

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

In the Matter of:

*ELECTRONIC APPLICATION OF EXIE SOLAR, LLC)
FOR A CERTIFICATE OF CONSTRUCTION FOR)
AN APPROXIMATELY 110 MEGAWATT MERCHANT)
ELECTRIC SOLAR GENERATING FACILITY AND) Case No. 2025-00151
NONREGULATED ELECTRIC TRANSMISSION LINE)
IN GREEN COUNTY, KENTUCKY)*

Applicant's Post-Hearing Brief

Exie Solar, LLC (the “Applicant” or “Exie”) files this Post-Hearing Brief in support of its position following the hearing, pursuant to 807 KAR 5:110 Section 7 and paragraph 3 of the Siting Board’s December 22, 2025 Order. Specifically, this brief will discuss Applicant’s compliance with KRS 278.710 criteria for approval and will clarify Applicant’s legal position regarding setbacks and residential neighborhoods. In support of its position, Applicant states as follows.

I. Facts

Applicant is seeking approval from the Siting Board for a certificate of construction for an approximately 110-megawatt (MW) merchant electric solar generating facility and nonregulated electric transmission line pursuant to KRS 278.704 and 278.714 (the “Project”). The Project will be located in entirely in unincorporated Green County, Kentucky. Applicant filed its application on August 6, 2025 (“Application”) and the Application was accepted as administratively complete on August 8, 2025. The Application included a site assessment report and other studies which addressed the criteria listed in KRS 278.706-.708.

As described in the Application, the Project will be situated on approximately 1,340 acres of land historically used for agriculture fields with scattered rural homesteads and residential properties. *See Application, pp. 2-3.* Green County does not have a local planning commission and

has not established local zoning. *Id.*, p. 6. The Project will therefore not be subject to local zoning requirements and will instead be subject to the state statutory setbacks contained in KRS 278.704(2). Exie filed a Motion for Deviation from these setbacks on October 14, 2025 (“Motion”).

In compliance with the filing requirements in KRS 278.706(2)(b), Exie included with the Application a map which demonstrated the distance of the proposed site from residential neighborhoods, along with other points of reference, within a two-mile radius of the proposed facility. *See Application Exhibit A.* These residential neighborhoods met the statutory requirements for a “populated area of five (5) or more acres containing at least one (1) residential structure per acre” (hereinafter “Residential Neighborhood”). *See KRS 278.700(6).* The only Residential Neighborhood subject to the statutory setbacks is the SR 218 Neighborhood located to the north of the Project site and shown in Figure 1 below.¹ *See Application Exhibit A; see also, Motion.*

¹ The SR 218 Residential Neighborhood was also identified as a Residential Neighborhood in another proposed merchant electric generating facility located in Green County. *See generally, In the Matter of the Electronic Application of Horseshoe Bend Solar, LLC for a Certificate of Construction for an Approximately 60 Megawatt Merchant Electric Solar Generating Facility in Green County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110*, Case No. 2020-00190. No other Residential Neighborhoods were recognized within a 2-mile radius of that project.

