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 NONREGULATED ELECTRIC TRANSMISSION LINE IN GREEN COUNTY, KENTUCKY | ) | Case No. 2025-00151 |

**Applicant's Motion for Reconsideration and Clarification**

Exie Solar, LLC (the "Applicant" or "Exie") files this Motion for Reconsideration and Clarification of certain conditions in the Kentucky State Board on Electric Generation and Transmission Siting's ("Siting Board" or "Board") February 3, 2026 Final Order ("Order"). In support of its Motion, 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 on approximately 1,340 acres of land entirely within unincorporated Green County, Kentucky. Applicant filed its application on August 6, 2025 ("Application"). On February 3, 2026, the Siting Board approved the requested construction certificate for the Project in its final Order. The Order contained certain conditions with which the Applicant must comply. *See* Order, Appx. A. While the majority of the conditions are acceptable, certain conditions need clarification so that the Applicant can move forward to construction with confidence. These are as follows.

## II. The Setbacks Provided in Mitigation Measure 20 Conflict with Each Other.

Mitigation Measure 20 of the Order's Appendix A discusses those setbacks which Applicant must comply with when constructing the Project. The mitigation measure first requires that Applicant "place panels, inverters, and substation equipment consistent with the distances to noise receptors to which it has committed in its maps and site plans." Then, in the following sentences, the mitigation measure mandates setbacks that are inconsistent with those to which the Applicant committed on its maps and site plans. The specific mitigation measure for which Applicant seeks clarification here is the requirement that panels be set back 50 feet from non-participating adjoining parcels but also requiring panels to be set back 100 feet from any exterior property line. For non-participating adjoining parcels that are located at the exterior of the Project, the mitigation measure says there should be 50 feet between the boundary and panels; at the same time, an additional 100-foot setback between the exterior boundary and panels would apply to those same non-participating adjoining parcels. This conflict on its face makes it difficult for the Applicant to comply and creates confusion as to what impact this has on Project design.

None of the Applicant's filings supported or requested a setback that differentiated between setbacks from panels to non-participating adjacent properties or exterior property lines. Instead, setbacks from non-participating adjacent properties and exterior property lines were to be treated the same pursuant to the Project design of 50-foot setbacks from all non-participating adjacent properties. Further, the consultant report did not recommend this setback. After a thorough review, Applicant cannot find any evidence in the record to support a 100-foot setback for panels from exterior property lines.

## III. Conflicting Language in Mitigation Measure 20 Requires Resolution in Favor of those Setbacks Presented in the Record by Exie.

The conflict between Mitigation Measure 20 and the evidence in the record can be easily addressed. Mitigation Measure 20 requires that Applicant place panels, inverters, and substation equipment consistent with the distances to noise receptors to which it committed in its maps and site plans. Studies and maps were provided in the Application, the Site Assessment Report, and in multiple rounds of data requests following, and these were discussed at the evidentiary hearing in this matter as well. Either adding language that the site plan controls in a conflict or correcting the conflicting setbacks for panels would address the error. If the path chosen to address the error is to clarify the specific setbacks for neighboring parcels and exterior property lines in the Order, these setbacks should be revised to reflect the evidence presented for these setbacks in the site plan and Application, which was 50 feet from non-participating parcels.[1]

There is no state statutory setback mandating specific setbacks from standalone structures or property lines. Applicant was clear from the first filing that its Project provided for non-participating parcels with a 50-foot setback from project components. As written, it is impossible to comply with all provisions of Mitigation Measure 20. Mitigation Measure 20 must be revised to address the conflicting language regarding property line setbacks. Due to the conflicting language in Mitigation Measure 20, the Applicant cannot place panels as demonstrated in its maps and site layout, as required in the first sentence of Mitigation Measure 20, and at the same time comply with the panel setbacks listed for property line setbacks. To address this conflict, Applicant is requesting that the Siting Board revise the Order to reflect that panels be set back at least 50-foot from non-participating parcels and remove the language regarding a 100-foot setback from exterior property lines.

[1] Application Section V; Site Assessment Report (Application Exhibit I) Attachment A; Post-Hearing Brief pp. 7-8.

