

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION
AND TRANSMISSION SITING

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)
MUNICIPAL ENERGY AGENCY FOR A)
CERTIFICATE OF CONSTRUCTION FOR AN)
APPROXIMATELY 75 MEGAWATT MERCHANT)
ELECTRIC GENERATING KYMEA ENERGY)
CENTER I AND TRANSMISSION LINE IN)
MADISONVILLE, KENTUCKY PURSUANT TO)
KRS 278.700 AND 807 KAR 5:110)

CASE NO.
2024-00290

ORDER

On October 9, 2024, Kentucky Municipal Energy Agency (Kentucky Municipal Energy) filed an application with the Kentucky State Board on Electric Generation and Transmission Siting (Siting Board) seeking a Construction Certificate to construct an approximately 75-megawatt (MW) merchant generating facility comprised of approximately 22 acres of land and an approximately 500 feet nonregulated transmission line in Madisonville, Kentucky (Project).

There are no intervenors in this matter. Pursuant to a procedural schedule established on October 22, 2024,¹ Kentucky Municipal Energy responded to two rounds of discovery.² A site visit was held on December 5, 2024. Siting Board consultant, Harvey

¹ On November 11, 2024, the procedural schedule issued October 22, 2024 was amended to adjust the dates for the first responses to requests for information and the site visit.

² Kentucky Municipal Energy's First Response to Siting Board Staff's First Request for Information (Staff's First Request) (filed Dec. 2, 2024); Kentucky Municipal Energy's Second Response to Siting Board Staff's Second Request for Information (Staff's Second Request) (filed Jan. 10, 2025).

Economics (Harvey), filed its report (Harvey Report) on January 24, 2025. Kentucky Municipal Energy submitted its response to the Harvey Report on February 7, 2025. A formal hearing was held on February 19, 2025. Kentucky Municipal Energy filed a post-hearing brief on February 26, 2025. Kentucky Municipal Energy filed its responses to post-hearing requests for information on March 3, 2025. The matter now stands submitted for a decision.

LEGAL STANDARD

The filing requirements and standard of review for requests to construct a merchant generating facility are set forth in KRS 278.700–.718. KRS 278.704(1) requires that an application be filed with and approved by the Siting Board before the construction of a merchant electric generating facility can commence. KRS 278.706 requires that the application include evidence of public notice and compliance with local planning and zoning ordinances.

KRS 278.708(2) requires Kentucky Municipal Energy Agency to prepare a site assessment report (SAR) that includes (1) a detailed description of the proposed site; (2) an evaluation of the compatibility of the facility with scenic surroundings; (3) potential changes in property values and land use resulting from the siting, construction, and operation of the proposed facility for property owners adjacent to the site; (4) evaluation of anticipated peak and average noise levels associated with the facility's construction and operation at the property boundary; (5) the impact of the facility's operation on road and rail traffic to and within the facility, including anticipated levels of fugitive dust created by the traffic and any anticipated degradation of roads and lands in the vicinity of the

facility; and (6) any mitigating measures to be suggested by Kentucky Municipal Energy to minimize or avoid adverse effects identified in the SAR.

KRS 278.710(1) delineates the criteria on which the Siting Board will grant or deny the certificate, which include (1) impact on scenic surroundings, property values, and surrounding roads; (2) anticipated noise levels during construction and operation of the facility; (3) economic impact on the region and state; (4) whether the proposed facility meets all local planning and zoning requirements existing on the date the application was filed; (5) impact of the additional load on the reliability of jurisdictional utilities; (6) setback requirements; (7) efficacy of mitigation measures proposed by Kentucky Municipal Energy; and (8) whether the applicant has a good environmental compliance history.

PROPOSED FACILITY

The Project will be located on 22 acres on a former underground coal mine site in Madisonville, Hopkinsville, Kentucky.³ The major Project components include four reciprocating internal combustion engines (RICE) and associated modules, generator sets, emissions equipment and stacks, engine hall, generator, process water tanks, process cooling equipment, natural gas transmission line, and a transformer substation.⁴ The project will interconnect with an approximately 500-foot 69kV nonregulated transmission line that will connect to a Louisville Gas and Electric and Kentucky Utilities Company (jointly, LG&E/KU) substation.⁵ In addition, a new high pressure gas line will

³ Application; Site Assessment Report (SAR) at 3.

⁴ Application, Attachment I at 1-1.

⁵ Transmission Line Application at 4 and Harvey Economics Review and Evaluation of Kentucky Municipal Energy Center 1 LLC Site Assessment Report (Harvey Report) (filed Jan. 24, 2025) at 5-2 and 5-3.

be constructed to serve the plant running from the Texas Gas high pressure network near Frank Hill Road westward for approximately one mile to the plant site.⁶

DISCUSSION AND FINDINGS

I. KRS 278.708: SAR Filing Requirements and Mitigation Measures

Mitigation Measures Proposed by Kentucky Municipal Energy and Siting Board Consultant

As required by KRS 278.708(4), Kentucky Municipal Energy proposed various mitigation measures consistent with the statutes regarding traffic, noise, roadway preservation, permitting, setbacks, public safety, scenic preservation, and decommissioning.⁷

In accordance with KRS 278.708(5), Harvey recommended mitigation measures in the following areas: site development plan, compatibility with scenic surroundings, anticipated peak and average noise levels, road and rail traffic, dust mitigation, road degradation, economic impact, decommissioning, public outreach and communication, and complaint resolution.⁸

Kentucky Municipal Energy disagreed with certain recommendations contained in the Harvey Report's proposed mitigation measures. The Harvey Report recommended "[t]he applicant shall maintain functional mufflers and engine shrouds on all trucks and engine-powered equipment."⁹ Kentucky Municipal Energy argued that these mitigation

⁶ Application, Section 2 Description of Proposed Site at 3.

⁷ Application, SAR at 9.

⁸ Harvey Report at 6-3 to 6-8.

⁹ Harvey Report at 6-5.

measures were “unnecessary, overly burdensome, and impractical to implement, particularly because the closest landowners with residential structures are supportive of the Project.”¹⁰

The Harvey Report also recommended “[t]he applicant, should limit the construction activity, process and deliveries to the hours of 8:00 a.m. to 5:00 p.m. Monday through Saturday.”¹¹ Kentucky Municipal Energy requested that the construction activities hours be expanded to 7 a.m. to 5 p.m. because, unlike a solar energy facility, the RICE plant will require a substantial amount of concrete for the foundation.¹² The foundation could require continuous concrete pours beyond 8 a.m. to 5 p.m. Kentucky Municipal Energy also stated that the landowners whose homes are the closest to the project have signed letters of support for the Project.¹³

The Harvey Report recommend that at “[t]he applicant file a final decommissioning plan with the Siting Board, or its successors, as well as Hopkins County and the City of Madisonville which complies with Kentucky Revised Statutes (KRS) 278.706(2)(m).” Kentucky Municipal Energy argued that a decommissioning plan was submitted when the application was filed.¹⁴

The Harvey Report recommend that “[t]he Applicant commit to the removal of all applicable Project components and required restoration activities.”¹⁵ Kentucky Municipal

¹⁰ Kentucky Municipal Energy’s Response to the Harvey Report at 2-5.

¹¹ Harvey Report at 6-5.

¹² Kentucky Municipal Energy’s Response to the Harvey Report at 4.

¹³ Kentucky Municipal Energy’s Response to the Harvey Report at 5.

¹⁴ Kentucky Municipal Energy’s Response to the Harvey Report at 5.

¹⁵ Harvey Report at 6-7.

Energy argued that pursuant to KRS 278.706(2)(m)(1)-(4), a landowner can mandate decommissioning requirements outside of those set forth in the statute. Here, Kentucky Municipal Energy argued that it is the landowner and therefore, can mandate decommissioning requirements separate of those set forth in the statute.¹⁶

The Harvey Report recommended that “[t]he bond amount should be reviewed and updated every five years at the expense of the Applicant to determine and update the cost of the facility removal.”¹⁷ Kentucky Municipal Energy argued that the Siting Board does not have jurisdiction of the Project after the facility begins to generate electricity for sale.¹⁸

The Harvey Report recommended that “[t]he Siting Board will determine whether the lack of local regulations regarding setbacks from the underground natural gas pipeline warrant further review of potential impacts under applicable portions of KRS 278.704 and KRS 278.706 (2)(e) as related to setbacks and a motion for deviation.”¹⁹ Kentucky Municipal Energy argued that KRS 278.704(2) should not be applied to underground gas pipeline.²⁰ Kentucky Municipal Energy explained it would be extremely difficult for cities in the Commonwealth of Kentucky with setback requirements to provide water, sewer or natural gas to houses in a subdivision if a utility company had to comply with setback requirements.²¹ Kentucky Municipal Energy argued that KRS 278.704 does not apply

¹⁶ Kentucky Municipal Energy’s Response to the Harvey Report at 6.

¹⁷ Harvey Report at 6-7.

¹⁸ Kentucky Municipal Energy’s Response to the Harvey Report at 6-7.

¹⁹ Harvey Report at 6-3.

²⁰ Kentucky Municipal Energy Response to the Harvey Report at 7-9.

²¹ Kentucky Municipal Energy Response to the Harvey Report at 7-9.

because the proposed natural gas transmission line is not a structure or facility used for the generation of electricity.²²

The Harvey Report recommended that “[t]he applicant will prepare, and submit to the Siting Board, a written vegetative screening plan, describing the types of trees, shrubs or other vegetation to be planted; identifying the location of new vegetative screening on the Project site; and outlining a plan for long-term vegetation maintenance.”²³ Kentucky Municipal Energy stated that it is agreeable to a written vegetative screening plan however the plan must be “purposeful.”²⁴ Kentucky Municipal Energy stated that the engine hall is likely to be 40 feet tall and the exhaust²⁵ stacks will be 100 feet tall and cannot be completely screened with vegetation.²⁶

The Harvey Report recommended that “[t]he applicant, should pursue additional public outreach and engagement activities with Hopkins County because of the limited attendance at the local public meeting and the likelihood that County residents may be unaware of the Project.”²⁷ Kentucky Municipal Energy argued that the public outreach and engagement that has already occurred is adequate.²⁸

The Harvey Report recommend that “[t]he applicant should work with local homeowners or business owners to address concerns related to impacts of the Project

²² Kentucky Municipal Energy Response to the Harvey Report at 7-9.

