

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

In the Matter of:

ELECTRONIC APPLICATION OF MYSO, LLC)	
(MAYFIELD) FOR A CERTIFICATE OF)	
CONSTRUCTION FOR AN APPROXIMATELY)	
200 MEGAWATT MERCHANT SOLAR ELECTRIC)	Case No. 2025-00395
GENERATING FACILITY IN GRAVES COUNTY,)	
KENTUCKY PURSUANT TO KRS 278.700 AND)	
807 KAR 5:110)	

MOTION FOR DEVIATION FROM SETBACK REQUIREMENTS

MYSO, LLC (the “Applicant” or “Mayfield”), by and through counsel, pursuant to KRS 278.704(4), moves the Kentucky State Board on Electric Generation and Transmission Siting (“Siting Board” or “Board”) for a deviation from the setback requirements in KRS 278.704(2). Specifically, Mayfield seeks a deviation from the 2,000-foot setback requirement in KRS 278.704(2) to allow it to place panels no closer than 515 feet and inverters no closer than 1,065 feet from the nearest residential neighborhood. In support thereof, Mayfield respectfully states as follows:

I. INTRODUCTION

On January 29, 2026, Mayfield filed an application for a Certificate to Construct an approximately 200 megawatt utility-scale solar-powered merchant electric generating facility in unincorporated Graves County (the “Mayfield Solar Project” or “Project”).

As described in the Application, the Project will be situated on approximately 2,051 acres of land historically used for agriculture with scattered rural homesteads and residential properties. There is no zoning applicable to the unincorporated area of Graves County. As such, the Project will not be subject to local zoning regulations.

II. THE 2,000 FOOT SETBACK REQUIREMENT

In relevant part, KRS 278.704(2) establishes setback requirements for merchant electric generating facilities as follows:

Except as provided in subsections (3), (4), and (5) of this section, no construction certificate shall be issued to construct a merchant electric generating facility unless the exhaust stack of the proposed 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.

Without a deviation, all substations, panels, and inverters—the proposed structures or facilities used for the generation of electricity—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.

Per KRS 278.700(6), a “residential neighborhood” is “a populated area of five (5) or more acres containing at least one (1) residential structure per acre” (“Residential Neighborhood”). Twenty-two Residential Neighborhoods meeting this definition were identified within two miles of the Project.¹ Only six of these are located within 2,000 feet of panels or inverters and therefore subject to the statutory setback. Distances for these Residential Neighborhoods are measured from the nearest Project component to the nearest edge of the closest residential structure within each neighborhood, as provided in the table below:

¹ See Application, Exhibit A, Sensitive Receptors and Residential Neighborhoods Map.

Neighborhood	Distance to Panel (ft)	Distance to Inverters (ft)	Distance to Substation (ft)
1	7,198	8,161	13,633
2	4,427	5,302	10,657
3	1,744	2,615	6,322
4	2,665	3,542	6,886
5	1,968	2,855	5,971
6	1,956	2,358	5,684
7	855	1,786	5,159
8	9,065	10,026	13,149
9	4,357	5,393	8,907
10	2,164	2,950	7,200
11	1,863	2,466	11,153
12	2,300	3,135	12,324
13	516	1,069	10,179
14	8,012	8,624	16,109
15	2,976	4,290	15,158
16	2,686	3,595	14,927
17	2,408	3,582	14,954
18	4,921	6,248	17,136
19	7,964	9,088	20,209
20	9,866	10,932	22,118
21	10,897	12,901	14,103
22	5,772	7,171	9,672

Of these listed, only the bolded Residential Neighborhood Nos. 3, 5, 6, 7, 11 and 13 fall within 2,000 feet of Project components, with No. 13 being the nearest to panels and inverters.² No Residential Neighborhoods are within 2,000 feet of the proposed substation. Because the Project will not be subject to local zoning regulations, it will be subject to statutory setback requirements in KRS 278.704(2) and permitted to seek deviation from those requirements pursuant to KRS 278.704(4).

