

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

In the Matter of:

ELECTRONIC APPLICATION OF SUMMER)	
SHADE SOLAR, LLC FOR A CERTIFICATE OF)	
CONSTRUCTION FOR AN APPROXIMATELY)	CASE NO.
106-MEGAWATT MERCHANT ELECTRIC SOLAR)	2025-00064
GENERATING FACILITY IN METCALFE)	
COUNTY, KENTUCKY PURSUANT TO)	
KRS 278.700 AND 807 KAR 5:110)	

ORDER

This matter is before the Siting Board upon a motion for reconsideration and clarification filed on November, 20, 2025, by Summer Shade Solar, LLC (Summer Shade) for reconsideration and clarification of certain setback requirements imposed by the Siting Board's October 24, 2025 Order (final Order) that conditionally approved a certificate to construct an approximately 106-megawatt (MW) merchant solar generating facility in Metcalfe County.

DISCUSSION AND FINDINGS

Setback Requirement from Panel to Non-participating Adjoining Parcels and Exterior Property Lines

On October 24, 2025, the Siting Board issued a final Order that imposed setbacks from residences of 400 feet, exterior property lines of 100 feet, and adjacent non-participating property of 25 feet for any panel or stringer inverter.¹ Summer Shade

¹ Final Order (Ky. Siting Board Oct. 24, 2025) at 25 and Appendix A at 5.

requested reconsideration of the Siting Board's imposed setbacks from non-participating adjoining properties and setbacks from exterior property lines.

In support of its motion, Summer Shade argued that, starting in June 2021, in Horseshoe Bend Solar, the Siting Board began implementing 25-foot setbacks from non-participating parcels in addition to the project's proposed setbacks.² Summer Shade also stated that beginning in 2022, in Rhudes Creek Solar, the Siting Board imposed a 25-foot setback for non-participating adjacent property and 100-foot setback for exterior property lines.³ Summer Shade argued that the Siting Board has never given any explanation to why it continues to assess 100-foot setback to exterior property lines.⁴ Summer Shade stated that there are no intervenors in this case and no public comments have been submitted regarding the setback distances.⁵ Additionally, Summer Shade stated that the plan's ample vegetative screening to buffer between the neighboring property.⁶ Given all the reasons above, Summer Shade argued that the 100 feet setback from exterior property lines should not be required and the Siting Board should impose a 25-foot setback from non-participating parcels.⁷

Pursuant to KRS 278.708(6),⁸ the Siting Board is permitted to establish any mitigation measures that the Board deems appropriate. Additionally, as Summer Shade

² Motion for Clarification and Reconsideration (filed Nov. 20, 2025) at

³ Motion for Clarification and Reconsideration at 4.

⁴ Motion for Clarification and Reconsideration at 5.

⁵ Motion for Clarification and Reconsideration at 6.

⁶ Motion for Clarification and Reconsideration at 6.

⁷ Motion for Clarification and Reconsideration at 6.

⁸ KRS 278.708(6).

stated in the motion for clarification and reconsideration the “Siting Board has imposed both a 25-foot setback for non-participating adjacent property and a 100 foot-setback for exterior property line in at least 10 cases.”⁹ In every case since 2021 except for Weirs Creek Solar the Siting Board has imposed setbacks of for both non-participating adjoining parcels and exterior property lines. The Siting Board has determined that, based on this project layout and design, the 100-foot setback to exterior property line is appropriate.

Based upon the motion and the final Order, and being otherwise sufficiently advised, the Siting Board finds that the requirement of both a 25-foot setback for non-participating adjacent properties and a 100-foot setback for exterior property lines should not be modified.

Summer Shade Seeks Reconsideration of the Setback Distance for Residences of 150 Feet and Not 400 Feet as Set Forth in the Final Order.

The Siting Board imposed a setback of 400 feet from any residence.¹⁰ Summer Shade argued that, at no time, during this application process did it propose a 300-foot 2021 setback between panels and residences. Summer Shade argued that Siting Board imposed a 400-foot setback with no explanation. Summer Shade argued that the lack of public comment or intervention reveals public and neighbor assent to the project’s setbacks.¹¹ Summer Shade also argued that the Siting Board’s consultant did not

⁹ Motion for Clarification and Reconsideration at 5.

¹⁰ Final Order (Ky. Siting Board Oct. 24, 2025) at 25 and Appendix A at 5.

