

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION
AND TRANSMISSION SITING

In the Matter of:

ELECTRONIC APPLICATION OF WEIRS CREEK)	
SOLAR, LLC TO TRANSFER A PORTION OF)	CASE NO.
THE CONSTRUCTION CERTIFICATE)	2025-00356
PURSUANT TO KRS 278.710(3))	

ORDER

On November 6, 2025, Weirs Creek Solar, LLC (Weirs Creek Solar) filed an application with the Kentucky State Board on Electric Generation and Transmission Siting (Siting Board) to transfer a portion of the Certificate of Construction that was conditionally granted in Case No. 2024-00099¹ to Nebo Energy Storage, LLC.

There are no intervenors in this matter. Weirs Creek Solar responded to one discovery request from Siting Board Staff.² The matter is now ready for a decision.

BACKGROUND

In Case No. 2024-00099, Weirs Creek Solar filed an application to construct an approximately 150 megawatt (MW) solar generating facility on a 2,260 acre site in Webster and Hopkins counties, Kentucky.³ During the pendency of the case, Weirs Creek

¹ Case No. 2024-00099, *Electronic Application of Weirs Creek Solar Project, LLC for a Certificate of Construction for an Approximately 150-Megawatt Merchant Electric Solar Generating Facility in Webster County and Hopkins County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110*, (Ky. PSC Dec. 3, 2024).

² Weirs Creek Solar's Responses to Siting Board Staff's First Request for Information (filed Dec. 11, 2025) (Staff's First Request).

³ Case No. 2024-00099, June 6, 2024 Weirs Creek Solar Application and Exhibits.

Solar responded to two rounds of discovery,⁴ a site visit was conducted, the Siting Board's consultant issued a report about the project,⁵ and a hearing was held.⁶ The Siting Board evaluated the entire record before it issued the December 3, 2024 final Order that granted a Certificate of Construction conditioned upon full compliance with the mitigation measures contained in the Order.⁷

On November 6, 2025, Weirs Creek Solar filed an application with the Siting Board to bifurcate the construction certificate it was granted in the December 3, 2024 final Order. Weirs Creek Solar proposed to divide the construction certificate and transfer the battery energy storage system (BESS) portion of the project to Nebo Energy Storage, LLC.

NEER (NextEra Energy Resources, LLC) is the parent entity of Weirs Creek Solar and Nebo Energy Storage, LLC.⁸ NEER will retain control over both parts of the project.⁹ Weirs Creek Solar stated the division of the project into two is necessary because NEER has two separate contracts for energy generated from the Project; one for the solar energy and one for the stored BESS energy.¹⁰ Weirs Creek Solar argued that a partial transfer of the rights and obligations granted with the Construction Certificate will save the Siting

⁴ Case No. 2024-00099, Weir Creek Solar's First Response to Siting Board Staff's First Request for Information (Staff's First Request) (filed Aug. 5, 2024); Wier's Creek Solar's Second Response to Siting Board Staff's Second Request for Information (Siting Board Staff's Second Request) (filed Sept. 9, 2024).

⁵ Case No. 2024-00099, Wells Engineering Solar Generation Siting and Final Report (filed Sept. 23, 2024).

⁶ Case No. 2024-00099, Hearing Video of the October 15, 2024 Hearing.

⁷ Case No. 2024-00099, (Ky. Siting Board Dec. 3, 2024), Order.

⁸ Weirs Creek Solar, LLC's Application to Transfer a Construction Certificate Pursuant to KRS 278.710(3) (Application) (filed Nov. 6, 2025) at 2.

⁹ Application at 3.

¹⁰ Application at 2.

Board from a duplicative adjudication of a second application from a subsidiary of the same parent entity.¹¹

LEGAL STANDARD

KRS 278.710(3)(a) states that a company who has received a construction certificate for a merchant electric generating facility shall not transfer rights or obligations of the certificate without a Siting Board determination that the acquirer has a good environmental compliance history.¹² KRS 278.710(3)(b) requires a determination by the Siting Board that the acquirer has the financial, technical, and managerial capacity to meet the obligations imposed by the terms of the approval.¹³ KRS 278.710(1)(i) requires the Siting Board to determine if the applicant has good environmental compliance history before awarding a certificate of construction.¹⁴

DISCUSSION AND FINDINGS

Weirs Creek Solar argued the bifurcation of the construction certificate and the transfer the BESS portion of the project to Nebo Energy Storage, LLC meets the requirements of KRS 278.710(3)(a) because the parent company of both projects, NEER, has a good environmental compliance history.¹⁵ It was disclosed during the proceedings and addressed in the final Order that one of NEER's subsidiaries, that is the sole member of Weirs Creek, ESI Energy, LLC (ESI) entered into a settlement agreement related to

¹¹ Application at 3.

¹² KRS 278.710(3)(a).

¹³ KRS 278.710(3)(b).

¹⁴ KRS 278.710(1)(i).

¹⁵ Application at 4.

violations of the Migratory Bird Treaty Act.¹⁶ The settlement is related to western wind energy facilities in Wyoming and one energy facility in New Mexico.¹⁷ The Siting Board concluded that the violations were not relevant to the production of solar facilities, as they concern the production of wind facilities.¹⁸ The Siting Board finds that Nebo Energy Storage, LLC and its parent company NEER have demonstrated a good environmental compliance as required for the transfer of a construction certificate pursuant to KRS 278.710(3)(b)(1).