² See Application, Exhibit A, Residential Neighborhoods Map pg. 3 (Residential Neighborhood No. 3); *Id.* pg. 4 (Residential Neighborhood Nos. 3, 5-7); *Id.* pg. 5 (Residential Neighborhood Nos. 7, 11, 13); *Id.* pg. 6 (Residential Neighborhood Nos. 11, 13).

III. DEVIATION FROM SETBACK REQUIREMENTS

The Siting Board, pursuant to KRS 278.704(4), may grant a deviation from the 2,000-foot setback requirement in KRS 278.704(2) if “the proposed facility is designed to and, as located, would meet the goals of KRS 224.10-280, 278.010, 278.212, 278.214, 278.216, 278.218, and 278.700 to 278.716 at a distance closer than those provided in subsection (2) of this section.” The Board has previously stated that the purpose of the setback requirements in KRS 278.704(2) is to protect property owners from the adverse impacts that might result from the construction of merchant electric generation facilities.³ With that in mind, the Project has been designed to minimize any adverse impacts on residential neighborhoods that might result from construction of the Project. Additionally, the Project has been designed to and will meet the goals of the statutes referenced in KRS 278.704(4). Thus, deviation from the setback requirements in KRS 278.704(2) is appropriate.

IV. DISCUSSION

A. The Project Meets the Goals for Setbacks Identified in KRS 278.704(4)

The Project was designed with the goals of KRS 224.10-280, 278.010, 278.212, 278.214, 278.716, 278.718, and 278.700 to 278.716 in mind, and if constructed, will meet those goals as required by KRS 278.704(4).

1. KRS 224.10-280

KRS 224.10-280 provides that, prior to constructing a facility to be used for the generation of electricity, a developer must submit a cumulative environmental assessment (CEA) to the Energy and Environment Cabinet and pay a fee set pursuant to KRS 224.10-100(2). A CEA has

³ *In the Matter of Application of ecoPower Generation-Hazard, LLC for a Certificate to Construct and Operate a Merchant Electric Generating Facility and a 69KV Transmission Line in Perry County, Kentucky* (the “ecoPower Order”) at 32-33, Case No. 2009-00530 (Ky. P.S.C. May 18, 2010).

been prepared⁴ and the results are provided below. The CEA demonstrates that the Project will have limited environmental impact. There have been no regulations promulgated establishing a fee to defray the costs of processing the CEA. As such, no CEA fee is paid.

a. Air Evaluation (KRS 224.10-280(3)(a))

As required by KRS 224.10-280(3)(a), the CEA evaluates the air pollutants to be emitted by the facility and the associated control measures. Solar facilities do not produce any emissions during operation. As such, the Project is not anticipated to emit any of the criteria pollutants or Hazardous Air Pollutants (HAPs). The CEA describes the estimated emissions of each air pollutant. Indirect air emissions from the Project would occur during construction from staging of supplies and operation of construction equipment, worker personnel vehicles, and equipment and supply deliveries, as well as during facility operation from maintenance vehicles, such as trucks used by technicians and equipment used during mowing and other vegetation control. The CEA describes the air pollution mitigation measures during both construction and operation of the Project. No air emissions permit is required for the Project.

b. Water Evaluation (KRS 224.10-280(3)(b))

KRS 224.10-280(3)(b) requires that the CEA describe the type and quantity of water pollutants that will be discharged to the Waters of the Commonwealth, and the methods that will be used to control those discharges. Site grading and construction activities will be the most likely source of surface water pollutants from the Project. The Project will minimize grading and excavating by incorporating existing topography into the layout to the extent possible. Mayfield will conduct Project construction activities under the coverage of the Kentucky Pollutant Discharge Elimination System (KPDES) permit for Stormwater Discharges Associated with

⁴ The Project's CEA was also provided to the Siting Board as an attachment to Response No. 3 to Siting Board Staff's First Request for Information, filed on March 27, 2026.