²³ Harvey Report at 6-4.

²⁴ Kentucky Municipal Energy Response to the Harvey Report at 10.

²⁵ Kentucky Municipal Energy Response to the Harvey Report at 10.

²⁶ Kentucky Municipal Energy Response to the Harvey Report at 10.

²⁷ Harvey Report at 6-8.

²⁸ Kentucky Municipal Energy’s Response to the Harvey Report at 12.

on property values via a complaint resolution process.”²⁹ Kentucky Municipal Energy stated that representatives from Kentucky Municipal Energy met with two landowners that are within 1,600 feet of the facility to provide additional information about the facility and to answer questions.³⁰ Both landowners have signed letters of support for the Project.³¹ Kentucky Municipal Energy also argued that the additional mitigation measure is not necessary because the Property Value Impact Analysis concluded that the merchant generating facility will have no impact on the value of adjoining or abutting properties.³²

The Harvey Report recommended “[t]he Texas Gas Transmission interconnection study should be submitted to the Siting Board upon completion.”³³ Kentucky Municipal Energy stated that the Texas Gas Transmission Interconnection study does not exist, and therefore, it cannot be provided to the Siting Board.³⁴

The Harvey Report recommended that “[t]he applicant, will submit the semi-annual monitoring reports required for compliance with emissions regulations to the Siting Board.”³⁵ Kentucky Municipal Energy argued that these reports are already required to be submitted to other regulatory agencies. Additionally, Kentucky Municipal Energy argued that the Siting Board does not have jurisdiction to regulate air quality.³⁶

²⁹ Harvey Report at 6-5.

³⁰ Kentucky Municipal Energy’s Response to the Harvey Report at 12.

³¹ Kentucky Municipal Energy’s Response to the Harvey Report at 12.

³² Kentucky Municipal Energy’s Response to the Harvey Report at 12.

³³ Harvey Report at 6-3.

³⁴ Kentucky Municipal Energy’s Response to Harvey Report at 13.

³⁵ Harvey Report at 6-5.

³⁶ Kentucky Municipal Energy’s Response to Harvey Report at 13.

Kentucky Municipal Energy argued that it should not have to submit an annual report on complaint resolution to the Siting Board because the Siting Board does not have jurisdiction of the Project after the facility begins to generate electricity for sale.³⁷

The Siting Board has reviewed the mitigation measures proposed by Kentucky Municipal Energy and in the Harvey Report, and finds that, in addition to those Kentucky Municipal Energy has initially proposed, the mitigation measures set forth in Appendix A to this Order and discussed throughout this Order are appropriate and reasonable because they achieve the statutory purpose of mitigating the adverse effects identified in the SAR and the Harvey Report in accordance with KRS 278.708.

Detailed Site Description

KRS 278.708(3)(a)(1–6) requires that the detailed site description in the SAR include a description of (1) surrounding land uses for residential, commercial, agricultural, and recreational purposes; (2) the legal boundaries of the proposed site; (3) proposed access control to the site; (4) the location of facility buildings, transmission lines, and other structures; (5) location and use of access ways, internal roads, and railways; and (6) existing or proposed utilities to service the facility.

Kentucky Municipal Energy submitted the required SAR with its application.³⁸ The SAR contained a preliminary site layout.³⁹ The site layout included existing roads, existing railroads, proposed project component locations, proposed substation location,

³⁷ Kentucky Municipal Energy's Response to the Harvey Report at 14.

³⁸ Application, SAR.

³⁹ Application, SAR, Appendix E.

proposed transmission line route, rights-of-ways, and proposed access point.⁴⁰ An additional map was provided which depicted the proposed natural gas pipeline route.⁴¹ All trees are projected to be removed from the site accounting for a total of 8.3 acres of cleared trees.⁴² Kentucky Municipal Energy anticipates having a landscaped sign at the plant entrance in compliance with the city's ordinance to be maintained by a lawn maintenance contractor.⁴³ Limited small trees (less than 25-foot mature height) are planned between the east-west perimeter road and the south fence pending approval and clearance with local utilities.⁴⁴ A legal description of the boundaries of the 13.5-acre plant site were provided as part of the SAR.⁴⁵ A legal description of the 9.5-acre substation site was provided in response to the Siting Board's first request for information.⁴⁶

Project infrastructure on the Plant Site will include four reciprocating internal combustion⁴⁷ engines (RICE), associated exhaust and venting structures, radiators, two step-up transformers, and an underground natural gas pipeline.⁴⁸ A 69 kV generator lead line owned by Kentucky Municipal Energy will connect the Plant to the Substation and a 69 kV line owned by LG&E/KU will connect the Substation to the existing 69 kV

⁴⁰ Application, SAR, Appendix E.

⁴¹ Application, SAR, Appendix F.

⁴² Kentucky Municipal Energy's Responses to Staff's First Request for Information, Item 20.

⁴³ Kentucky Municipal Energy's Responses to Staff's First Request, Item 19.

⁴⁴ Kentucky Municipal Energy's Responses Staff's First Request, Item 19.

⁴⁵ Application, SAR, Appendix C.

⁴⁶ Kentucky Municipal Energy's Responses Staff's First Request, Item 5.

⁴⁷ Harvey Report at 2-1 references "combusting" but the correct terminology is "combustion".

⁴⁸ Harvey Report at 2-1.

transmission lines running along the south side of A C Slaton Road and the west side of Bean Cemetery Road.⁴⁹ This lead line extension will extend approximately 500 feet from the high side of the two main power transformers located on the south extent of the plant site across the railway and running to the east to the new substation to be owned by LG&E/KU.⁵⁰ An operations and maintenance (O&M) area will also be located onsite.⁵¹

Plant construction site access will be controlled by the Christman Company, the engineering, procurement, and construction contractor and consultant acting as Kentucky Municipal Energy's owner engineer.⁵² Substation construction site access will be controlled by the party constructing the substation and consultant acting as Kentucky Municipal Energy's Owner engineer.⁵³ Gas pipeline construction site access will be controlled by the gas line construction company, the city of Madisonville public works department, and consultant acting as Kentucky Municipal Energy's Owner engineer.⁵⁴ Plant operations site access will be controlled by Kentucky Municipal Energy plant personnel.⁵⁵ Substation operations site access will be controlled by LG&E/KU.⁵⁶ Gas meter station access will be controlled by Texas Gas Transmission. Gates will be locked

⁴⁹ Application, page 3.

⁵⁰ Application, page 3.

⁵¹ Harvey Report at 2-1.

⁵² Kentucky Municipal Energy's Responses to Staff's First Request, Item 16.

⁵³ Kentucky Municipal Energy's Responses to Staff's First Request, Item 16.

⁵⁴ Kentucky Municipal Energy's Responses to Staff's First Request, Item 16.

⁵⁵ Kentucky Municipal Energy's Responses to Staff's First Request, Item 16.

⁵⁶ Kentucky Municipal Energy's Responses to Staff's First Request, Item 16.

outside of construction working hours.⁵⁷ During operation, plant site access will be by a gated security fence which will be monitored and operated from the plant control room or by card access after the plant is operational.⁵⁸ During operation of the plant, the substation will be unmanned except for maintenance and access will be via locked gate.⁵⁹ The gas line meter station will be unmanned except for maintenance and access will be via locked gate.⁶⁰ The perimeter fence design will meet any National Electrical Safety Code (NESC) requirements.⁶¹ The switchyard permanent fencing will be installed before the switchyard medium and high voltage equipment is energized and will meet NESC requirements.⁶²

The anticipated hazard detection systems include fire alarm system, heat sensing system, engine hall fire eyes, gas detection equipment, supervisory and data acquisition controls. All systems are integrated into the plant control system and have the ability to report outside the power plant.⁶³ The hazard detection system will alarm in the plant control room which will be continuously staffed. The plant operator on duty will be responsible for notifying emergency personnel.⁶⁴ Electric power required during construction and operation of the Project will be provided via the transmission line through

⁵⁷ Kentucky Municipal Energy's Responses to Staff's First Request, Item 15.

⁵⁸ Kentucky Municipal Energy's Responses to Staff's First Request, Item 15.

⁵⁹ Kentucky Municipal Energy's Responses to Staff's First Request, Item 15.

⁶⁰ Kentucky Municipal Energy's Responses to Staff's First Request, Item 15.

⁶¹ Kentucky Municipal Energy's Responses to Staff's First Request, Item 18.

⁶² Kentucky Municipal Energy's Responses to Staff's First Request, Item 18.

⁶³ Kentucky Municipal Energy's Responses to Staff's First Request, Item 24.

⁶⁴ Kentucky Municipal Energy's Responses to Staff's First Request, Item 25.

the substation, with a secondary connection to city of Madisonville distribution infrastructure that is currently running through the plant site.⁶⁵ Water to meet domestic potable water demand, plant service water, and the plant fire water loop will be provided by the city of Madisonville.⁶⁶ Wastewater will be pumped to the city of Madisonville Wastewater Treatment Plant. Gas to serve the plant will be provided by Texas Gas via the constructed natural gas pipeline.⁶⁷

The Project anticipates use of the Paducah and Louisville (PAL) railway for delivery of several large project components to a spur located north of the project site. There are multiple rail crossings along the identified routes to access the site for construction, deliveries, and operation.⁶⁸ Local roads are generally paved, two-lane roads, without shoulders present. Traffic stoppages will only be required for delivery of the RICE engines and main power transformers.⁶⁹ Kentucky Municipal Energy has committed to surveying the conditions of local roads before and after project construction to assess for and fix damage caused by their vehicles.⁷⁰

The Project site is generally located among former coal mine properties, as well as agricultural and industrial properties, including the Madisonville Wastewater Treatment plant located directly west of the Project site.⁷¹ The site is relatively flat and is generally

⁶⁵ Harvey Report at 2-2.

