

To: Members of the Senate Natural Resources & Energy Committee
From: Kentucky's Investor Owned and Cooperative Electric Utilities
Date: February 15, 2022
RE: Opposition to SB 69, An Act Relating to Merchant Electric Generating Facilities . . .

Chairman Smith and Members of the Committee:

On behalf of Kentucky's Investor Owned and Cooperative electric utilities, we are writing to express our companies' opposition to SB 69 and the Committee Substitute Amendment. As a policy matter, Kentucky's electric utilities support the responsible development of large-scale solar projects, whether by independent power producers with whom we contract or the utilities themselves. Such projects, when combined with PSC oversight, are important to meeting the renewable energy and/or sustainability goals of Kentucky customers (often large industrial customers) at the lowest possible cost for that customer and all Kentucky customers.

Although SB 69 includes some helpful clarifications to the Siting Board process, as proposed it would deter investment in commercial-scale solar projects needed to meet the future renewable energy demands of Kentucky's industries. The proposed bill infringes on the private property rights of landowners by requiring premature public disclosure of private transactions. It delegates broad regulatory powers to the Energy & Environment Cabinet to enforce Orders of the Siting Board, which could allow the Cabinet to shut down otherwise legally operating projects actively generating energy, in ways that could be harmful to customers and the reliability of the grid.

Importantly, the changes to the Site Assessment Report (SAR) provisions in Section 6 would impose costly new decommissioning requirements on any future electric generation built by Kentucky's utilities. To construct new generation facilities, regulated utilities must obtain site compatibility certificates from the PSC under KRS 278.216, which incorporates the SAR requirements of KRS 278.708 (3) and (4). As written, not only would this apply to utility-owned solar projects, but to any future coal, gas, nuclear or hydroelectric generating facility over 10 megawatts that receives a Certificate of Public Convenience and Necessity from the PSC.

In sum, the current Siting Board statutes and recent Orders issued thereunder require developers to mitigate the adverse effects of construction and operation of such projects, while preserving the private property rights of landowners and important local regulatory oversight. Efforts to improve this process for the benefit of project developers, customers, and the Commonwealth are to be commended. However, SB 69 and the Committee Substitute Amendment would create additional barriers in what is an already difficult siting process for energy projects in Kentucky.

Respectfully,

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