Construction Activities (“KYR10 Permit”). The KYR10 Permit requires Mayfield to develop and implement a stormwater pollution prevention plan (SWPPP) which will identify best management practices (BMPs), such as silt fences, sediment basins, and buffer zones, that will be followed to minimize impacts associated with construction. Following construction, Mayfield will seed all disturbed areas with non-invasive species of ground cover for stabilization and erosion minimization. During operation, the Project will store small quantities of petroleum fuels, lubricants, and fluids, as well as groundskeeping chemicals for use in maintenance and upkeep. These chemicals will be stored inside a building or, if bulk storage is used, in appropriate tanks with secondary containment. Mayfield will implement BMPs to minimize the impacts of any spills on groundwater or surface water.

c. Waste Evaluation (KRS 224.10-280(3)(c))

As required by KRS 224.10-280(3)(c), the CEA evaluates the waste to be generated by the facility and the associated control measures. Waste generated during construction activities would include wooden crates, pallets, cardboard boxes, and other packaging material. Additionally, excess wiring and other random debris could be intermittently produced. Where practical, construction waste material will be recycled and any material that cannot be recycled will be disposed offsite at a permitted facility. Trash and other solid waste generated during operation will also be disposed offsite at a permitted facility. The Project could also generate very small amounts of hazardous waste. Any hazardous waste will be managed offsite at a permitted facility. Finally, portable chemical toilets will be provided for construction workers during development.

d. Water Withdrawal Evaluation (KRS 224.10-280(3)(d))

As required by KRS 224.10-280(3)(d), the CEA identifies the source and volume of anticipated water withdrawal needed to support facility construction and operations, and the CEA

describes the methods to be used for managing water usage and withdrawal. As described in the CEA, water will be obtained from several potential sources, including an on or offsite groundwater well, or obtained from the local water utility. Water use related to construction activities would include site preparation such as dust control and grading activities. During operation, typical rainfall in the region is sufficient to remove dust and other debris from the PV panels. However, water may be used for vegetation management needs, including screening vegetation installation and during prolonged periods of drought. In summary, the Project is designed and located to meet the goals of KRS 224.10-280.

2. KRS 278.010

KRS 278.010 provides a list of definitions to be used in conjunction with KRS 278.010 to 278.450, 278.541 to 278.544, 278.546 to 278.5462, and 278.990. The Board's authority begins with KRS 278.700 and extends through KRS 278.716 and any applicable provision of KRS 278.990. In filing a complete application pursuant to the applicable statutes in this proceeding, Mayfield has satisfied the goal of providing the required information utilizing the definition of any applicable term defined in KRS 278.010.

3. KRS 278.212

KRS 278.212 requires the filing of plans for electrical interconnection with a merchant electric generating facility and costs of upgrading the existing grid. Mayfield has met the goals of KRS 278.212 because the Project will comply with all applicable conditions relating to electrical interconnection with utilities by following the Midcontinental Independent System Operator (MISO) interconnection process. Additionally, Mayfield will accept responsibility for appropriate costs which may result from its interconnecting with the electricity transmission grid. With the

Applicant's commitment to comply with KRS 278.212, the proposed facility has been designed and located to meet the goals of KRS 278.212.

4. KRS 278.214

KRS 278.214 establishes a curtailment priority for utilities or cooperatives that provide transmission service in the event that an emergency on its transmission facilities require curtailment. Mayfield will abide by the requirements of this provision to the extent that these requirements are applicable. By committing to comply with these requirements Mayfield has met the goals anticipated by KRS 278.214.

5. KRS 278.216

KRS 278.216 requires a jurisdictional utility, as defined by KRS 278.010(3), to comply with many of the requirements that are included within KRS 278.700 to 278.716, including the submission of a site assessment report. However, Mayfield is not a jurisdictional utility. Therefore, by complying with the requirements of KRS 278.700 *et seq.*, Mayfield has met the requirements and goals of KRS 278.216.