⁶⁶ Harvey Report at 2-2.

⁶⁷ Harvey Report at 2-2.

⁶⁸ Harvey Report at 2-6.

⁶⁹ Harvey Report at 2-5.

⁷⁰ Harvey Report at 2-5.

⁷¹ Harvey Report at 2-3.

surrounded by vegetation.⁷² An inactive mining operation is located to the south of the site, and the Hopkins County Construction and Demolition Landfill is located less than one mile northeast of the Project site.⁷³ The land surrounding the natural gas pipeline includes large-lot residential properties and agricultural uses.⁷⁴ The Project site is located on the west side of the city of Madisonville, the Hopkins County seat, which offers a mix of commercial activities.⁷⁵

Given the rural nature of the area, only three homes are located within 2,000 feet of the Project site.⁷⁶ Based on the current site plan the closest and adjoining home will be 765 feet from the closest part of the facility.⁷⁷ There are no residential neighborhoods within 2,000 feet of the facility.⁷⁸ Adjoining land use consists of 92 percent agricultural, 3.09 percent agricultural/residential, 0.42 percent residential, and 4.49 percent industrial.⁷⁹ The Project does not have any public/private parks, schools, hospitals, or nursing home facilities within 2,000 feet from facilities to be used for generation of electricity.⁸⁰

⁷² Harvey Report at 2-3.

⁷³ Harvey Report at 2-3.

⁷⁴ Harvey Report at 2-3.

⁷⁵ Harvey Report at 2-3.

⁷⁶ Harvey Report at 3-5.

⁷⁷ Application, SAR, Appendix A at 4.

⁷⁸ Application at 3.

⁷⁹ Application, SAR, Appendix A at 4.

⁸⁰ Application, Attachment A.

Having reviewed the record of this proceeding, the Siting Board finds that Kentucky Municipal Energy has complied with the requirements for describing the facility and a site development plan as required by KRS 278.708. However, the Siting Board finds that it is necessary to impose specific mitigation measures and requirements related to the description of the facility and the proposed site development plan. The Siting Board will require that Kentucky Municipal Energy keep the Siting Board apprised of changes throughout the development of the Project and, as such, will order Kentucky Municipal Energy to provide a final site plan before the commencement of construction. The final site plan should indicate any change, including those to the design and boundaries of the Project, from the proposed site plan provided to the Siting Board during the pendency of this matter. Furthermore, based on the findings and proposals of the Harvey Report, the Siting Board finds that additional mitigation measures are required. These mitigation measures are outlined in Appendix A to this Order and, in particular, mitigation measures 1 through 9.

Compatibility with Scenic Surroundings

The proposed Project is located on a former coal mine, as well as on agricultural and industrial property.⁸¹ The project facility is industrial in nature, and the facility will adjoin the Madisonville Wastewater Treatment plant.⁸² The site is relatively flat and is generally surrounded by vegetation. Land surrounding the natural gas pipeline includes large lot residential properties and agricultural uses.⁸³ Kentucky Municipal Energy

⁸¹ Harvey Report at 2-3.

⁸² Application, SAR at 5 and Harvey Report at 2-3.

⁸³ Harvey Report at 2-3.

anticipates that vegetative screening along the fence lines of the substation site, with the exact location yet to be determined.⁸⁴

Harvey also reviewed the effect on the surroundings and concluded the facility would be compatible with scenic surroundings due to the rural location, existing vegetation, the distances between the Project components and nearby residences, and other industrial uses in the area.⁸⁵ The Harvey Report noted that the site is relatively remote, with few residents or drivers along local roads, reducing the extent of visual impacts.⁸⁶ Further, the Harvey Report stated that the underground natural gas pipeline will not be visible to residents or drivers in the area once it is constructed.⁸⁷ The Harvey Report concluded that the proposed facility is compatible with the scenic surroundings.⁸⁸

Having reviewed the record, the Siting Board finds that, due to the location of the proposed facility and given its industrial nature, the location will mitigate the effects of the proposed facility on the scenic surroundings of the site. The proposed vegetative buffer, along with other mitigation measures proposed by Kentucky Municipal Energy and Harvey, will minimize the effect that the proposed facility will have on the scenic surroundings of the site. However, the Siting Board will require mitigation measures, in addition to those proposed by Kentucky Municipal Energy. Those are set forth in Appendix A to this Order and, in particular mitigation measures 10 through 13.

⁸⁴ Harvey Report at 2-3.

⁸⁵ Harvey Report, at 2-4.

⁸⁶ Harvey Report at 5-7.

⁸⁷ Harvey Report at 5-7.

⁸⁸ Harvey Report at 5-7.

Impact on Property Values

Kentucky Municipal Energy submitted a property value impact report conducted by Kirkland Appraisals (Kirkland Report), a certified real estate appraiser.⁸⁹ The Kirkland Report found that, based upon a comparative analysis, the proposed RICE facility will not negatively impact the value of adjoining or abutting properties.⁹⁰ The report indicated that the RICE facility would function in a harmonious manner with the nearby surroundings.⁹¹

Harvey conducted further analysis of the data provided by the Kirkland Report.⁹² Harvey reviewed different studies related to the value of property near a natural gas facility and pipelines and found that the overall conclusion of those studies was that natural gas facilities do not negatively impact property values.⁹³ Potential impacts would stem from visibility, noise, traffic, emissions or other project characteristics.⁹⁴ Harvey also met with Hopkins County Property Value Administrator, Joe Blue, who indicated that he does not expect the Kentucky Municipal Energy project to have any impact on local property values.⁹⁵ Harvey also met with the Hopkins County Judge Executive. The judge executive stated that he did not anticipate an impact to the local property values but was concerned about the cumulative noise effects.⁹⁶ Harvey concluded that the current

⁸⁹ Application, SAR, Appendix A.

⁹⁰ Application, SAR, Appendix A at 1.

⁹¹ Application, SAR, Appendix A at 1.

⁹² Harvey Report at 5-11-5-13.

⁹³ Harvey Report at 2-4.

⁹⁴ Harvey Report at 2-4.

⁹⁵ Harvey Report at 5-11.

⁹⁶ Harvey Report at 5-11.

research indicates that the existence of natural gas facilities including pipelines have little to no impact on property values related to proximity.⁹⁷

Having reviewed the record, the Siting Board finds that there is sufficient evidence to conclude that the proposed Kentucky Municipal Energy project will not have any significant adverse impact on nearby property values. The characteristics of the merchant generating facility operations are passive, and the facility will be temporary, with the land returned to its natural state after a few decades of operation. This facility will produce noise and hazardous material which can be addressed through setbacks. This facility does not produce water pollution, nor does it create any traffic issues during operations.

Anticipated Noise Level

Kentucky Municipal Energy's acoustical study was performed by Power Acoustics, Inc. (PAI).⁹⁸ PAI used representative noise level benchmarks from U.S. Environmental Protection Agency, American National Standards Institute and the World Health Organization (WHO).⁹⁹ PAI used six monitoring locations around the RICE facility.¹⁰⁰ PAI found that the existing lowest sound levels range between 25-33 dB(A) and the existing average sound levels over the entire three day measurement period (June 23-25, 2024) ranged between 47-62 dB(A).¹⁰¹

⁹⁷ Harvey Report at 2-4.

⁹⁸ Application, SAR, Appendix G.

⁹⁹ Application, SAR, Appendix G at 14-16.

¹⁰⁰ Application, SAR, Appendix G at 4. M-1 through M-4 were representative of framed residential structures. M-5 was a small hunting cabin and M-6 is a residential mobile/manufactured home.

¹⁰¹ Application, SAR, Appendix G at 1 and 3.

PAI estimated that sound levels would be highest during the construction phase of the project. Anticipated construction hours are 7 a.m.–5 p.m.¹⁰² At the property line, PAI estimated the maximum and average level would be about 82 dB(A) max / 72 dB(A) average during the site balancing and underground utilities work.¹⁰³ Once the pre-engineered metal building is completed, the maximum and average sound levels decrease to 77 dB(A) max/67 dB(A).¹⁰⁴

For the RICE facility's operational phase, PAI employed two noise abatement options: a Base Option with minimal noise abatement and a Low Noise Option.¹⁰⁵ The Low Noise Option resulted in about a 20 dB(A) reduction in noise relative to the minimally silenced Base Option.¹⁰⁶ In addition, PAI estimates that the Low Noise Option will allow the RICE facility to comply with the property line noise requirement of 70 dB(A).¹⁰⁷ PAI estimated that with the Low Noise Option, sound levels ranged between 37-54 dB(A) with

¹⁰² Application, SAR, Appendix G at 24. In addition to construction hours, a list of the anticipated construction equipment and noise levels was provided in Table 8.1 and Appendix C of the report.

¹⁰³ Application, SAR, Appendix G at 2.

¹⁰⁴ Application, SAR, Appendix G at 2. Sound levels at the nearest residential use property were estimated to be about 12 dB(A) quieter than at the property line. Also see Kentucky Municipal Energy's Responses to Staff's Second Request, Item 28. Kentucky Municipal Energy filed an addendum to PAI's initial report providing additional detail on noise emanating from construction equipment and noise from pipeline and substation construction.

¹⁰⁵ Application, SAR, Appendix G at 1. For the purposes of the study, PAI assumed that the RICE units would be operating at full load and all cooling fans and equipment running at maximum speeds and loads.

¹⁰⁶ Application, SAR, Appendix G, Table 2.1 at 2.