¹¹ Motion for Clarification and Reconsideration at 13.

recommend a setback of 400 feet.¹² Summer Shade also stated that the extensive vegetative screening is planned around the project.¹³

Summer Shade provided a table identifying all residential structures within 2,000 feet of the project boundary.¹⁴ The table shows that there are 119 non-participating residences located within 2,000 feet of the project boundary. Of those 119 residences, 34 would be located within 500 feet of the closest solar array.¹⁵ Ten of those 34 residences would be located within 250 feet of the closest solar array.¹⁶ Among those ten closest non-participating residences, the distance to the closest solar array ranges from 30 feet to 135 feet.¹⁷ All of the residences within 2,000 feet of this project are non-participating homes.¹⁸ Even with the alleged “extensive vegetative screening” planned, the project is going to be visible to at least 74 residences.¹⁹

The Siting Board acknowledges that Summer Shade requested 150 ft setback to residences in its post hearing brief²⁰; however, the Siting Board also determined that there was one residential neighborhood that was not identified in the original application.²¹

¹² Motion for Clarification and Reconsideration at 8.

¹³ Motion for Clarification and Reconsideration at 13.

¹⁴ Summer Shade’s Responses to Siting Board Staff’s First Request for Information (Staff’s First Request) (filed June 26, 2025), Item 50.

¹⁵ BBC Report (filed Aug. 14, 2025), Section C at 20.

¹⁶ BBC Report, Section C at 20.

¹⁷ BBC Report, Section C at 20.

¹⁸ Summer Shade’s Responses to Siting Board Staff’s Second Request for Information (Staff’s Second Request) (filed July 31, 2025), Item 50.

¹⁹ Summer Shade’s Response to Staff’s First Request, Item 58.

²⁰ Summer Shade’s Post Hearing Brief (filed on Sept. 16, 2025.) at 9

²¹ Final Order (Ky. Siting Board Oct. 24, 2025) at 24-25.

Each proposed project that applies for a certificate of constructions is evaluated on a case-by-case basis. The Siting Board aims to be consistent in establishing setbacks; however, there will be projects, depending on the proposed layout, the Siting Board will deviate from typical setbacks utilized in prior cases. Pursuant to KRS 278.708(6), the Siting Board is permitted to establish any mitigation measures that the Board deems appropriate. Additionally, the Siting Board is not limited to only require the recommendations from consultant. The Kentucky General Assembly has given the Siting Board the ability to promulgate any mitigation measures that the Board deems appropriate.

Based upon the motion and the final Order, and being otherwise sufficiently advised, the Siting Board finds that the requirement of 400-foot setback from any residence should not be modified. This project design resulted in a large number of non-participating homes within close proximity of the project. Developers need to exercise consideration in developing site plans so close to residential homes. Simply relying on vegetative buffers that will take years to provide a meaningful buffer is not sufficient. In this case, the closest non participating residential home is 185 feet from a solar panel..²² In a rare occurrence, due to the close proximity of residential homes the Siting Board's consultant recommended limiting pile driving to two hours a day due to the noise level during construction.²³ Even though the consultant did not recommend a setback distance of 400 feet, the consultant discussed concerns in their report in regards to the proximity of this proposed project to residential homes. The BBC Report stated, "[w]hile the

²² Summer Shade's Response to Staff's Second Request, Item 22.

²³ BBC Report, Section B at 10.

population density surrounding the Summer Shade Solar site over relatively large distances of a mile or more is similar to other solar projects reviewed by the Siting Board, the Summer Shade site has more non-participating homes within closer proximity (e.g., within 500 feet) to the planned locations of solar equipment than most other proposed solar projects that BBC has reviewed for the Siting Board.”²⁴

IT IS THEREFORE ORDERED that:

1. Summer Shade’s motion for reconsideration regarding the imposed setbacks to both non-participating adjoining parcels and setbacks from exterior property lines is denied.
2. Summer Shade’s motion for reconsideration regarding the setback distance for residences is denied.
3. This case is closed and removed from the Siting Board’s docket.

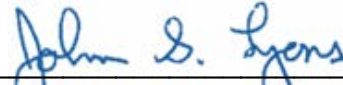
²⁴ BBC Report, Section B at 2.

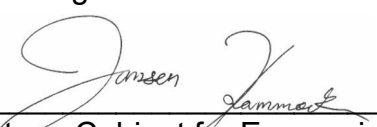
KENTUCKY STATE BOARD ON ELECTRIC
GENERATION AND TRANSMISSION SITING


Chairman, Public Service Commission



Commissioner, Public Service Commission


Commissioner, Public Service Commission


Secretary, Energy and Environment Cabinet,
or her designee


Secretary, Cabinet for Economic Development,
or his designee

ATTEST:


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



*Aubree Muse
Development Manager
Summer Shade Solar, LLC
500 Sansome Street
Suite 500
San Francisco, CA 94111

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

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

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