6. KRS 278.218

KRS 278.218 requires approval by the Public Service Commission for change in ownership or control of assets owned by a utility. Mayfield is not a utility as described in KRS 278.010(3), and therefore this statute does not apply to Mayfield. However, to the extent Siting Board approval may at some time be required for change of ownership or control of assets owned by Mayfield, Mayfield will abide by the applicable rules and regulations which govern its operation.

7. KRS 278.700 to KRS 278.716

KRS 278.700 to KRS 278.716 are the statutory provisions governing the application for and grant of construction certificates to merchant electric generating facilities. The Board has

described the goals of these provisions as ensuring the proposed facility will be constructed and operated in a way that will not intrude upon or unnecessarily disrupt other surrounding land uses including hospitals, nursing homes, residential areas, schools, and parks, or otherwise have adverse environmental impacts which are not otherwise regulated.

Mayfield's application includes an evaluation of the issues required by KRS 278.700 to KRS 278.716. Moreover, the Applicant has designed the Project to ensure that, through Project layout and other mitigation measures, it will not intrude on or otherwise disrupt its neighboring landowners. The Project meets the goals of KRS 278.700 to KRS 278.716.

B. The Project's Impact on Residential Neighborhoods will be Minimal

Mayfield has designed the Project to minimize impacts on the environment and the neighboring community. The Site Assessment Report (SAR), required by KRS 278.708 and included as Exhibit H to Mayfield's application, described the Project's anticipated noise, visual, and traffic impacts.

1. Noise Impacts

SAR Attachment D includes a thorough evaluation of the anticipated noise impacts of Project construction and operation ("Noise Assessment"). The Noise Assessment considered existing sources of noise at the Project site, noise impacts from Project construction, and noise impacts from Project operations. Existing noise at the Project site consists of vehicular traffic noise from Route 45, Route 408, and Route 849, and noise from vehicular traffic on other roadways in the area. Additionally, wildlife contributes to local noise conditions including birds, frogs, and insects.

a. Noise During Construction

The Project area has historically been used for agricultural purposes and the Project parcels are predominately bordered by agricultural farmland and scattered residential properties. Noise-producing construction activities include pile driving for solar array panel racking as well as demolition and site preparation activities involving grading.

The Noise Assessment identifies multiple pieces of construction equipment that may be utilized during Project construction, the loudest of which is an impact pile driver that could be used to construct foundations for solar panels. The U.S. Department of Transportation describes the typical noise level of an impact pile driver as 101 decibels (“dB”) at 50 feet.⁵

Based on current site plans, all sensitive noise receptors located in residential neighborhoods are greater than 515 feet away from locations where pile drivers will operate. Moreover, the noise from construction activities will be limited in duration and will generally occur only during daylight hours. Noise from construction equipment will not result in long-term negative impacts to neighboring landowners.

b. Noise During Operation

Noise from the Project during operation will be minimal. Any operational noise will be produced by tracking panels (if utilized), inverters, and transformers. Based on the current site layout, the noise levels generated from operating the panels, inverters, and transformers would be equivalent to a quiet rural residential area. The highest anticipated sound level at the Project boundary would be in the southwestern portion of the site at 56 dBA.⁶ The noise levels generated by the Project at the nearest residence to this point would be 41 dBA, the equivalent of bird calls

⁵ FHWA 2006. *Roadway Construction Noise Model User’s Guide*. U.S. Department of Transportation. U.S. Department of Transportation, Federal Highway Administration, FHWA-HEP-05-054, DOT-VNTSCFHWA05-01. January 2006.

⁶ See Application Exhibit H, Attachment D, Section 5.3.

or a quiet living room. *Id.* Thus, operation would not be a significant contributor of noise and sound emissions associated with the Project are expected to remain at a low level. *Id.*

2. Visual Impacts

Viewshed impacts to residences in the surrounding area are not expected. *See* SAR, Application Exhibit H. As more fully reported in the SAR and the Glare Hazard Study (SAR Attachment E), glare is not predicted at any of the Project's assessed viewpoints. Use of low-profile PV panels and agricultural-style perimeter fencing will blend Project boundaries with the surrounding setting. Mayfield will additionally install supplemental vegetative screening in several locations to screen the Project from nearby residences and further reduce its visibility. Final screening locations and composition are still in development and will be determined prior to commencing construction. A preliminary screening plan was provided as an attachment to the Response to Siting Board Staff's First Request For Information No. 52.

