

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION
AND TRANSMISSION SITING

In the Matter of:

ELECTRONIC APPLICATION OF FLEMING)	
SOLAR, LLC FOR A CERTIFICATE OF)	
CONSTRUCTION FOR AN APPROXIMATELY 80)	CASE NO.
MEGAWATT MERCHANT ELECTRIC SOLAR)	2020-00370
GENERATING FACILITY IN FLEMING COUNTY,)	
KENTUCKY PURSUANT TO KRS 278.700 AND)	
807 KAR 5:110)	

ORDER

This matter is before the Siting Board upon a motion for clarification filed on December 14, 2021, by Fleming Solar, LLC (Fleming Solar) requesting reconsideration and clarification of certain mitigation requirements imposed by the Siting Board's November 24, 2021 final Order (Final Order).

On May 28, 2021, Fleming Solar filed an application requesting a Certificate of Construction to construct an 80-megawatt alternating current solar photovoltaic electric generating facility to be located in Fleming County, Kentucky. The Siting Board's Final Order conditionally authorized Fleming Solar a Certificate of Construction to construct the proposed solar facility subject to Fleming Solar's compliance with the mitigation requirements that were discussed in the Final Order and set forth in Appendix A to the Final Order.

Fleming Solar stated that “clarification of the Order is necessary to allow Fleming Solar to fully comply with the conditions imposed by the Siting Board.”¹ Fleming Solar seeks clarification of three mitigation measures in the Final Order.

Fleming Solar seeks modification and clarification of mitigation measure 10, as provided in the Final Order, which stated:

10. Fleming Solar shall implement planting of native evergreen species as a visual buffer to mitigate visual viewshed impacts, particularly in areas directly adjacent to the Project without existing vegetation.

Fleming Solar claimed this mitigation measure could require vegetative screening in areas where there are no residences or roads adjacent to the Project, where no viewshed is affected. Fleming Solar requested a modification of the mitigation measure to only require a vegetative buffer in areas where there is viewshed impact from a residence or roadway.²

The Siting Board finds that this modification is reasonable because it achieves its goal of mitigating the adverse effects in areas where there is a viewshed impact from a residence or roadway. The Siting Board further finds that mitigation measure 10 should be amended to require vegetative screening only where there is visual impact to residences or roadways where there is not adequate existing vegetation.

Fleming Solar also requested clarification of mitigation measure 22, as provided in the Final Order, which stated:

22. Fleming Solar shall develop and implement a traffic management plan to minimize the impacts on traffic flow and keep traffic safe. Any such traffic management plan shall also identify any noise concerns during the construction phase and develop measures that would address those noise concerns.

¹ Motion for Clarification (filed Dec. 14, 2021) at 1.

² *Id.* at 2.

Fleming Solar stated this mitigation measure does not specify that the noise concerns must be related to traffic during the construction phase. Fleming Solar requested this mitigation measure be clarified to apply only to traffic related noise during construction, so the measure is not confused with other noise related mitigation measures.³

The Siting Board finds this is a reasonable request because it achieves the statutory purpose of mitigating the adverse effects of traffic noise. The Siting Board further finds that mitigation measure 22 should include language indicating this mitigation measure is in reference to traffic related noise during the construction phase.

Fleming Solar requested clarification of mitigation measure 27, as provided in the Final Order, which stated:

27. Fleming Solar shall implement a Customer Resolution Program to address any complaints from surrounding landowners. Fleming Solar shall also submit annually a status report associated with its Customer Resolution Program, providing among other things the individual complaints, how Fleming Solar addressed those complaints, and the ultimate resolution of those complaints, identifying whether or not the resolution was to the complainant's satisfaction.

Fleming Solar stated it does not have customers so the word customer should not be used. Fleming Solar requested the mitigation measure be changed to reference only Complainants.⁴

The Siting Board has consistently used the term "customer" in mitigation measures

³ *Id.* at 3.

⁴ *Id.*

referencing complaint resolution programs.⁵ However, the Siting Board notes the concern of Fleming Solar. To ensure orders are consistent and to address the concern raised by Fleming Solar, the Siting Board finds that the proposed revision to mitigation measure 27 is reasonable because it achieves the statutory purpose regarding complaints filed by customers. However, the reference to customers is intended to be reflective of and synonymous with the interested public; therefore, the Siting Board further finds that mitigation measure 27 should include language referencing customers and complaints.

IT IS THEREFORE ORDERED that:

1. Fleming Solar's motion for clarification is granted.
2. Mitigation measure 10 in the Siting Board's November 24, 2021 Final Order is

eliminated and replaced with the following mitigation measure:

10. Fleming Solar shall implement planting of native evergreen species as a visual buffer to mitigate visual viewshed impacts, in areas where those viewshed impacts occur from residences or roadways directly adjacent to the Project and there is not adequate existing vegetation.

3. Mitigation measure 22 in the Siting Board's November 24, 2021 Final Order is

eliminated and replaced with the following mitigation measure:

22. Fleming Solar shall develop and implement a traffic management plan to minimize the impacts on traffic flow and keep traffic safe. Any such traffic management plan shall also identify any traffic related noise concerns during the construction phase and develop measures that would address those noise concerns.

⁵ See Case No. 2020-00390, *Electronic Application of Meade County Solar LLC for a Certificate of Construction for an Approximately 40 Megawatt Merchant Electric Solar Generating Facility in Meade County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110*; Case No. 2020-00280, *Electric Application of Ashwood Solar I, LLC For A Certificate of Construction for an Approximately 86 Megawatt Merchant Solar Generating Facility in Lyon County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110*.

4. Mitigation measure 27 in the Siting Board's November 24, 2021 Final Order is eliminated and replaced with the following mitigation measure:

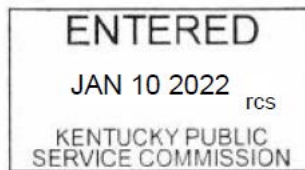
27. Fleming Solar shall implement a Customer Complaint Resolution Program to address any complaints from surrounding landowners. Fleming Solar shall also submit annually a status report associated with its Customer Complaint Resolution Program, providing among other things the individual complaints, how Fleming Solar addressed those complaint, and the ultimate resolution of those complaints, identifying whether or not the resolution was to the complainant's satisfaction.

5. All other provisions in the Siting Board's November 24, 2021 Final Order not in conflict with this Order shall remain in effect.

6. This case is closed and removed from the Siting Board's docket.

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By the Kentucky State Board on Electric
Generation and Transmission Siting



ATTEST:

A handwritten signature in blue ink that reads "Linda C. Bridwell". 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

Case No. 2020-00370

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