¹⁰⁷ Application, SAR, Appendix G at 1. Also, the RICE facility is estimated to be below the WHO's daytime noise criteria of 50 dB(A) for framed houses as well as the Federal Energy Regulatory Commission's (FERC's) recommended criteria of 55 dB(A).

the highest level at monitoring location M-6.¹⁰⁸ Kentucky Municipal Energy confirmed that the RICE facility will utilize the Low Noise Option design for noise abatement.¹⁰⁹

There are two residences within 2,000 feet of the property boundary: L-6 is the mobile / manufactured home (approximately 800 feet) and L-5 is the hunting cabin (1,600 feet). During the construction phase in a worst-case noise scenario, L-6 could experience a sound level of 69.5 dB(A), and L-5 could experience 63.5 dB(A).¹¹⁰

Harvey evaluated the PAI report and concluded that the construction phase of the project would produce the highest sound levels, which could prove troublesome during daylight hours.¹¹¹ In addition, noise from the project components is expected to result in small if any increases to the local ambient sound environment.¹¹² Finally, the remote project location and existing vegetation will help mitigate noise emissions caused by construction and operational components of the project.¹¹³ Harvey recommended six mitigation measures including: (1) the development of a complaint resolution process; (2) notification of all residences and businesses within 2,000 feet of the project boundary

¹⁰⁸ Application, SAR, Appendix G, Table 2.1 at 2.

¹⁰⁹ Kentucky Municipal Energy's Responses to Staff's First Request, Item 78. See also Application, SAR, Appendix G, Table 7.5 at 23, Kentucky Municipal Energy's Responses to Staff's First Request, Item 81 and Harvey Report at 5-12. The building housing the RICE units will be designed with ceiling and wall insulation, low noise design radiators, and the units themselves will be provided with silencers on the building air intake fans, exhaust stacks, and the ridge vents.

¹¹⁰ See Kentucky Municipal Energy Application, Appendix G, Table 7.5 at 23 and Kentucky Municipal Energy's Responses to Staff's First Request, Item 85. Note that between the two sites, M-5 and M-6 are the same as L-5 and L-6 respectively. There is a slight discrepancy between the distances from the facility to the nearest home. See Kentucky Municipal Energy's Responses to Staff's Second Request, Item 29 where the nearest home (house trailer is approximately 800 feet from the equipment on the plant site. However, the Application Section 2 at 3 states that the nearest home will be 765 feet from the facility.

¹¹¹ Harvey Report, 5-22-5-23.

¹¹² Harvey Report, 5-23.

¹¹³ Harvey Report, 5-22-5-23.

about construction plans; (3) noise and mitigation plans within one month prior to construction; (4) construction activity limited to the hours of 8 a.m. to 5 p.m. Monday through Saturday mitigating plant and substation construction noise for the single resident closest to the construction site; (5) maintain engine shrouds and mufflers on trucks and engine powered equipment; and (6) implement noise mitigating policies for truck and equipment operators.¹¹⁴

In Kentucky Municipal Energy's response to Harvey's recommendation to limit the construction work hours to 8 a.m. to 5 p.m., Monday through Saturday, it argued that the nature of the project including the pouring of concrete foundations to support the RICE units may require longer work hours.¹¹⁵ Kentucky Municipal Energy also argued that implementing the semi-tractor and canvas method or other method during construction for the single nearest residence was cumbersome and unnecessary.¹¹⁶ Kentucky Municipal Energy requested that the Siting Board accept its proposed work hours of 7 a.m. to 5 p.m. Monday through Friday only deviating when necessary, and to not implement to additional noise mitigation measures for the single nearest residence.¹¹⁷ Finally, Kentucky Municipal Energy met with the nearest two residents, explaining and providing additional information about the project and answer any questions.¹¹⁸ Kentucky Municipal Energy acknowledged that construction and operation of the project could create additional noise or other impacts and committed to working with the landowners to

¹¹⁴ Harvey Report, 5- 23.

¹¹⁵ Kentucky Municipal Energy's Response to the Harvey Report at 4.

¹¹⁶ Kentucky Municipal Energy's Response to the Harvey Report at 3-4.

¹¹⁷ Kentucky Municipal Energy's Response to the Harvey Report at 5.

¹¹⁸ Kentucky Municipal Energy's Response to the Harvey Report at 5.

address future concerns.¹¹⁹ Neither landowner expressed concerns about a 7 a.m. start time or the rare instance of tasks occurring outside a 7 a.m. to 5 p.m. work window.¹²⁰ Both landowners signed letters of support for the project, included as attachments to the brief, further demonstrating its arguments that Harvey's construction noise mitigation and construction hours limitation are unnecessary.¹²¹

Based on the case record, the Siting Board finds that Kentucky Municipal Energy's application is in compliance with the statutory requirements in disclosing noise levels. However, the Siting Board further finds that based on the entire record, to ensure the impact of construction noise does not unduly impact nearby residents, Kentucky Municipal Energy will be required to implement specific mitigation measures to ensure the impact of construction noise does not unduly impact nearby residents. Unlike other Siting Board projects, pile driving will not be utilized during construction. These mitigation measures are further outlined in Appendix A to this Order and, in particular, mitigation measures 14 through 19.

Impact on Roads, Railways, and Fugitive Dust

Construction is anticipated to take 27 months.¹²² The project site will have primary access points along US 69, AC Slanton Road, and Bean Cemetery Road.¹²³ Kentucky

¹¹⁹ Kentucky Municipal Energy's Response to the Harvey Report at 5.

¹²⁰ Kentucky Municipal Energy's Response to the Harvey Report, Exhibit A.

¹²¹ Kentucky Municipal Energy's Response to the Harvey Report at 5.

¹²² Kentucky Municipal Energy's Response to Staff's First Request, Item 6.

¹²³ Harvey Report at 5-24.

Municipal Energy does not anticipate any change to the operational level of the surrounding roads during the construction of the project.¹²⁴

During the operational phase of the project, there will be limited staff members working on rotating shifts and, with the occasional maintenance and repair, Harvey stated there would be little to no impact on traffic is expected during operations.¹²⁵

Harvey found there would be noticeable increases in traffic volumes on local roads during the construction phase partially due to the low amount of traffic on the local roads prior to construction, making any increase in traffic noticeable.¹²⁶ Harvey also indicated that the narrow roads and lack of shoulders on several roads in the project area will require drivers to pull over to pass and increase inconvenience to local residents during the construction period.¹²⁷

The Siting Board finds that traffic and road degradation issues can be addressed with Kentucky Municipal Energy's mitigation measures, the additional mitigation measures proposed by Harvey, and those mitigation measures set forth in Appendix A to this Order and in particular, mitigation measures 20 through 27.

A railroad owned by CSX Rail runs northeast to southwest through the eastern half of the project area.¹²⁸ The natural gas line will cross underneath the railway track

¹²⁴ Application, Appendix H at 1.

¹²⁵ Harvey Report at 5-30.

¹²⁶ Harvey Report at 5-33.

¹²⁷ Harvey Report at 5-33.

¹²⁸ Kentucky Municipal Energy's Responses to Staff's Second Request, Item 53, Attachment 2-53, Critical Issues Analysis at 5-12.

potentially affecting the service to that segment of railway.¹²⁹ If train traffic disruptions occur, they are not expected to last longer than four hours in duration.¹³⁰ PAL Railway will be used for delivery of the four RICE engines and transformers from Houston, Texas to Madisonville, Kentucky.¹³¹ The engines will then be moved to the project site by utilizing specialized hydraulic platform trailers known as Goldhofer.¹³² Due to the potential impact on the railway the Siting Board will find that additional mitigation measures set forth in Appendix A to this Order and in particular, mitigation measures 28 through 30.

The Siting Board anticipates some fugitive dust from the construction phase. The Harvey Report recommended that best practice management practices such as covering disturbed areas with a gravel base and the application of water, as necessary.¹³³ The mitigation measures found in Appendix A to this Order address fugitive dust.

The Siting Board requires additional mitigation measures to reduce any potentially harmful effects on the area, which are outlined in Appendix A to this Order. The Siting Board will require Kentucky Municipal Energy to inform the Siting Board and the Energy and Environment Cabinet (EEC) of the date construction will commence, 30 days prior to said date, to ensure the proper permits have been obtained and that proper steps have been taken to comply with the mitigation measures set forth in Appendix A to this Order.

¹²⁹ Harvey Report at 5-30.

¹³⁰ Harvey Report at 5-30.

¹³¹ Kentucky Municipal Energy's Responses to Staff's Second Request, Item 35 and Harvey Report at 5-28.

¹³² Kentucky Municipal Energy's Responses to Staff's Second Request, Item 69.

¹³³ Harvey Report at 5-28.

II. KRS 278.710(1) Criteria

In addition to the evaluation of the factors addressed in the SAR, the Siting Board considered the below described factors set forth in KRS 278.710(1) in rendering its decision.

Economic Impact on Affected Region and the State

Kentucky Municipal Energy's economic impact report discusses the proposed RICE facility in Madisonville, Kentucky and its investment into the surrounding Hopkins County, Kentucky economy.¹³⁴ The projected local total investment is \$130 million exclusive of financing costs and includes site preparation, plant construction, electric equipment purchases, installation, landscaping, and fencing.¹³⁵ Depending upon the final configuration of the LG&E/KU substation, it could add between \$5 -\$15 million to the final construction cost.¹³⁶ The project will have two phases: a construction phase which is estimated to be approximately two years and an operations phase which will last the remaining life of the project.¹³⁷ According to the report, the project is expected to generate positive economic and fiscal impacts to Hopkins County, Kentucky over the life of the project. Such impacts include the creation of over one hundred temporary construction jobs and 49 permanent jobs as well as the expansion of the local tax base.¹³⁸

¹³⁴ Application, SAR, Attachment H.

¹³⁵ Application, SAR, Attachment H at 7.

