

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION
AND TRANSMISSION SITING

In the Matter of:

ELECTRONIC APPLICATION OF BRIGHT)
MOUNTAIN SOLAR, LLC FOR A CERTIFICATE)
OF CONSTRUCTION FOR AN UP TO 80)
MEGAWATT MERCHANT ELECTRIC SOLAR)
GENERATING FACILITY AND RELATED)
NONREGULATED TRANSMISSION LINE OF)
APPROXIMATELY 4 MILES IN PERRY COUNTY,)
KENTUCKY PURSUANT TO KRS 278.700 AND)
807 KAR 5:110)

CASE NO.
2022-00274

ORDER

This matter is before the Siting Board upon a motion for reconsideration filed on April 9, 2024, by Bright Mountain Solar, LLC (Bright Mountain) for reconsideration of Mitigation Measure 27 imposed by the Siting Board’s March 13, 2024 Order (Final Order) that conditionally approved a certificate to construct an approximately 80-megawatt (MW) merchant solar generating facility in Perry County.

DISCUSSION AND FINDINGS

Mitigation Measure 27

Bright Mountain requested reconsideration of Mitigation Measure 27, which requires Bright Mountain to remove all facility components, above-ground and below-ground, regardless of depth, from the Project site. Bright Mountain argued that Mitigation Measure 27 does not allow Bright Mountain the option to abide by a landowner’s request

to leave ground level or underground improvements.¹ Bright Mountain also argued that, to ensure consistency with other projects, Mitigation Measure 27 should be reconsidered.² Bright Mountain stated that Mitigation Measure 27 is inconsistent with HB 4. According to the motion, HB 4 only requires removal to a depth of three feet below the surface grade.³

Based upon the motion and the Final Order, and being otherwise sufficiently advised, the Siting Board finds that Mitigation Measure 27 should not be modified. The Siting Board mitigation measures are made on a case-by-case basis. Pursuant to KRS 278.708(6),⁴ the Siting Board is permitted to establish any mitigation measures that the Board deems appropriate. Additionally, Mitigation Measure 26 states: “*As applicable to individual lease agreements, Bright Mountain, its successors, or assigns will abide by the specific land restoration commitments agreed to by individual property owners, as described in each executed lease agreement.*” This mitigation measures allows participating landowners the opportunity to dictate whether or not they would like the removal or non-removal of above or below ground components. Based on the reading of the statute, the mitigation measure complies with KRS 278.706(m).⁵ KRS 278.706(m) provides the minimum requirements for a decommissioning plan. The Siting Board is not required to make mitigation measures the same as the decommissioning plan.

¹ Motion for Clarification (filed Apr. 9, 2024) at 3.

² Motion for Clarification at 4.

³ Motion for Clarification at 5.

⁴ KRS 278.708(6).

⁵ KRS 278.706(m).

IT IS THEREFORE ORDERED that:

1. Bright Mountain's motion for reconsideration on Mitigation Measure 27 is denied.
2. This case is closed and removed from the Siting Board's docket.

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KENTUCKY STATE BOARD ON ELECTRIC
GENERATION AND TRANSMISSION SITING

Chairman, Public Service Commission

Vice Chairman, Public Service Commission

Commissioner, Public Service Commission

by KAC
w/ permission

Secretary, Energy and Environment Cabinet,
or their designee



ATTEST:

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

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