

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

In the Matter of:

ELECTRONIC APPLICATION OF DOGWOOD)	
CORNERS LLC FOR CERTIFICATE OF)	
CONSTRUCTION FOR AN APPROXIMATELY 125)	CASE NO.
MEGAWATT MERCHANT ELECTRIC SOLAR)	2023-00246
GENERATING FACILITY IN CHRISTIAN)	
COUNTY, KENTUCKY PURSUANT TO KRS)	
278.700 AND 807 KAR 5:110)	

ORDER

On September 5, 2023, Dogwood Corners LLC (Dogwood Corners) filed an application for a certificate of construction for a 125-megawatt merchant electric solar generating facility in Christian County, Kentucky pursuant to KRS 278.700 and 807 KAR 5:110. On September 6, 2023, the Kentucky State Board on Electric Generation and Transmission Siting (Siting Board) issued a letter rejecting the application for filing for failure to disclose the local ordinance applicable to the project. Dogwood Corners provided the Christian County Fiscal Order Ordinance on September 6, 2023.¹

On September 7, 2023, the Siting Board issued a second letter rejecting the application. Dogwood Corners responded and argued the application met the minimum filing requirements of KRS 278.706(2)(d) because the application, Attachment C, Certification, contains a certification that the project will be, “compliance with any and all applicable local planning and zoning ordinances that were valid and existed on the date

¹ Dogwood Corners’ Response to Deficiency Letter (filed Sept. 6, 2023).

the application is filed.”² Dogwood Corners further argued the Christian County Fiscal Court Ordinance is not valid because it was not enacted properly.³ Finally, Dogwood Corners argued that the project must only be in compliance with local planning and zoning ordinances and not any other ordinances.⁴

Having considered the motion and the material at issue, the Siting Board finds Dogwood Corners’ application should be deemed administratively completed and accepted for filing as of September 11, 2023. The Siting Board is not addressing whether the application, or the project itself, is in compliance with the Christian County Fiscal Court Ordinance. That issue will be determined during the processing of the case and ultimately in any Orders the Siting Board may issue that address the topic.

The Siting Board notes KRS 278.706(2)(d) requires an applicant provide a statement certifying that the proposed plant will be in compliance with all local ordinances.⁵ Dogwood Corners’ certification includes the language, “. . . all applicable planning and zoning ordinances”⁶ The wording of the certification to include “all applicable” appears to be an attempt by Dogwood Corners to use creative language to hide the fact there is a local ordinance that establishes setbacks in Christian County. The Siting Board cautions Dogwood Corners that KRS 278.710(1)(e) allows the Siting Board to consider whether the facility will meet the planning and zoning requirements the date

² Application, Attachment C, Certification and Dogwood Corners Response to Second Deficiency Letter (filed Sept. 11, 2023), at unnumbered page 2.

³ Dogwood Corners’ Response to Second Deficiency Letter at unnumbered page 3.

⁴ Dogwood Corners’ Response to Second Deficiency Letter at unnumbered page 4.

⁵ KRS 278.706(2)(d).

⁶ Application, Attachment C, Certification.

the application was filed as criteria to grant or deny the construction certificate. Dogwood Corners has presented no evidence that the Christian County Fiscal Court Ordinance has actually been invalidated by any court, nor has it presented any other form of relief from the ordinance. Additionally, the Siting Board has previously considered fiscal court ordinances as planning and zoning requirements if they address setbacks for merchant solar generating facilities.⁷

IT IS THEREFORE ORDERED that, Dogwood Corners' application shall be accepted for filing as of September 11, 2023.

⁷ See Case No. 2021-00235, *Electronic Application of Russellville Solar LLC for a Certificate of Construction for an Approximately 173 Megawatt Merchant Electric Solar Generating Facility in Logan County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110*, (Ky. Siting Board Aug. 23, 2022) Order at 20–21.

KENTUCKY STATE BOARD ON ELECTRIC
GENERATION AND TRANSMISSION SITING

Kent Phil

Chairman, Public Service Commission

[Signature]

Vice Chairman, Public Service Commission

*kyKAC
w/permission*

Mary Pat Regan

Commissioner, Public Service Commission

*kyKAC
w/permission*

John Seuss

Secretary, Energy and Environment Cabinet,
or her designee

Sydney Anthony

Secretary, Cabinet for Economic Development,
or his designee



ATTEST:

Linda C. Bidwell

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

*James W Gardner
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street
Suite 1400
Lexington, KENTUCKY 40507

*Rebecca C. Price
Sturgill, Turner, Barker & Moloney
155 East Main Street
Lexington, KENTUCKY 40507

*Tom Britton
Community & Development Services
710 South Main Street
Post Office Box 1125
Hopkinsville, KENTUCKY 42240

*M. Todd Osterloh
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street
Suite 1400
Lexington, KENTUCKY 40507