¹³⁶ Harvey Report, 5- 35. Also see Kentucky Municipal Energy's Response to Staff's First Request, Item 96. The \$130 million investment includes the cost of the plan, the natural gas transmission line and Kentucky Municipal Energy's portion of the substation costs. LG&E/KU will bear 85-90 percent of the substation and switching station costs.

¹³⁷ Application, SAR, Attachment H at 7.

¹³⁸ Application, SAR, Attachment H at 1 and Harvey Report 5-36-5-37.

Kentucky Municipal Energy’s report used the IMPLAN model used for the economic impact analysis focused on Hopkins County, Kentucky.¹³⁹ The total economic impact of the construction phase is shown below.¹⁴⁰

Economic Impact of Construction Phase, Hopkins County				
Impact	Employment	Labor Income	Value Added	Output
Direct	82.9	\$14,127,924	\$21,551,987	\$34,572,292
Indirect	11.1	\$1,326,957	\$2,529,726	\$4,772,181
Induced	17.1	\$2,092,473	\$3,990,706	\$6,930,466
Total	111.2	\$17,547,354	\$28,072,419	\$46,274,938

During the project construction phase, Kentucky Municipal Energy estimates that approximately 83 temporary, full-time jobs will be created over the construction period with a direct payroll of approximately \$14.1 million.¹⁴¹ The indirect and induced economic impacts are estimated to contribute another 28 jobs with an additional \$3.4 million in payroll.¹⁴² The total economic impact of the construction phase is estimated to be 111 total full-time equivalent jobs in Hopkins County with a new payroll of \$17.55 million. Including the value added in Hopkins County from the labor impact totals \$28.7 million for a total economic impact of \$46.3 million.¹⁴³ Kentucky Municipal Energy intends to hire as many local workers in the operations phase of the project as possible, well as locally

¹³⁹ Application, SAR, Attachment H at 6.

¹⁴⁰ Application, SAR, Attachment H at 7.

¹⁴¹ Application, SAR, Attachment H at 7.

¹⁴² Application, SAR, Attachment H at 7.

¹⁴³ Application, SAR, Attachment H at 7. Also see Kentucky Municipal Energy’s Responses to Staff’s Second Request, Items 42 and 43.

qualified workers through the EPC contractor and subcontractors chosen for the project.¹⁴⁴

The economic impact of the ongoing operations phase of the project is shown in the table below.¹⁴⁵

Annual Economic Impact of Operations Phase, Hopkins County				
Impact	Employment	Labor Income	Value Added	Output
Direct	15.0	\$1,692,000	\$8,441,060	\$18,891,884
Indirect	23.8	\$1,263,156	\$3,384,781	\$7,357,138
Induced	10.0	\$372,222	\$708,900	\$1,231,583
Total	48.8	\$3,327,378	\$12,534,741	\$27,480,605

The ongoing operational phase of the project is expected to directly support 15 jobs with a payroll of \$1.7 million.¹⁴⁶ The indirect and induced economic impacts will add another 34 jobs with an additional labor income of \$1.6 million for a total employment of 49 jobs. Including the value added from the labor income brings a total economic impact from ongoing operations to approximately \$27.48 million.¹⁴⁷

Kentucky Municipal Energy stated that, as a joint public agency, it is exempt from paying property taxes.¹⁴⁸ However, Kentucky Municipal Energy and the city of Madisonville, Kentucky have agreed to an annual Payment in Lieu of Taxes (PILOT) of \$100,000 as an offset for city services. Kentucky Municipal Energy will pay the city for its

¹⁴⁴ Doug Buresh Hearing Video Testimony (HVT) of Feb. 19, 2025 hearing at 09:35:11-09:36:43.

¹⁴⁵ Application, SAR, Attachment H at 8.

¹⁴⁶ Application, SAR, Attachment H at 8.

¹⁴⁷ Application, SAR, Attachment H at 8.

¹⁴⁸ Application, SAR, Attachment H at 1 and 9.

utility services once the plant begins operation.¹⁴⁹ The city of Madisonville levies a 2.5 percent occupational tax and Hopkins County levies an additional 0.5 percent occupational tax. Based on a direct payroll of \$14.1 million, the city and County Fiscal Court will receive an increase of about \$424,000 over the construction phase. Over the operational project phase, the city and County Fiscal Court will receive an additional \$51,000 annually.¹⁵⁰

Harvey evaluated the economic impact of the project.¹⁵¹ Based upon its review and analysis, Harvey concluded that the project will provide positive economic effects to the Madisonville, Kentucky and Hopkins County, Kentucky during the construction and operations phases of the project.¹⁵² Harvey recommended that Kentucky Municipal Energy should attempt to hire local qualified labor and to consider ways to optimize local benefits by purchasing in the local area.¹⁵³

Having reviewed the record, the Siting Board finds that the Kentucky Municipal Energy's facility will have a positive economic impact on the region.

Existence of Other Generating Facilities

Kentucky Municipal Energy indicated that one location was identified where

¹⁴⁹ Application, SAR, Attachment H at 9 and HVT of Feb. 19, 2025 Hearing, Doug Buresh at 09:56:06-09:56:22.

¹⁵⁰ Application, SAR, Attachment H at 9. *Also see* Kentucky Municipal Energy's Response to Staff's First Request, Item 100. LG&E/KU's substation is classified as manufacturer's machinery, which is exempt from local property taxes, but is subject to a state manufacturer tax of 0.15 percent. The Commonwealth of Kentucky could receive between \$7,500 and \$22,500 annually in property taxes. The land upon which the substation resides is also subject to local and state property taxes and will generate less than \$1,000 annually.

¹⁵¹ Harvey Report at 5-34-5-38.

¹⁵² Harvey Report at 5-38.

¹⁵³ Harvey Report at 5-38.

existing electric generating facilities were located.¹⁵⁴ However, it was determined that the site was not as feasible as because Owensboro Municipal Utilities wanted to reserve the site for a potential plant of its own.¹⁵⁵ The project will interconnect to a gas transmission line operated by the Texas Gas Transmission Company that is located one mile east of the project site.¹⁵⁶ Kentucky Municipal Energy will construct the gas line to interconnect the project with the Texas Gas transmission line at their own expense.¹⁵⁷

Local Planning and Zoning Requirements

The city of Madisonville does have Planning and Zoning. The city of Madisonville has adopted an ordinance governing setback requirements.¹⁵⁸ Kentucky Municipal Energy stated it will comply with the setback resolution and any other local ordinances that are applicable.¹⁵⁹ Kentucky Municipal Energy has received a variance from the Hopkins County Fiscal Court related to the height of the exhaust stacks.¹⁶⁰

Impact on Transmission System

This project is located within the territory of LG&E/KU.¹⁶¹ Kentucky Municipal Energy Agency submitted a Generation Interconnection Request on February 21,

¹⁵⁴ Application at 10.

¹⁵⁵ Application at 10.

¹⁵⁶ Application at 10.

¹⁵⁷ Application at 10.

¹⁵⁸ Application at 7

¹⁵⁹ Application at 6.

¹⁶⁰ Kentucky Municipal Energy Post Hearing Brief (filed Feb. 26, 2025).

¹⁶¹ Application at 12.

2024.¹⁶² A provisional System Impact Study was completed in December 2024.¹⁶³ The Interim Transitional Cluster Study Report will not be complete until May 2025.¹⁶⁴ Kentucky Municipal Energy Agency will be initiating a Facilities Study Agreement to study electric substation configuration alternatives.¹⁶⁵ The Facilities Study will not begin until the Cluster Study Report has been completed.¹⁶⁶

Based upon the case record, the Siting Board finds that Kentucky Municipal Energy has satisfied the requirements of KRS 278.710(f), and that the additional load imposed upon the electricity transmission system by the generation of electricity at the Kentucky Municipal Energy facility will not adversely affect the reliability of service for retail customers of electric utilities regulated by the Kentucky Public Service Commission. This finding is based upon Kentucky Municipal Energy's commitment to the interconnection process and protocols consistent with the requirements of KRS 278.212.

Compliance with Setback Requirements

Hopkins County does have Planning and Zoning. The Project site is in the Madisonville city limits and is zoned General Industrial.¹⁶⁷ The project is subject to local setback requirements. Therefore, Kentucky Municipal Energy did not request a deviation from the statutory setback requirements described in KRS 278.704 for the project.¹⁶⁸

¹⁶² Application at 12.

¹⁶³ Kentucky Municipal Energy Agency Responses to Staff's Second Request, Item 22.

¹⁶⁴ Kentucky Municipal Energy Agency Responses to Staff's Second Request, Item 22.

¹⁶⁵ Kentucky Municipal Energy Agency Responses to Staff's Second Request, Item 22.

¹⁶⁶ Application at 12.

¹⁶⁷ Application at 6.

¹⁶⁸ Notice of Intent (filed Sept. 3, 2024).

Pursuant to Title XV §156.031 of the Madisonville, Kentucky Code of Ordinances, the following setback requirements have been established for the project: 20 feet from the front of the project, 25 feet per site, 25 feet rear.¹⁶⁹ On February 26, 2025, Kentucky Municipal Energy filed a post hearing brief. Kentucky Municipal Energy stated that a variance from the Madisonville Board of Adjustments was obtained which permits the projects stacks to be 100 feet tall instead of the 75 feet limited that is provided for in the zoning ordinance.¹⁷⁰ Kentucky Municipal Energy has agreed to abide all local ordinances and regulations comply with the setbacks.¹⁷¹

It should be noted that this Project is not a solar generating facility but a more traditional merchant generating facility. As such, the setbacks applied to this case will be different from the solar generating cases that have recently often come before the Siting Board. The Siting Board finds that the Project, as proposed, appears to comply with the Madisonville local ordinances. Nevertheless, the Siting Board finds that Kentucky Municipal Energy shall not place the Engine Hall closer than 800 feet from a residence, church or school. The Siting Board finds that the exhaust stacks shall not be placed closer than 1,000 feet from a residence, church or school. The Siting Board also finds that the substation shall not be placed no closer than 250 feet from a residence, church or school. The Siting Board recognizes that these setbacks deviate from prior setbacks ordered because this is a merchant electric generating facility utilizing natural gas and RICE engines. The Siting Board finds these setbacks are reasonable considering all the facts

¹⁶⁹ Application at 6.