3. Traffic Impacts

SAR Exhibit F is the Applicant's Traffic Impact Study ("Traffic Study"). The Traffic Study analyzes the traffic impact during both the construction and operation phases of the proposed facility. The number of workers and the associated construction and delivery truck trips expected during the construction of the Project is not anticipated to adversely impact traffic on these adjoining roads. As operation of the Project will only require a single person to be on site daily, and up to three additional employees as needed for site inspections and repairs, the additional volume of daily traffic will have no measurable impact on traffic and/or transportation infrastructure.

4. Mayfield's Mitigation Efforts

The Board should grant this motion for deviation because Mayfield has made every effort to protect property owners from all adverse impacts that might result from the construction and operation of the facility. Mayfield has had an extensive outreach program to the community generally, and the neighbors specifically, which went above and beyond the statutory and regulatory requirements. The proposed merchant electric generating facility will not produce any emissions, only a negligible amount of noise once constructed, and it will have very minimal visual impacts.

V. STANDALONE SETBACKS

For the sake of clarity, while these are not subject to KRS 278.704, Mayfield also wants to address the issue of standalone setbacks in this Motion. The only explicit statutory setbacks are contained in KRS 278.704(2), and these are limited to “all proposed structures or facilities used for generation of electricity...from any residential neighborhood, school, hospital, or nursing home facility.” *See* KRS 278.704(2). The statutory provision does not include other features such as individual residences, churches, parks, or other land uses. Because Graves County has not established local planning and zoning regulations, the Board is permitted to grant setback deviations for Mayfield's substation, inverters, and panels from any residential neighborhood, school, hospital, or nursing home facility. KRS 278.704(4). However, to avoid any confusion or conflicting setbacks in the anticipated final order for a construction certificate, Mayfield has designed the Project with the following minimum setbacks and has provided evidence in its Application⁷ and Project mapping of these for the final order:

⁷ *See* Application, pp. 6-7, para. 17, Table V-I.

Constraint	Distance (feet)
Non-participating residence to panels	300
Non-participating residence to inverter	600
Non-participating residence to substation	2,600
Church to panels	1,500
Church to inverter	2,300
Church to substation	5,200
Centerline of adjacent roadways to panels	50
Non-participating adjoining parcel boundary to panels	50
Exterior of participating property line to panels	50
Energy storage systems to residences, churches or schools	450

Of note, any differentiation between non-participating adjoining parcels and exterior property lines to panels is not a workable setback, because exterior property lines are also the line of demarcation with non-participating adjoining parcels. Stated differently, a reference to the nearest exterior participating property line and the nearest boundary line of a nonparticipating adjoining parcel would reference the same property line segment, and any setback from one only makes sense if it is identical to the other for purposes of compliance during site design. Again, these are outside the bounds for Board approval as allowed in KRS 278.704(4), but these standalone setbacks are included in this Motion to call the Board’s attention to these and out of an abundance of caution for clarity in the final order.

VI. PRAYER FOR RELIEF

MYSO, LLC, has designed the Project to protect the residents of adjacent residential neighborhoods from any potentially adverse impacts of the Project. Additionally, the Project meets the goals of the statutory provisions listed in KRS 278.704(4).

Wherefore, MYSO, LLC, respectfully requests that the Board:

1. grant the Mayfield Solar Project a deviation from the 2,000-foot setback requirement in KRS 278.704(2);

2. authorize MYSO, LLC, to place solar panel arrays no closer than 515 feet from the relevant residential neighborhood; and
3. authorize MYSO, LLC, to place inverters no closer than 1,065 feet from the relevant residential neighborhood.

Respectfully submitted,

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