Weirs Creek Solar argued that Nebo Energy Storage, LLC, and its parent company NEER, have the financial, technical, and managerial capacity to meet the obligations imposed by the Siting Board in the December 3, 2024 final Order as required in KRS 278.710(3)(b).¹⁹ Weirs Creek Solar argued that Nebo Energy Storage, LLC will have the financial capacity to ensure compliance with the Siting Board's orders because NEER will retain control of the project, and NEER was the entity in control of Weirs Creek Solar when the project was granted a construction certificate.²⁰ Weirs Creek Solar also argued that, similarly to Weirs Creek Solar, Nebo Energy Storage, LLC is an indirect subsidiary of NEER.²¹ Therefore, because Nebo Energy Storage, LLC is also a subsidiary of NEER,

¹⁶ Weir Creek's Response to Staff's First Request, Item 2.

¹⁷ Case No. 2024-00099, Dec. 3, 2024 final Order at 21.

¹⁸ Case No. 2024-00099, Dec. 3, 2024 final Order at 21.

¹⁹ Application at 5.

²⁰ Application at 5.

²¹ Application at 5.

it has the managerial, technical and financial capability to construct and operate the battery storage energy portion of the Project.²²

Weirs Creek Solar argued that NEER, as a parent entity, will have the managerial and technical capacity to develop the project because it has developed and constructed numerous solar and battery projects throughout the United States and in Kentucky.²³

The Siting Board finds Nebo Energy Storage, LLC and its parent company NEER have the requisite financial, technical, and managerial capacity to comply with all of the mitigation measures in the December 3, 2024 final Order in Case No. 2024-00099 as required. During the pendency of Case No. 2024-00099, the Siting Board conducted a complete review of project which included the ability of Weirs Creeks Solar, and, by extension, its parent company, NEER to fully comply with any mitigation measures imposed. Weirs Creek Solar has confirmed that its parent company, NEER, will remain the parent company of Weirs Creek Solar.²⁴ The Siting Board finds this satisfies the requirements of KRS 278.710(3)(b). Nebo Energy Storage, LLC, should comply with the Mitigation Measures contained in Appendix A of the final Order that was issued on December 3, 2024.

When a certificate to construct a solar 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 the review, the Construction Certificate is

²² Application at 5.

²³ Application at 5-6.

²⁴ Application at 2-3.

conditionally granted on the condition of full compliance with all mitigation measures, some of which continue into the operation of the project.

The Siting Board not only reviews the history and abilities of the Person²⁵ seeking the Certificate, but also the entities that have an ownership interest in the applicant. Here, Weirs Creek Solar has no resources or employees and instead depends on the resources and employees of NEER. Without NEER, Weirs Creek Solar nor Nebo Energy Storage, LLC would not have the managerial, technical, or financial capability necessary to construct or operate the projects, nor to comply with the conditions required herein. As such, any further transfer involving any of these three parties should be reviewed and approved by the Siting Board.

IT IS THEREFORE ORDERED that:

1. Weirs Creek Solar's motion to bifurcate and partially transfer of the construction certificate granted in Case No. 2024-00099 is granted.

2. Nebo Energy Storage, LLC shall be responsible for all of the mitigation measures imposed upon Weirs Creek Solar in the Siting Board's December 3, 2024 final Order. This in no way alleviates the responsibility by Weirs Creek Solar of all of the same mitigation measures, and any effort to deflect responsibility between the two entities, which are both owned by the same parent company, will not be tolerated by the Siting Board.

3. If any Person as defined by KRS 278.700(3) shall acquire or transfer ownership of, or control, or the right to control Weirs Creek Solar or Nebo Energy Storage,

²⁵ 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.

LLC, by sale of assets, transfer of stock, or otherwise, or abandon the same, Weirs Creek Solar and Nebo Energy Storage, LLC, or its successors or assigns shall request explicit approval from the Siting Board with notice of the request provided to the Webster and Hopkins County Fiscal Courts. In any application requesting such abandonment, sale, or change of control, Weirs Creek Solar, Nebo Energy Storage, LLC, and any proposed entity with an ownership interest in either project shall certify its compliance with KRS 278.710(3).

4. This case is closed and removed from the Siting Board's docket.

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KENTUCKY STATE BOARD ON ELECTRIC
GENERATION AND TRANSMISSION SITING



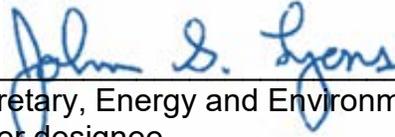
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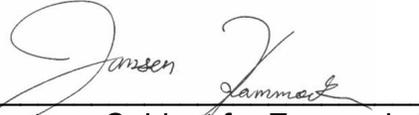
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Commissioner, Public Service Commission



Secretary, Energy and Environment Cabinet,
or her designee



Secretary, Cabinet for Economic Development,
or his designee

by A.H.
w/ permission



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ATTEST:


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on behalf of the Kentucky State
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