¹⁷⁰ Kentucky Municipal Energy's Post Hearing Brief.

¹⁷¹ Application at 6 and Attachment C.

and circumstances of this particular case. Exceptions to these setbacks requirements for participating landowners are included in Appendix A, mitigation measure 18.

History of Environmental Compliance

In the application, Kentucky Municipal Energy stated that it has not violated any environmental laws, rules, or administrative regulations that resulted in criminal confiscation, or a fine greater than \$5,000.¹⁷²

Transfer of Ownership

Merchant generating developments are often sold to other companies during the planning, construction, and operation of projects. When a construction certificate for a merchant generating facility is sought, the project and the developers are thoroughly evaluated to ensure that the Project will comply with all statutory and regulatory requirements. After review, the construction certificate is conditionally granted on the condition of full compliance with all mitigation measures, some of which continue into the operation of the project. As noted in the preceding section, the Siting Board not only reviews the history and abilities of the person¹⁷³ seeking the certificate, but also the entities that have an ownership interest in the Project. Kentucky Municipal Energy will employ the persons responsible for compliance with the construction certificate during construction and the persons responsible for the continued compliance during operations.¹⁷⁴ Kentucky Municipal Energy does have the managerial, technical, and

¹⁷² Application at 14 and HVT of February 19, 2025 hearing, Doug Buresh at 09:52:58-09:53:11.

¹⁷³ KRS 278.700(3) defines a person as any individual, corporation, public corporation, political subdivision, governmental agency, municipality, partnership, cooperative association, trust, estate, two (2) or more persons having a joint or common interest, or any other entity.

¹⁷⁴ HVT of the February 19, 2025 hearing, Doug Buresh Testimony at 09:34:13-09:34:55.

financial capability necessary to construct and operate the facility and to comply with the conditions required herein. The Siting Board will require approval of the transfer of ownership or control of Kentucky Municipal Energy, to the person seeking the construction certificate in this matter. The Siting Board is tasked with the responsibility of ensuring Kentucky Municipal Energy's ongoing compliance with the measures required herein and are adhered to throughout the life of the Project. To be clear, this condition does not apply to the actual transfer of the facility, but rather the transfer of ownership or control of the person holding the certificate to construct. The measures related to the transfer of ownership or control of the person holding the construction certificate are set forth more fully in Appendix A to this Order, specifically mitigation measure 31.

Decommissioning

Kentucky Municipal Energy submitted a decommissioning plan with the application.¹⁷⁵ Again, it should be noted that this project is a merchant electric generating facility and not a solar generating facility. Thus, the decommissioning of this Project will be different. The decommissioning plan states Kentucky Municipal Energy intends to remove above ground facilities and concrete, below grade cables and vaults, and trenches.¹⁷⁶ The decommissioning plan contains the information that equipment foundation, site grounding grid, and underground components below the depth of three feet will remain.¹⁷⁷ The decommissioning plan indicated that the natural gas pipeline will

¹⁷⁵ Application, Attachment I.

¹⁷⁶ Application, Attachment I at 2-5.

¹⁷⁷ Application, Attachment I at 2-5.

be capped for future use and left in place.¹⁷⁸ During decommissioning, the main engine hall and smaller ancillary buildings will be removed.¹⁷⁹ The RICE engines and generators will be removed and prepared for resale on the secondary markets.¹⁸⁰ Kentucky Municipal Energy indicated that the decommissioning efforts conform to KRS 278.706 (2)(m).

The Siting Board finds that Kentucky Municipal Energy must return the land to its original use, to the extent possible, at the end of the Project's life. Returning the land back to its original state and use after decades of operation is an important part of the Siting Board's finding regarding the impact of the facilities on scenic surroundings, property values, and the economy. The relatively "temporary" nature of the facilities compared to other types of more permanent development, such as industrial operations or housing, is a prime consideration in the Siting Board in granting a certificate, with conditions, in this matter. An inability or unwillingness to return the land back to its prior state after the life of the facility, including leaving underground facilities in excess of three feet, increases the permanence of the facility.

The Siting Board will also require additional mitigation measures related to decommissioning, which are outlined in Appendix A to this Order, mitigation measures 32 through 36.

¹⁷⁸ Application, Attachment I at 2-5.

¹⁷⁹ Application, Attachment I at 2-6.

¹⁸⁰ Application, Attachment I at 2-7.

III. Requirements under KRS 278.714

Kentucky Municipal Energy also filed an application for a nonregulated transmission line pursuant to KRS 278.714.¹⁸¹ KRS 278.714(2) directs the Siting Board to consider the following criteria in considering an application for the construction of the unregulated transmission line as proposed by Kentucky Municipal Energy:

- Location of proposed line and structures to support it;
- Proposed right-of-way limits;
- Existing property lines that will be crossed and names of owners;
- Distance from neighborhoods, schools, public and private parks;
- Voltages and capacities;
- Length of line;
- Terminal points;
- Substation connections; and
- Statement of compliance for construction and maintenance with engineering practices and the NESC.

Full Description of the Proposed Route of Transmission Line

Kentucky Municipal Energy propose to construct a new 69 kV generator lead line that will be owned by Kentucky Municipal Energy that will connect the RICE facility to the substation; a 69 kV line that will be owned by LG&E/KU will connect the substation to the existing 69 kV transmission lines that run along the side of AC Slaton Road and the west side of Bean Cemetery Road.¹⁸² The total length of the proposed line is 500 feet.¹⁸³ The nonregulated transmission line will have a voltage of 69kV and will have a right of way of

¹⁸¹ Transmission Line Application.

¹⁸² Transmission Line Application at 4-5.

¹⁸³ Transmission Line Application at 4.

100 feet.¹⁸⁴ The proposed transmission line route runs through a rural area to the east of the Project site.¹⁸⁵

Kentucky Municipal Energy stated that LGE/KU will not begin the engineering design of the transmission line support structures until after the interconnection study has been completed in May 2025.¹⁸⁶ Kentucky Municipal Energy provided a map with the proposed transmission route.¹⁸⁷

The Siting Board finds additional requirements are necessary to ensure protections exist in the case the transmission route is different than the route supported by the record of this matter. This will be set forth more fully in Appendix A at mitigation measure 39.

Detailed Description of the Proposed Transmission Line and Appurtenances

KRS 278.714(2)(c) states that a full description of the proposed electric transmission line and appurtenances is required, including the following: initial and design voltages and capacities; length of the line; terminal points; and substation connections.

Kentucky Municipal Energy filed a map that includes the property boundaries, by property parcel, that will be affected by the transmission line as well as the name of the property owners that will be affected by the transmission line.¹⁸⁸ Kentucky Municipal Energy also submitted a map showing the proposed electric transmission lien of rights-

¹⁸⁴ Transmission Line Application at 4.

¹⁸⁵ Harvey Report at 5-4.

¹⁸⁶ Kentucky Municipal Energy's Responses to Staff's First Request, Item 16.

¹⁸⁷ Kentucky Municipal Energy's Responses to Staff's First Request, Item 12.

¹⁸⁸ Kentucky Municipal Energy's Responses to Staff's Second Request, Item 18.

of-way for both Kentucky Municipal Energy's generation lead line and LGE/KU's transmission line.¹⁸⁹

Kentucky Municipal Energy stated that the substation configuration will not be known until after the interconnection study is completed in May 2025.¹⁹⁰ Therefore, Kentucky Municipal Energy has not entered into any easement agreements for the proposed route of the transmission line.¹⁹¹ Further, Kentucky Municipal Energy stated that, if necessary, easements will be obtained after the interconnection study has been completed.¹⁹²

The Siting Board finds additional requirements are necessary to ensure protections exist in the case the transmission route is different than the route submitted in the record of this matter. The mitigation measures are set forth more fully in Appendix A to this Order, specifically mitigation measures 36-38.

Compliance with National Electrical Safety Code (NESC)

KRS 278.714(2)(d) requires that the Applicant provide a statement that the proposed electric transmission line and appurtenances will be constructed and maintained in accordance with accepted engineering practices and the NESC. Kentucky Municipal Energy confirmed that the proposed electric transmission line would be built and maintained in accordance with accepted engineering practices and the NESC.¹⁹³

¹⁸⁹ Kentucky Municipal Energy's Responses to Staff's Second Request, Item 14.

¹⁹⁰ Kentucky Municipal Energy's Responses to Staff's First Request, Item 12.

¹⁹¹ Kentucky Municipal Energy's Responses to Staff's Second Request, Item 18.

¹⁹² Kentucky Municipal Energy's Responses to Staff's Second Request, Item 15.

¹⁹³ Kentucky Municipal Energy's Transmission Line Application at 7.

Requirements under KRS 278.714(3)

The Siting Board is also tasked with examining additional criteria in rendering its decision regarding construction of the proposed transmission line as discussed below.

Scenic Impact

For the proposed non-regulated transmission line, the project features under consideration for scenic compatibility include the proposed towers to support the transmission line¹⁹⁴, and the approximately 500-foot route of the transmission line from the Project's substation location within the proposed Kentucky Municipal Energy's merchant generating facility to existing transmission lines¹⁹⁵, the cleared right of way for the transmission line and the cleared right of way for the transmission line.¹⁹⁶

Kentucky Municipal Energy stated that the project site is zoned General Industrial and not within the vicinity of any locations of notable visual beauty.¹⁹⁷ The areas adjacent to the proposed project are a wastewater treatment plant, reclaimed strip mine lands and waters, coal refuse areas, and railroad.¹⁹⁸ Additionally, the proposed transmission line construction would be consistent with existing transmission lines that run along Bean Cemetery Road and AC Slaton Road.¹⁹⁹ Kentucky Municipal Energy stated that the area

¹⁹⁴ Kentucky Municipal Energy's Transmission Line Application at 6.