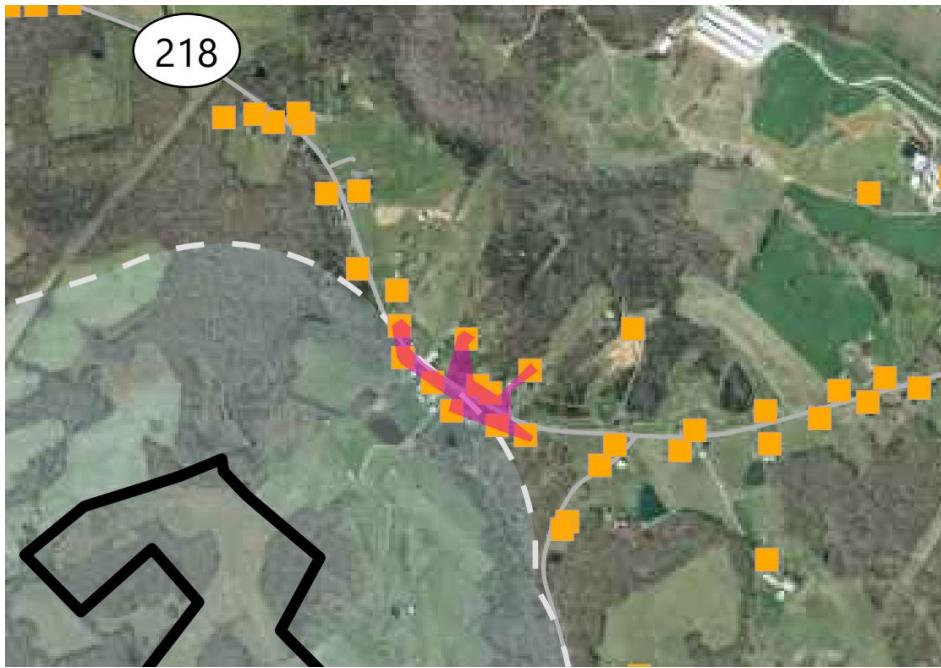


Figure 1. SR 218 Residential Neighborhood

The Project was otherwise designed with setbacks to standalone structures, including residences, as provided in Table V-I of the Application. See Application, pp. 6-7.

II. Legal Standard

Within one hundred eighty days of receipt of an application and upon evaluation of the record, including an evidentiary hearing, the Siting Board shall grant or deny a construction certificate based upon the criteria contained in KRS 278.710(1).

III. Argument

a. Exie has satisfied KRS 278.710(1) criteria for certificate approval.

Exie has satisfied the criteria for a construction certificate pursuant to KRS 278.710. The Siting Board's third-party consultant, BBC Research & Consulting ("BBC"), found that the Project's site is compatible with the surrounding area and access to transmission infrastructure, especially once Exie's proposed screening is implemented. *See Review and Evaluation of Exie Solar LLC Site Assessment Report (hereinafter "BBC Report") at Section B, p. 10; see also BBC Report Section C, pp. 14, 34, 39, 49 and 55.* Further, BBC stated that the facility is unlikely to

have measurable negative impacts on most adjacent property values, and vegetative screening around adjacent properties will further reduce any possibility of a negative impact to neighboring property values. BBC recognized that during operation of the facility, noise levels are unlikely to be disruptive to local residents. Traffic during the lifetime of the Exie facility will be negligible and is not expected to affect roadway performance. Subject to the resolution of the pending Motion, BBC concluded that the Siting Board should approve the application based upon its review, subject to certain mitigation measures. BBC Report, Section B, p. 10. Ultimately, the Project complements local surroundings and will generate economic benefit for the community without causing harm to adjacent properties. The Project therefore satisfies all criteria contained in KRS 278.710 for approval of its application for a construction certificate.

b. The SR 218 Neighborhood is the only qualifying Residential Neighborhood subject to statutory setbacks.

Notwithstanding assertions from the public to the contrary and questions from data requests and during the hearing suggesting otherwise, only one cluster of residences within 2,000 feet of proposed Project structures or facilities to be used for the generation of electricity met the statutory definition of a Residential Neighborhood—the SR 218 Neighborhood.²³ The nearest home in the Residential Neighborhood along Liletown Road (depicted along the northwest side of the 2,000 foot radius from the Project boundary in Application Exhibit A) is farther than 2,000 feet from panels and other equipment/facilities and no deviation will therefore be required. *See Motion, pp.*

² Without setbacks established by a local planning and zoning authority, merchant electric generating facilities are subject to the setbacks contained in KRS 278.704(2). Unless a deviation is requested, all substations, panels and inverters—the proposed structures or facilities used for the generation of electricity as part of a merchant electric generating facility—must be located more than 2,000 feet from any residential neighborhood, school, hospital, or nursing home facility. There are no schools, hospitals, or nursing home facilities within 2,000 feet of these structures in the proposed Project layout.

³ When preparing the map in compliance with KRS 278.706(2)(b), clusters of residences which fell within the 2-mile radius of the project were examined to determine whether these qualified as Residential Neighborhoods. Only two of these clusters that fell at or within a 2,000 foot radius from the Project boundary met the definition of a Residential Neighborhood. *See Motion, pp. 2-3.*

2-3. The Project therefore sought a small deviation from the 2,000 foot setback for Residential Neighborhoods of 1,950 feet from solar panels, which was the nearest Project component within the radius used for the generation of electricity. *Id.*

