

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION
AND TRANSMISSION SITING

In the Matter of:

ELECTRONIC APPLICATION OF MT OLIVE)	
CREEK SOLAR, LLC FOR A CERTIFICATE OF)	
CONSTRUCTION FOR AN APPROXIMATELY)	
60 MEGAWATT MERCHANT ELECTRIC)	CASE NO.
SOLAR GENERATING FACILITY IN RUSSELL)	2020-00226
COUNTY, KENTUCKY PURSUANT TO KRS)	
278.700 AND 807 KAR 5:110)	

ORDER

The Siting Board, on its own motion, finds that the local public hearing scheduled for August 31, 2021, at 5:00 p.m. Central Daylight Time, or 6:00 p.m. Eastern Daylight Time, should be rescheduled. Notice of this local public hearing to the Russell County Judge/Executive and the parties to this case was provided by the Siting Board on August 11, 2021, pursuant to a notice of filing in this docket. The Commission is sufficiently advised that *public* notice of the local public hearing, required pursuant to 807 KAR 5:110, Section 9(2), has not been provided by the Applicant. The Siting Board notes the clear language of the regulation in relation to “[n]otice of a local public hearing,” which states:

At least three (3) days before the hearing date or local public information meeting date, the applicant shall submit to the board proof that the general public has been provided notice of the hearing or local public information meeting in a newspaper of general circulation in the county or municipality in which the pipeline, plant, or transmission line is proposed to be located.

The Siting Board finds that 807 KAR 5:110, Section 9, shall be read in conjunction with 807 KAR 5:110, Section 8, as applicable. Just as 807 KAR 5:110, Section 9, provides the necessary process by which public notice is to be provided for the evidentiary hearings outlined in 807 KAR 5:110, Section 6, it also sets forth the manner in which public notice is to be provided for local public hearings,¹ local public information meetings,² and the public meetings required by KRS 278.706(2).³ The public hearing in this matter is therefore rescheduled for September 15, 2021, at the hour of 5:00 p.m. Central Daylight Time, or 6:00 p.m. Eastern Daylight Time. The Applicant shall give adequate public notice of this rescheduled hearing pursuant to 807 KAR 5:110, Section 9.

IT IS HEREBY ORDERED that:

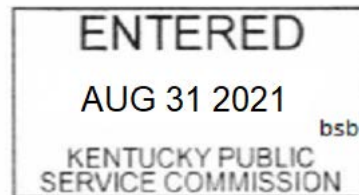
1. A public hearing in this matter shall be scheduled for September 15, 2021, at 5:00 p.m. Central Daylight Time, or 6:00 p.m. Eastern Daylight Time, at the Russell County Courthouse, 410 Monument Square, Suite 204, Jamestown, Kentucky 42629.
2. The Applicant shall give adequate public notice of this rescheduled hearing pursuant to 807 KAR 5:110, Section 9.

¹ 807 KAR 5:110, Section 9(2).

² *Id.*

³ 807 KAR 5:110, Section 9(3).

By the Kentucky State Board on Electric
Generation and Transmission Siting



ATTEST:

A handwritten signature in blue ink that reads "Linda C. Bidwell". The signature is written in a cursive style and is positioned above a horizontal line.

Executive Director
Public Service Commission
on behalf of the Kentucky State
Board on Electric Generation
and Transmission Siting

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY STATE BOARD ON
ELECTRIC GENERATION AND TRANSMISSION SITING IN
CASE NO. 2020-00226 DATED AUG 31 2021

TWO PAGES TO FOLLOW

Fries, Jesse (PSC)

To: Dutton, Gregory T.
Cc: Vinsel, Nancy (PSC)
Subject: RE: 2020-00226 Mt. Olive Creek Public Meeting

From: Dutton, Gregory T. <gdutton@fbtlaw.com>
Sent: Monday, August 30, 2021 12:30 PM
To: Fries, Jesse (PSC) <jesse.fries@ky.gov>
Cc: Vinsel, Nancy (PSC) <Nancy.Vinsel@ky.gov>
Subject: RE: 2020-00226 Mt. Olive Creek Public Meeting

Jesse,

The applicant has not given public notice. I have reviewed the docket and the relevant regulations and statutes, but I don't see a requirement for the applicant to provide public notice in this instance. There does not appear to be an order requiring the applicant to give public notice and 807 KAR 5:110 Section 8 indicates that the Board will provide notice. On our call just now you directed me to Section 9, which I believe pertains to public hearings held by the applicant as part of the requirements for filing an application. I can see after our discussion how the Siting Board may view that provision as relevant in this instance, but I believe the language in Section 8 discusses conducting the hearing "before the board or before a person designated by the board to conduct a specific hearing" makes Section 8 relevant to the situation at hand. The regulations are not entirely clear, but I think the correct interpretation is that Section 9 applies to local public meetings overseen by the applicant and Section 8 applies to local public meetings overseen by the Siting Board. At least, that is my interpretation. I'm available on my cell phone today and happy to discuss. Feel free to give me a call.

Thank you,
Greg

Gregory T. Dutton

Attorney at Law | [Frost Brown Todd LLC](#)

502.779.8557 Direct

[502.445.6510](#) Mobile

gdutton@fbtlaw.com

From: Fries, Jesse (PSC) <jesse.fries@ky.gov>
Sent: Monday, August 30, 2021 9:05 AM
To: Dutton, Gregory T. <gdutton@fbtlaw.com>
Cc: Vinsel, Nancy (PSC) <Nancy.Vinsel@ky.gov>
Subject: 2020-00226 Mt. Olive Creek Public Meeting

Good morning Greg,

Our public meeting for Mt. Olive Creek is scheduled for tomorrow evening. In advance of the meeting we wanted to confirm public notice was provided of the meeting by the applicant. If you could please confirm via email it would be appreciated.

Thank you,
Jesse

Jesse Fries

Staff Attorney

Kentucky Public Service Commission

211 Sower Boulevard

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