¹⁹⁵ Kentucky Municipal Energy's Transmission Line Application at 3.

¹⁹⁶ Kentucky Municipal Energy's Transmission Line Application at 4.

¹⁹⁷ Kentucky Municipal Energy Responses to Staff's Second Request, Item 19.

¹⁹⁸ Kentucky Municipal Energy Responses to Staff's Second Request, Item 19.

¹⁹⁹ Kentucky Municipal Energy Responses to Staff's Second Request, Item 19.

of the project already has significant existing adverse impacts including a wastewater treatment plant.²⁰⁰

Kentucky Municipal Energy stated that the proposed route of the transmission line will minimize significant adverse impact to the scenic assets of Kentucky and that will construct and maintain the line according to all applicable legal requirements.

The Siting Board finds that Kentucky Municipal Energy should discuss potential screening plan agreements with landowners leasing or selling land for easements to Kentucky Municipal Energy for the transmission line to determine any screening strategies that might mitigate and reduce the visual impact to the affected residences and continue to address complaints through construction phase of the transmission line.

Compliance with all Legal Requirements

KRS 278.714(3) frames the decision to be made by the Siting Board for proposed nonregulated transmission lines:

Action to grant the certificate shall be based on the board's determination that the proposed route of the line will minimize significant adverse impact on the scenic assets of Kentucky and that the Applicant will construct and maintain the line according to all applicable legal requirements. In addition, the board may consider the interstate benefits expected to be achieved by the proposed construction or modification of electric transmission facilities in the Commonwealth. If the board determines that locating the transmission line will result in significant degradation of scenic factors or if the board determines that the construction and maintenance of the line will be in violation of applicable legal requirements, the board may deny the application or condition the application's approval upon relocation of the route of the line, or changes in design or configuration of the line.

²⁰⁰ Kentucky Municipal Energy Responses to Staff's Second Request, Item 19.

As previously discussed, the Siting Board finds that overall, the proposed transmission line would not have a significant adverse impact on the scenic assets of Hopkins County, Kentucky. Kentucky Municipal Energy has complied, to date, with all applicable conditions relating to electrical interconnection with utilities by following LG&E/KU's interconnection process. The Siting Board finds that Kentucky Municipal Energy's proposed transmission line meets the requirements of KRS 278.714(3), subject to the mitigation measures and conditions imposed in this Order attached as Appendix A to this Order.

Based upon the case record, the Siting Board finds Kentucky Municipal Energy's application for a construction certificate for a nonregulated transmission line should be approved. The transmission line will have minimal effects on the scenic surroundings and Kentucky Municipal Energy has stated it will abide by the NESC in the construction and operation of the transmission line. The Siting Board conditions its approval upon fully implementing all mitigation measures and other requirements described herein and listed in Appendix A to the Order.

CONCLUSION

After carefully considering the criteria outlined in KRS Chapter 278, the Siting Board finds that Kentucky Municipal Energy has presented sufficient evidence to support the issuance of a construction certificate to construct the proposed merchant generation facility and nonregulated electric transmission line. The Siting Board conditions its approval upon the full implementation of all mitigation measures and other requirements described herein and listed in Appendix A to this Order. A map showing the location of the proposed merchant generating facility is attached hereto as Appendix B.

IT IS THEREFORE ORDERED that:

1. Kentucky Municipal Energy's application for a Construction Certificate to construct an approximately 75 MW merchant electric generating facility in Madisonville, Hopkins County, Kentucky, and an approximately 500-foot non-regulated electric transmission line is conditionally granted subject to full compliance with the mitigation measures and conditions prescribed in Appendix A to this Order.
2. Kentucky Municipal Energy shall fully comply with the mitigation measures and conditions prescribed in Appendix A to this Order.
3. In the event mitigation measures within the body of this Order conflict with those prescribed in Appendix A to this Order, the measures in Appendix A shall control.
4. This case is closed and removed from the Commission's docket.

KENTUCKY STATE BOARD ON ELECTRIC
GENERATION AND TRANSMISSION SITING



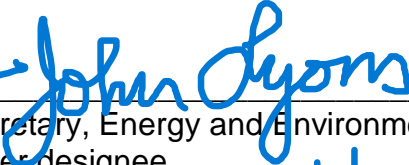
Chairman, Public Service Commission

Vice Chairman, Public Service Commission



Commissioner, Public Service Commission

by AH
w/ permission



Secretary, Energy and Environment Cabinet,
or her designee



Secretary, Cabinet for Economic Development,
or his designee

ATTEST:

 AP

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



APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION AND TRANSMISSION SITING IN CASE NO. 2024-00290 DATED APR 2 2025

MITIGATION MEASURES AND CONDITIONS IMPOSED

The following mitigation measures and conditions are hereby imposed on Kentucky Municipal Energy Agency (Kentucky Municipal Energy) to ensure that the facilities proposed in this proceeding are constructed as ordered.

1. A final site layout plan shall be submitted to the Siting Board upon completion of the final site design. Deviations from the preliminary site layout should be clearly indicated on the revised graphic. Those changes could include, but are not limited to, plant building, stacks, substation, switchyard, transformers, natural gas line route, transmission line route, or other project facilities and infrastructure.

2. Any change in the project boundaries from the information that formed the evaluation in this Order shall be submitted to the Siting Board for review.

3. The Siting Board will determine whether any deviation in the boundaries or site layout plan is likely to create a materially different pattern or magnitude of impacts.

4. Kentucky Municipal Energy shall submit a status report to the Siting Board every six months until the project begins generating electricity to update the Siting Board on the progress of the Project. The report shall reference this case number and be filed in post-case correspondence in this case.

5. Kentucky Municipal Energy shall provide the date construction will commence to the Siting Board and the Kentucky Energy and Environment Cabinet (EEC) 30 days prior to that date.

6. Kentucky Municipal Energy shall comply with all requirements in KRS 278.710 for monitoring by EEC.

7. Prior to construction, Kentucky Municipal Energy shall provide a finalized Emergency Response Plan to the local fire district, first responders, and any county emergency management agency. Kentucky Municipal Energy shall provide site-specific training for local emergency responders at their request. Access for fire and emergency units shall be set up after consultation with local authorities.

8. Kentucky Municipal Energy or its contractor will control access to the site during construction and operation. All construction entrances will be gated and locked when not in use.

9. Kentucky Municipal Energy's access control strategy shall also include appropriate signage to warn potential trespassers. Kentucky Municipal Energy must ensure that all site entrances and boundaries have adequate signage, particularly in locations visible to the public, local residents, and business owners.

10. The security fence must be installed prior to activation of any electrical installation work in accordance with National Electrical Safety Code (NESC) standards. The substation shall have its own separate security fence and locked access installed in accordance with NESC standards.

11. Existing vegetation between nearby roadways and homes shall be left in place to the extent feasible to help minimize visual impacts and screen the project from nearby homeowners and travelers.

12. Kentucky Municipal Energy 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. If it is not adequate, then vegetation ten feet thick reaching six feet at maturity (in four years) will be added by Kentucky Municipal Energy between Project infrastructure and residences, or other occupied structures, with a line of sight to the facility to the reasonable satisfaction of the affected adjacent property owners. Planting of vegetative buffers may be done over the construction period; however, Kentucky Municipal Energy should prioritize vegetative planting at all periods of construction to reduce viewshed impacts. All planting shall be done prior to the operation of the facility.

13. Kentucky Municipal Energy shall carry out visual screening consistent with the plan proposed in its application, Site Assessment Report (SAR), and the maps and ensure that the proposed new vegetative buffers are successfully established and developed as expected over time. Should vegetation used as buffers die over time, Kentucky Municipal Energy shall replace plantings as necessary.

14. To the extent that an affected adjacent property owner indicates to Kentucky Municipal Energy that a visual buffer is not necessary, Kentucky Municipal Energy will obtain that property owner's written consent and submit such consent in writing to the Siting Board within 20 days of execution of the consent document.

15. Kentucky Municipal Energy is required to limit construction activity, process, and deliveries to the hours between 7 a.m. and 6 p.m. local time, Monday through Saturday. The Siting Board directs that construction activities that create a higher level of noise will be limited to 9 a.m. to 5 p.m. local time, Monday through Friday. Non-noise causing and non-construction activities can take place on the site between 7 a.m. and 10

p.m. local time, Monday through Sunday, including field visits, arrival, departure, planning, meetings, mowing, surveying, etc.

16. Kentucky Municipal Energy should devise and implement a method for mitigating plant and substation noise for the single residence closest to the project site. Once a method or plan has been chosen, Kentucky Municipal Energy shall file a plan with the Siting Board within 30 days of a decision.

17. Kentucky Municipal Energy shall maintain functional mufflers and engine shrouds on all trucks and engine-powered equipment.

18. Kentucky Municipal Energy shall notify residents and businesses within 2,400 feet of the Project boundary about the construction plan, the noise potential, any mitigation plans, and its Complaint Resolution Program referred to in Item 37 of this Appendix, at least one month prior to the start of construction.

19. Kentucky Municipal Energy shall place engines, stacks, natural gas pipeline facilities and equipment, and substation equipment consistent with the distances to noise receptors to which it has committed in its maps and site plans. Kentucky Municipal Energy shall not place the Engine Hall closer than 800 feet from a residence, church, or school. Kentucky Municipal Energy shall not place the exhaust stacks closer than 1,000 feet from a residence, church or school. The substation shall not be placed closer than 250 feet from a residence, church, or school. These further setbacks shall not be required for residences owned by landowners involved in the Project that explicitly agree to lesser setbacks and have done so in writing. All agreements by participating landowners to lesser setbacks must include language advising the participating landowners of the

setbacks otherwise required herein. All agreements by participating landowners to lesser setbacks must be filed with the Siting Board prior to commencement of the Project.