To identify a Residential Neighborhood, the Applicant must determine whether a residential cluster meets the density requirements of KRS 278.700(6) for populated areas, which may include any contiguous area so long as it is reasonable in shape.⁴ The Applicant must perform the specific analysis of a designated area to determine whether it is reasonable, which includes consideration of parcel boundaries, the character of the parcels and area, and other relevant factors. *Id.* When reviewing these factors for clusters within a 2,000 foot radius of the Project's generating components, the Applicant determined that the only cluster which could reasonably qualify as a Residential Neighborhood was the SR 218 Neighborhood.⁵⁶

The maps provided in response to Siting Board Staff's Second Request for Information No. 39 show parcel maps for both Residential Neighborhoods discussed in the Motion. When reviewing the map for the SR 218 Neighborhood, a clear contiguous area is shown with touching parcels, proximity other residential structures, and the general character of the area. *See, Response 2-39 Attachment.* This is also demonstrated in the Liletown Road Neighborhood map attached to the same Response, where the proximity, parcels and landscaping allow for a contiguous, reasonably shaped polygon meeting the statutory density requirements to surround the residential cluster (although this ultimately fell outside the 2,000 foot distance from generating equipment

⁴ *See generally, In the Matter of the Electronic Application of Lost City Renewables, LLC for a Certificate of Construction for an Approximately 250 Megawatt Merchant Electric Solar Generating Facility in Muhlenberg County, Kentucky Pursuant to KRS 278.710 and 807 KAR 5:110, Case No. 2024-00406, 7/28/25 Final Order.*

⁵ *See 10/14/25 Motion; see also Response Nos. 37, 38, 39, 40, and 41 to Siting Board Staff's Second Request for Information.*

⁶ *See T. Burgen Affidavit, attached herewith as Exhibit A.*

and no deviation was needed). *Id.*; see also, Motion. The details on these structures are further included in response to Siting Board Staff's Second Request for Information Nos. 52 and 53.

In contrast, the other residential clusters located within the 2,000 foot radius of the Project fail to meet the density requirements in a technically defensible manner.⁷ For example, the residential cluster along Liletown Road nearest the transmission line was not and could not be "connected" in a contiguous, reasonable manner which reflected the character of the area. These clusters instead could only be "connected" via an unreasonably shaped, arbitrary and narrow corridor/polygon, unrelated to the residences' surroundings and in a manner which did not account for associated lawns, outbuildings, parcel shapes, and so forth.⁸ The parcel map provided in Response No. 46 to Staff's Second Request for Information shows this area as follows in Figure 2:



Figure 2. Portion of Parcel Map from Response to 2 RFI 26.

The participating parcels – shown more deeply colored on the map and on Figure 2 above—interject between the non-participating residence furthest west and across the street from the next residence, which is participating. This “cluster” is not contiguous in that the non-participating parcel could at most only “touch” the crossroad participating residence’s parcel in the very furthest

⁷ See, Exhibit A; see also, Response No. 37 to Siting Board Staff's Second Request for Information.

⁸ See Response No. 37 to Siting Board Staff's Second Request for Information and Exhibit A.

corner, with a two-lane road which runs between that residence and the other four residences nearest the transmission line. Applicant's review of the landscaping and other components making up the character of the area further support that it could not be reasonably connected to meet the density requirements of KRS 278.700(6). *Id.* This analysis also applies to all other clusters that are within the 2,000 foot radius. These could not be reasonably connected in a contiguous manner that reflected the character of the area and still meet the density requirements of KRS 278.700(6).

The SR 218 Neighborhood is therefore the only qualifying Residential Neighborhood which needs a deviation from the setback in KRS 278.704(2). *Id.* Applicant requests that the Siting Board confirm this analysis and approve the Motion as filed, for Applicant has met those criteria in KRS 278.710(1)(g) for statutory setbacks. In the event that the Siting Board disagrees with the analysis above and makes any determination about other residential clusters as Residential Neighborhoods, Exie requests that a deviation for these be granted to reflect the setbacks to the nearest structures demonstrated on the current Project layout and as identified in Response No. 22 to Siting Board Staff's First Request for Information, its supplement, and as otherwise provided in the responses to data requests.

c. Clarification regarding standalone setbacks for other structures.

