for members of the public to view a fact sheet, project map, frequently asked questions, technical documents, and a contact

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<sup>117</sup> Response to KSB RFI 1-54.

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*

<sup>120</sup> VR 6/13/2025, 5:16:20-5:16:43.



submission form. Members of the public are encouraged to email questions to [contact@lostcitysolar.com](mailto:contact@lostcitysolar.com) or call (843) 510-5254 with any concerns. A United States-based representative will be available to respond to the submitted emails and answer incoming phone calls during business hours.<sup>121</sup> The project will also have adequate signage with this information that will direct neighbors to the appropriate email and phone to contact Lost City with any concerns or questions. Lost City has created a Complaint Resolution Plan “to ensure the Project is constructed and the facility is operated in responsible manners to minimize the Project’s impact on nearby residents or those passing through the area.”<sup>122</sup> Lost City will receive the complaints, investigate the issue, resolve any problems that may have occurred, a follow up with the complainant regarding the complaint outcome.<sup>123</sup>

Lost City is committed to being a good neighbor. It will continue to meet with concerned individuals regarding the project and make efforts to address project-related concerns in a manner that is mutually beneficial for both residents and the project’s success.

## **CONCLUSION**

For the foregoing reasons, Lost City has satisfied the criteria for the Siting Board to approve granting a construction certificate for its merchant generating solar electricity facility in Muhlenberg County. The only evidence of record supports Lost City’s case, and the Siting Board’s independent consultant verified the project’s compliance with the statutory requirements. Accordingly, the Siting Board should grant the construction certificate to Lost City.

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<sup>121</sup> *Id.* at 5:16:48-5:17:09.

<sup>122</sup> RFI 1-54, Complaint Resolution Program at 1.

<sup>123</sup> RFI 1-3; Complaint Resolution Program at 2.

## MOTION TO STRIKE

Lost City moves the Siting Board to strike the Intervenors' written public comments submitted to the Siting Board after the Order granting intervention was issued on April 1, 2025. In that Order, the Siting Board specifically stated: "The Movants have asserted their intervention would not unduly complicate the proceeding. The Siting Board reminds all Movants that counsel represents them in this matter, and they should speak and participate in this matter through their attorney."<sup>124</sup> Despite this direction, the Intervenors have frequently ignored the Siting Board's requirement.<sup>125</sup>

Not only have the Intervenors ignored the Siting Board's written order, they have ignored oral directives of the Siting Board's presiding officer. At the evidentiary hearing, Siting Board Chair Hatton clearly told the Intervenors that they were not permitted to provide public comment at the hearing because they were represented by counsel.<sup>126</sup> The Intervenors were permitted to speak through their counsel.

Yet, shortly after Chair Hatton issued her mandate to Intervenors, and during the evidentiary hearing, two Intervenors submitted written public comment via email to the Siting Board. Intervenor Rhonda Wood submitted a public comment at 10:55 a.m.<sup>127</sup> and Intervenor Dana Mitchell submitted a public comment at 11:18 a.m.<sup>128</sup> Both Intervenors submitted these comments in direct contravention to Chair Hatton's explicit instructions that Intervenors are only permitted

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<sup>124</sup> Order at 3.

<sup>125</sup> For example, the following written comments were submitted after the April 1, 2025, Order: May 8, 2025 – the Mitchells and the Woods; May 21, 2025 – Mr. Mitchell; May 27, 2025 – Mr. Cobb; May 28, 2025 – Mr. Wood; May 31, 2025 – Mr. Cobb; June 2, 2025 – Mr. Cobb; June 5, 2025 – Ms. Richards; June 7, 2025 – Mr. Richards; June 8, 2025 – the Johnsons; June 9, 2025 – Mr. Cottongim; June 10, 2025 – Ms. Reed and Ms. Cobb; June 13, 2025 – Ms. Wood and Ms. Mitchell.

<sup>126</sup> VR 32:10-32:30

<sup>127</sup> See Response Email to Multiple Comments at 5 (filed June 17, 2025).

<sup>128</sup> *Id.* at 11.

to speak through their counsel. The Intervenors blatantly disregarded the Siting Board's instructions by submitting public comment during the evidentiary hearing.

For this reason, these comments should be struck from the record as they were issued against the order of the Siting Board and the directive of Chair Hatton.



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