20. Kentucky Municipal Energy shall fix or pay for repairs for damage to roads and bridges resulting from any vehicle transport to the site. For damage resulting from vehicle transport in accordance with all permits, those permits will control.

21. Kentucky Municipal Energy shall comply with all laws and regulations regarding the use of roadways.

22. Kentucky Municipal Energy shall implement ridesharing between construction workers when feasible, use appropriate traffic controls, or allow flexible working hours outside of peak hours to minimize any potential traffic delays during AM and PM peak hours.

23. Kentucky Municipal Energy shall consult with the Kentucky Transportation Cabinet (KYTC) regarding truck and other construction traffic and obtain necessary permits from the KYTC.

24. Kentucky Municipal Energy shall consult with the Hopkins County Road Department (HCRD) regarding truck and other construction traffic and obtain any necessary permits from the HCRD.

25. Kentucky Municipal Energy shall develop special plans and obtain necessary permits before transporting heavy loads, especially the RICE engines and substation transformer, onto state or county roads.

26. Kentucky Municipal Energy shall comply with any road use agreement executed with HCRD. Such an agreement might include special considerations for

overweight loads, routes utilized by heavy trucks, road weight limits, and bridge weight limits.

27. Kentucky Municipal Energy shall develop and implement a traffic management plan to minimize the impact 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.

28. Kentucky Municipal Energy shall properly maintain construction equipment and follow best management practices related to fugitive dust throughout the construction process, including the use of water trucks. Dust impacts shall be kept at a minimal level. The Siting Board requires Kentucky Municipal Energy's compliance with 401 KAR 63:010.

29. Kentucky Municipal Energy shall adhere to all CSX Transportation design and construction standards and requirements applicable to the development of the natural gas pipeline located beneath the railway line located within the Project site.

30. Kentucky Municipal Energy shall coordinate with CSX Transportation and obtain applicable permits and easements for construction of the natural gas line below the existing railway, following all related engineering, design, construction, and safety requirements.

31. Kentucky Municipal Energy shall consult with CSX, PAL, and KYTC to evaluate potential impacts or specific mitigation measures related to traffic over railroad crossings, as necessary.

32. If any person shall acquire or transfer ownership of, or control, or the right to control the Project, by sale of assets, transfer of stock, or otherwise, or abandon the same, Kentucky Municipal Energy or its successors or assigns shall request explicit

approval from the Siting Board with notice of the request provided to the Hopkins County Fiscal Court. In any application requesting such abandonment, sale, or change of control Kentucky Municipal Energy, shall certify its compliance with KRS 278.710(1)(i).

33. As applicable to individual lease agreements, Kentucky Municipal Energy, 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.

34. Kentucky Municipal Energy did file a complete and explicit decommissioning plan with the Siting Board. If this decommissioning plan should change, Kentucky Municipal Energy shall submit an updated decommissioning plan pursuant to KRS 278.710(8).

35. Kentucky Municipal Energy or its assigns shall provide notice to the Siting Board, if, during any two-year (730 days) period, it replaces more than 20 percent of its facilities. Kentucky Municipal Energy shall commit to removing the debris and replaced facility components from the Project site and from Hopkins County upon replacement. If the replaced components are properly disposed of at a permitted facility, they do not have to be physically removed from Hopkins County. However, if the replaced facility components remain in Hopkins County, Kentucky Municipal Energy must inform the Siting Board of the location where the components are being disposed.

36. Any disposal or recycling of Project equipment, during operations or decommissioning, shall be done in accordance with applicable laws and requirements.

37. Prior to construction, Kentucky Municipal Energy shall initiate and maintain the Complaint Resolution Program provided to the Siting Board in the case record to address any complaints from community members. Kentucky Municipal Energy shall also

submit annually a status report associated with its Complaint Resolution Program, providing, among other things, the individual complaints, how Kentucky Municipal Energy addressed those complaints, and the ultimate resolution of those complaints identifying whether the resolution was to the complainant's satisfaction. Kentucky Municipal Energy shall submit a final report within 30 days after commencement of electric generation.

38. Kentucky Municipal Energy shall provide the Hopkins County Joint Planning Commission contact information for individuals within the company that can be contacted with concerns. This shall include contact information for the general public to reach individuals that can address their concerns. Kentucky Municipal Energy shall update this contact information yearly, or within 30 days of any change in contact information.

39. Kentucky Municipal Energy shall adhere to the proposed transmission route presented in the application. Should Kentucky Municipal Energy find it necessary to include any parcel of land not included in this response in order; to finalize the route of the proposed transmission line, Kentucky Municipal Energy shall return to the Siting Board to request an amendment to the location of the transmission line.

40. In order to minimize the impacts provided for in KRS 278.714(3) Kentucky Municipal Energy shall submit a final layout of the transmission line and make all reasonable efforts to minimize a new right of way and instead try to co-locate with current transmission facility.

41. Kentucky Municipal Energy shall discuss potential screening plan agreements with the landowners leasing land to Kentucky Municipal Energy for the transmission line to determine if any screening strategies that might mitigate and reduce

the visual impact to the affected residences and continue to address complaints through the construction phase of the transmission line.

42. As Kentucky Municipal Energy progresses in the LG&E/KU interconnection process, Kentucky Municipal Energy shall provide the Siting Board with all final reports as discussed in on page 37 of this order.

43. Any reports or studies that are completed by Texas Gas Transmission should be submitted to the Siting Board for review.

44. The Siting Board can reconvene to enforce any of the above mitigation measures until the generation of electricity commences.

45. Within 30 days of service of this Order, Kentucky Municipal Energy shall send a copy of this Order to all the adjoining landowners who previously were required to receive notice of this Project.

APPENDIX B

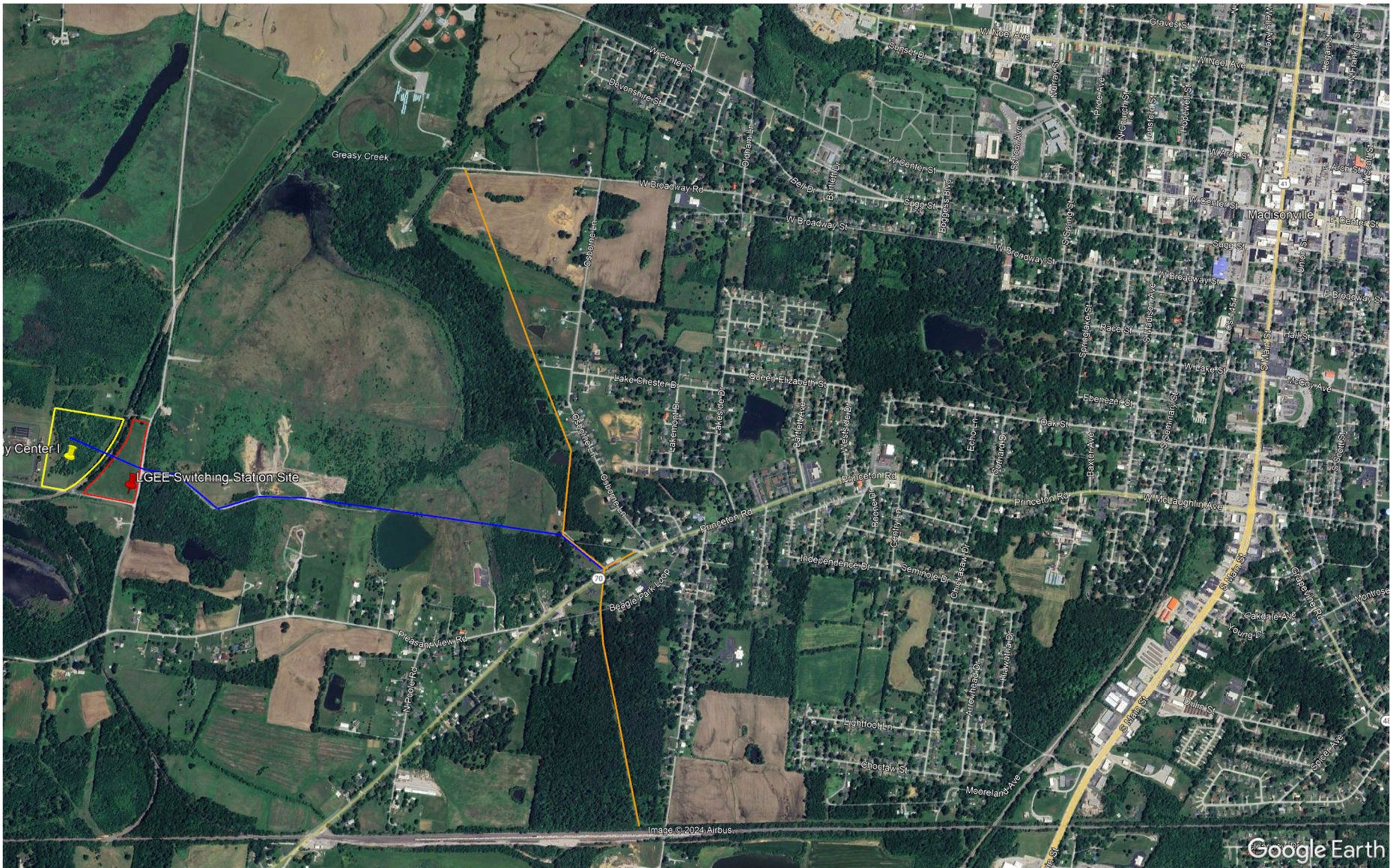
APPENDIX TO AN ORDER OF THE KENTUCKY STATE BOARD ON
ELECTRIC GENERATION AND TRANSMISSION SITING IN
CASE NO. 2024-00290 DATED APR 2 2025

TWO PAGES TO FOLLOW

ATTACHMENT 1

KYMEA Energy Center I

Preliminary Pipeline Route



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