Exie provided its site design setbacks in its Application in Table V-I as the proposed setbacks to be approved by the Siting Board for the Project. These are as follows:

Table V-1. Project Setbacks

Constraint	Distance (feet)
Non-Participating Parcel	50
Non-Participating Residence to PV Array	200
Non-Participating Residence to Inverter	450
Non-Participating Residence to Substation	915
Church to PV Array	249
Church to Inverter	1620
Church to Substation	4250

See Application, pp. 6-7. Clarifications regarding distances to various structures in the Project layout were further provided in responses to data requests. The nearest nonparticipating homes to a solar panel are Receptors 3 and 12 at 229 feet. *See* Response No. 22 to Siting Board Staff's First Request for Information and its supplement; *see also* Response Nos. 43 and 44 to Siting Board Staff's Second Request for Information. The nearest nonparticipating home to an inverter is Receptor 12 at 585 feet. Response No. 44 to Siting Board Staff's Second Request for Information. The nearest nonparticipating home to the substation is Receptor 78 at 940 feet. *Id.* Other distances of note for this Application, for which Exie requests corresponding setbacks, are contained in Responses to Siting Board Staff's Requests for Information.⁹ As confirmed by Mr. Burgener during the evidentiary hearing on December 18, 2025, these measurements were all made to the central point of the structure (whether residential or nonresidential). *See* Formal Hearing Video at 2:20:06.

Scenic impacts for these components are addressed in the updated screening plan provided in Response No. 29 to Siting Board Staff's Second Request for Information. With the screening, and as discussed in the Noise Assessment for the Project, impacts will be minimal during operation of the Project. Of note, although there are several homes that are located between 210 to 280 feet from panels, these will not be impacted by noise related to the panels once the Project is operational because the panels are fixed-tilt, and will cause less of an impact than projects with similar setbacks but tracking panels. *See* Formal Hearing Video, Eddie Duncan testimony at 2:36:19. Any impacts, whether visual, noise or other, have been effectively mitigated as proposed by the Applicant with its setbacks and other mitigation measures. Therefore, the setbacks should be approved as currently

⁹ *See* Response No. 22 to Siting Board Staff's First Request for Information and all supplements hereto; *see also* Responses No. 44 to Siting Board Staff's Second Request for Information; Response No. 24 to Siting Board Staff's First Request for Information.

demonstrated in the Preliminary Site Layout and as identified in related reports and responses to data requests.

IV. Conclusion

WHEREFORE, for the foregoing reasons, Exie respectfully requests that the Siting Board make a determination that it satisfied the necessary criteria for approval and grant a construction certificate for its merchant generating solar electricity facility and transmission line in Green County, and in this construction certificate, provide for the requested setbacks identified above.

Dated this 29th day of December 2025.

Respectfully submitted,

/s/ Kathryn A. Eckert

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Case No. 2025-00151

Affidavit

Comes now the Affiant, Tim Burgener, and states as follows:

1. I, the undersigned Affiant, am over the age of eighteen years old and competent to testify in this matter. I have personal knowledge of the facts contained herein.
2. I am a Senior Project Manager for Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C. ("EDR"). In this role, I was the project manager for EDR's environmental permitting support services for the development of Exie Solar LLC ("Exie") and assisted with preparation of the Siting Board application and related reports, as well as responses to data requests for the proposed merchant electric generation facility ("Project").
3. I performed the technical assessment related to residential structures and setbacks for the Project based on my professional experience and judgment, including the assessment of residential neighborhoods near the Project ("Residential Neighborhoods"). I oversaw preparation of the map provided in Application Exhibit A which showed the location of the identified Residential Neighborhoods.
4. Based on this technical assessment, the only Residential Neighborhood that had residential structures within 2,000 feet of Project structures or facilities for the generation of

electricity was the SR 218 Neighborhood identified in the Motion for Deviation from Setback Requirements filed on October 14, 2025 ("Motion").

5. I agree with the facts and analysis from the Motion and reaffirm my technical analysis related to residential clusters contained in the Responses to Siting Board Staff's Second Request for Information.

Further the Affiant sayeth naught.

STATE OF OHIO

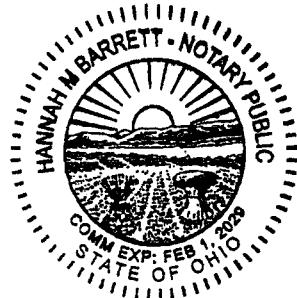
COUNTY OF Franklin

Tim Burgener

TIM BURGENER, AFFIANT

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Subscribed, acknowledged and sworn to before me by Tim Burgener, on this the 29th day of December, 2025.



Tim Burgener

NOTARY PUBLIC

My commission expires: 2/1/29