

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION
AND TRANSMISSION SITING

In the Matter of:

ELECTRONIC APPLICATION OF STONEFIELD)	
SOLAR, LLC FOR A CERTIFICATE OF)	
CONSTRUCTION FOR AN APPROXIMATELY 120)	
MEGAWATT MERCHANT ELECTRIC SOLAR)	CASE NO.
GENERATING FACILITY AND NONREGULATED)	2022-00011
TRANSMISSION LINE IN HARDIN COUNTY,)	
KENTUCKY PURSUANT TO KRS 278.700 AND)	
807 KAR 5:110)	

ORDER

On August 15, 2024, Stonefield Solar, LLC, (Stonefield Solar) filed a motion for reconsideration of the Siting Board’s July 24, 2024, Order finding that Stonefield Solar’s Notice of Intent (NOI) had expired.¹

LEGAL STANDARD

KRS 278.040(3) authorizes the Commission to promulgate reasonable administrative regulations to implement the provisions of KRS Chapter 278. Administrative regulation 807 KAR 5:110, Section 2(1), provides that if an applicant before the Siting Board fails to file an application within six months of the filing of an NOI, the NOI shall automatically expire. In addition, 807 KAR 5:110, Section 3(3), provides that “[a]dministrative staff for the board shall determine if the application is administratively complete and shall inform the applicant of its determination by letter.” Moreover, 807 KAR 5:110, Section 3(4), provides that “[t]he secretary shall reject for filing any document that

¹ Stonefield Solar’s NOI was filed on June 9, 2022.

does not comply with an administrative regulation in 807 KAR Chapter 5.” Finally, 807 KAR 5:001, primarily Sections 7 and 8, contain the applicable rules regarding filings before both the Commission and the Siting Board.

DISCUSSION AND FINDINGS

Stonefield Solar requested reconsideration of the Siting Board’s order that found Stonefield Solar’s application was tendered, but due to the deficiency, was not accepted as filed. Consequently, the Siting Board found that, since the deficiencies were not cured within the six months, Stonefield Solar’s NOI expired. Stonefield Solar made several arguments in the motion for reconsideration summarized as asserting that: 807 KAR 5:001, Section 4(9)(a), is inapplicable to Siting Board cases; that Stonefield Solar’s application, tendered in August 2022, but not accepted for filing was timely; and 807 KAR 5:001, Section 16, is inapplicable to the Siting Board.²

Pursuant to 807 KAR 5:110, Section 3(3), the Siting Board has the authority to “determine if the application is administratively complete and shall inform the applicant of its determination by letter.” Moreover, Section 3(4) compels that applications or other filings shall be rejected if they do “not comply with an administrative regulation in 807 KAR Chapter 5.” Stonefield Solar’s argument fails to recognize the plain language of the regulation that mandates all Siting Board filing comply with 807 KAR Chapter 5, including 807 KAR 5:001.

² Stonefield Solar’s Motion for Reconsideration at 4–8.

Here, the Siting Board made a determination that the application submitted by Stonefield Solar was not administratively complete; thereafter, issuing Stonefield Solar notice of deficiencies dated August 22, 2022; August 26, 2022; and, most notably, October 10, 2022. In spite of receiving notice of its deficient filing, Stonefield Solar failed to cure its deficiency on or before the expiration of the six-month period established by 807 KAR 5:110, Section 2(1); therefore, Stonefield Solar's NOI, tendered on June 9, 2022, expired. Stonefield Solar tendered a response to the third notice of deficiency on June 10, 2024, twenty months after the third notice of deficiency dated October 10, 2022.

Accordingly, for the foregoing reasons the Siting Board finds Stonefield Solar's arguments put forth in its motion for reconsideration without merit. Here, Stonefield Solar's deficient applications were administered in a manner consistent with 807 KAR Chapter 5. In addition, the Siting Board notes that nothing in this Order prevents Stonefield Solar from beginning the Siting Board process again.

IT IS THEREFORE ORDERED that Stonefield Solar's motion for reconsideration is denied.

KENTUCKY STATE BOARD ON ELECTRIC
GENERATION AND TRANSMISSION SITING

Chairman, Public Service Commission

Vice Chairman, Public Service Commission

Commissioner, Public Service Commission

by AH
with permission

Secretary, Energy and Environment Cabinet,
or her designee

Secretary, Cabinet for Economic Development,
or his designee

ATTEST:

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

ENTERED
SEP 04 2024
rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

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