

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

In the Matter of:

ELECTRONIC APPLICATION OF SOUTH FORK	)	
SOLAR, LLC FOR A CERTIFICATE OF	)	
CONSTRUCTION FOR AN APPROXIMATELY	)	Case No. 2026-00256
45-MEGAWATT MERCHANT ELECTRIC SOLAR	)	
PHOTOVOLTAIC GENERATING FACILITY IN	)	
NICHOLAS COUNTY, KENTUCKY PURSUANT	)	
TO KRS 278.700, ET SEQ., AND 807 KAR 5:110	)	

**MOTION FOR DEVIATION FROM 807 KAR 5:001, SECTION 9, OR, IN THE
ALTERNATIVE, 807 KAR 5:110, SECTION 2(1)**

Comes the Applicant, South Fork Solar, LLC, (“South Fork Solar”) by counsel, and respectfully requests that the Kentucky State Board on Electric Generation and Transmission Siting, (“Siting Board”) grant a deviation from the electronic filing requirements of 807 KAR 5:001, Section 8 for the Notice of Intent (“NOI”) required by 807 KAR 5:110, Section 2, and accept South Fork Solar’s NOI for filing as of September 4, 2026. In the alternative South Fork Solar respectfully requests a deviation from 807 KAR 5:110, Section 2(1) and that South Fork Solar be permitted to file its application with the Siting Board less than thirty days after it files its NOI.¹ South Fork Solar requests a ruling on its motion no later than October 2, 2026.

¹ South Fork Solar is filing its NOI through the e-file portal contemporaneously with this motion.

BACKGROUND

South Fork Solar plans to build an approximately 45 MW solar facility in Nicholas County, Kentucky. The project qualifies as a merchant electric generating facility (“MEGF”) and is subject to the jurisdiction of the Siting Board. KRS 278.702 and 706. South Fork Solar plans to file its application on October 5, 2026.² In anticipation of filing its application to construct the MEGF, on September 4, 2026, counsel for South Fork Solar emailed the following documents to PSCED@ky.gov:³ 1) Read1st Cover Letter; 2) Notice of Election of Use of Electronic Filing Procedures; and 3) Notice of Intent to File Application for a Certificate of Construction. This method of filing the NOI had been utilized in previous Siting Board matters and the NOI had been accepted for filing.⁴ On September 4, 2026, at 3:02 p.m., an email from PSCED@ky.gov was promptly sent in response to the submission stating: “We’ve received your filing and a case number will be provided shortly. Please do not hesitate to contact us in the event you have any questions.”⁵ At 3:51 p.m., another email from PSCED@ky.gov was sent stating, in relevant part, that: “Case No. 2026-00256 has been established. The document Notice of Intent to File Application for Certificate of Construction will need to be filed via our e-file portal.”⁶ However, because a NOI had

² South Fork Solar, in anticipation of the filing of its application, also has provided the notice required by KRS 278.706(2)(c).

³ PSC Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus Covid-19*, Order at 6, (Mar. 16, 2020).

⁴ See, e.g., Siting Board Case No. 2024-00290, *Electronic Application of Kentucky Municipal Energy Agency for a Certificate of Construction for an Approximately 75 Megawatt Merchant Electric Generating KYMEA Energy Center I and Transmission Line in Madisonville, Kentucky Pursuant to KRS 278.700 And 807 KAR 5:110*, Kentucky Municipal Energy Agency Notice of Intent and Election, (filed Sept. 3, 2024).

⁵ Attached as Exhibit 1.

⁶ Attached as Exhibit 2.

been accepted in other proceedings via email and not the e-file portal, the notice that the NOI was to be filed via the e-file portal was missed. Counsel became aware on September 23, 2026, that the NOI had not been posted to the Public Service Commission website.

DISCUSSION

Deviations from the rules in 807 KAR 5:001 may be granted “for good cause shown,” which the Siting Board has granted in the past.⁷ The Siting Board has also granted deviations from other filing and procedural requirements.⁸

The date of filing of the NOI is of material importance to South Fork Solar. South Fork Solar plans to file its application as early as October 5, 2026. In anticipation of this filing South Fork Solar issued the notice to adjoining property owners required by KRS 278.706(2), which requires those notices to be given within 30 days of the filing of an application. After submitting the NOI, South Fork Solar mailed notices, via certified mail, to qualifying landowners. 807 KAR 5:110, Section 2(1) also provides, in relevant part, that, “[a]t least thirty (30) days ... prior to filing an application to construct ... a merchant electricity generating plant ... an applicant shall file . . . a Notice of Intent to File Application.” South Fork Solar, in anticipation

⁷ See, e.g., Case No. 2020-00226, *Electronic Application of Mt Olive Creek Solar, LLC for a Certificate of Construction for an Approximately 60 Megawatt Merchant Electric Solar Generating Facility in Russell County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110* (Sept. 10, 2021) Order at 3. (Granting a deviation from 807 KAR 5:001, Section 8, and finding that documents were accepted for filing as of the date they were submitted despite not complying with electronic filing requirements.)

⁸ See, e.g., Case No. 2025-00276, *Electronic Application of Crab Run Solar, LLC for a Certificate of Construction for an up to 45 Megawatt Electric Solar Generating Facility In Marion County, Kentucky* (Feb. 17, 2026).

of the October 5, 2026 application filing deadline, submitted its NOI on September 4, 2026. If South Fork Solar's NOI is not deemed filed as of September 4, 2026, it will not be able to file its application on October 5, 2026.

South Fork Solar respectfully requests that its NOI be deemed filed on September 4, 2026, so that it may file its application on October 5, 2026, as planned. South Fork Solar acted in good faith in filing its NOI, relying upon Siting Board previous acceptance of NOI's via email as in other Siting Board cases. No prejudice arises to any interested entity by granting the motion. If South Fork Solar is not permitted to file its application on October 5, 2026, it will have to reissue notice to those entities and granting the motion will avoid confusing the entities that have received notice pursuant to KRS 278.706(2).

In the alternative, and based on the grounds stated above, South Fork Solar respectfully requests that the Siting Board grant a deviation from the requirements of 807 KAR 5:110, Section 2(1) and that South Fork Solar be permitted to file its application less than 30 days after filing its NOI.

Wherefore, South Fork Solar requests that the Siting Board:

1. Grant a deviation from the electronic filing requirements found in 807 KAR 5:001, Section 8 and deem South Fork Solar's NOI filed on September 4, 2026, or;
2. In the alternative, if a deviation from 807 KAR 5:001, Section 8 is not granted, that the Siting Board grant a deviation from 807 KAR 5:110, Section 2(1)

and that South Fork Solar be permitted to file its application less than 30 days after filing its NOI.

Respectfully submitted,

/s/ J.E.B. Pinney

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