## IV. Consistent Application of Setbacks Will Provide Clarity for the Project.

The record lacks any supporting evidence for 100-foot setbacks from exterior property lines. To the contrary, the Siting Board in its order at Mitigation Measure 20 ruled that the site plan should be adopted for setback purposes, which creates conflict between the 50-foot setback for neighboring parcels and the 100-foot setback for exterior property lines and thus creating difficulty in compliance. The neighboring project Horseshoe Bend, which in the same county, neighbors Exie, and is even closer to the residential neighborhood identified by both projects (with a neighborhood setback in Horseshoe Bend of 600 feet), was provided much less restrictive setbacks even to residential homes and other structures. These were proposed in that project's Site Assessment Report and allowed for non-participating property boundaries to be set back 25 feet from panels with no exterior property line setback requirement.[2] In addition to the reasons for clarification provided above, for the Order to be equitable based on treatment of other solar facilities in the same area, consistent parcel boundary setbacks at 50 feet would be appropriate.

## V. The Timing Requirement in Mitigation Measure 38 Should Be Extended in Compliance with KRS 278.710 or Otherwise Removed Entirely from the Order.

Mitigation Measure 38 of the Order's Appendix A obligates Exie to "furnish [county officials] with a net decommissioning cost summary each year of the operational lifetime of the project, updating the estimated salvage revenue using current market values for salvaged components." However, KRS 278.710(8) already requires Exie to calculate this measure—once the facility is operational—at least every 5 years for review by the Cabinet as part of the decommissioning plan. Specifically, KRS 278.710(8) requires that, "Upon review, the secretary

[2] *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, Order at 39 (June 11, 2021); *see also, Id.* at Appx. A, Mitigation Measure 20.

of the Energy and Environment Cabinet shall require the decommissioning plan to be updated . . . to match any significant change in circumstances or change to the estimated cost of effectuating the decommissioning plan or to the salvage value of the facility or its components." *See also* KRS 224.10-100(30).

The third party consultant, BBC Research & Consulting ("BBC") noted in its report that it is anticipated that due to aging components, the salvage revenue estimate will decrease every year that the project is operational and the net decommissioning cost will rise as a result, so the reasoning for the proposed mitigation measure (which was later adopted by the Board as Mitigation Measure 38) was to mitigate concerns regarding decommissioning.[3] However, it does not appear that BBC took into consideration the safeguards already in place pursuant to KRS 278.710(8) to address any impacts to the net decommissioning cost summary during the life of the Project.

Any requirement to update decommissioning cost summaries annually may conflict with the approved bond that was reviewed by the Cabinet as required by KRS 278.706(2)(m)(5)(a)(i) and KRS 278.710(8). As approved by the legislature, the Cabinet's statutory timeline is more reasonable to capture any significant changes in circumstances or depreciation of components' salvage values. As a final concern, Mitigation Measure 38 essentially establishes a local bonding requirement where none exists. There is no justification for why this submission to the County would provide any mitigation for concerns regarding rising net decommissioning costs, because the County has no oversight of the bond amount—instead, the Cabinet retains this jurisdiction. As such, Exie respectfully requests the Board revise its Order to remove this mitigation measure, or at least to revise Mitigation Measure 38 to instead state that any time that Exie is required to submit

[3] Review and Evaluation of Exie Solar, LLC Site Assessment Report Case No. 2025-00151, p. 58, Section C.

an estimated net decommissioning cost summary to the Cabinet for approval, to also provide a copy of this to the County as well. This would keep the County informed while also allowing Exie to stay in compliance with its statutory obligations to the Cabinet.

## VI. Conclusion

WHEREFORE, for the foregoing reasons, Exie respectfully requests that the Siting Board enter an order making the modifications discussed above regarding the February 3, 2026 Order as follows: for Mitigation Measure 20, to reflect either 1) the that setbacks demonstrated in the site plan shall control in any conflict with setbacks required in the Order, or alternatively 2) revise the Order language removing the 100-foot setback for panels from exterior property lines and providing for a consistent 50-foot setback from non-participating neighboring parcel boundaries; and for Mitigation Measure 38, to 1) strike Mitigation Measure 38 entirely, or alternatively 2) revise Mitigation Measure 38 to require that when Exie submits an updated decommissioning plan to the Cabinet in compliance with KRS 278.710(8), to also provide a copy to the County at that time.

Dated this 5th day of March 2026.

Respectfully submitted,

*/s/ Kathryn A. Eckert*

Kathryn A. Eckert
FBT GIBBONS LLP
325 West Main Street Suite 301
Lexington KY 40507
(859)231-0000
(859)231-0011(fax)
keckert@fbtgibbons.com

and

Gregory T. Dutton
Pierce T. Stevenson
FBT GIBBONS LLP
400 W. Market Street, Suite 3200

Louisville, KY 40202
(502) 589-5400
(502) 581-1087 (fax)
gdutton@fbtgibbons.com
pstevenson@fbtgibbons.com
*Counsel for Exie Solar, LLC*