

APPLICATION FOR A MERCHANT ELECTRIC GENERATING
FACILITY CONSTRUCTION CERTIFICATE

Filing Requirements Checklist

(Applicable Statute: KRS 278.706)
(Applicable Regulations: 807 KAR 5:100 and 807 KAR 5:110)

Case No. _____ Applicant Name _____ Received Date _____ Form Circulation Date _____

Instructions:

- 1) Each division noted by checkmark () is to complete its review and return within three business days of receipt.
- 2) This form is to list only the specific filing deficiencies as identified in the regulations. If additional information is needed, an information request must be issued.
- 3) Staff member should use initials and list date review is completed.
- 4) **Return by email to Filings Branch following review and copy all Team Members.**

Reviewed by following Divisions:

<u>Date</u>		<u>Staff Member</u>	
_____	Filings	_____	_____
_____	Legal	_____	_____

<u>Division Responsible</u>	<u>Law/Regulation</u>	<u>Filing Requirement</u>	Requirement Met		Waiver Requested	Approve Waiver?	
			Yes	No		Yes	No
Filings	§ 3(2)(b)	The application shall contain a table of contents that lists, for each document enclosed, the number of tab behind which each document is located, the statutory provision pursuant to which the document is submitted and the name of the person who will respond to questions on information contained in the documents.					
Filings	807 KAR 5:100 § 1	An initial application fee of \$1,000.00 per megawatt of electricity generating capacity, based on the manufacturer's nameplate rated					

Division Responsible	Law/Regulation	Filing Requirement	Requirement Met		Waiver Requested	Approve Waiver?	
			Yes	No		Yes	No
		capacity of the proposed construction, except that the initial application fee for each application for each plant shall be in an amount not less than \$40,000 and not more than \$200,000.00.					
Filings	KRS 278.706(2)(a)	The name, address, and telephone number of the person proposing to construct and own the merchant electric generating facility;					
Legal	KRS 278.706(2)(b)	A full description of the proposed site, including a map showing the distance of the proposed site from residential neighborhoods, the nearest residential structures, schools, and public and private parks that are located within a two (2) mile radius of the proposed facility;					
Legal	KRS 278.706(2)(c)	Evidence of public notice that shall include the location of the proposed site and a general description of the project, state that the proposed construction is subject to approval by the Board, and provide the telephone number and address of the Public Service Commission. Public notice shall be given within thirty (30) days immediately preceding the application filing to; <ul style="list-style-type: none"> 1. Landowners whose property borders the proposed site; and 2. The general public in a newspaper of general circulation in the county or municipality in which the plant is proposed to be located; 					
Legal	KRS 278.706(2)(d)	A statement certifying that the proposed plant will be in compliance with all local ordinances and regulations concerning noise control and with any local planning and zoning ordinances.					
Legal	KRS 278.706(2)(d)	Disclosure of setback requirements established by the planning and zoning commission as provided under KRS 278.704(3);					
Legal	KRS 278.706(2)(e)	1. If the facility is not proposed to be located on site of a former coal processing plant and the facility will use on-site waste coal as a fuel source or in an area where a planning and zoning commission has established a setback requirement pursuant to KRS 278.704(3), a statement that the exhaust stack of the					

Division Responsible	Law/Regulation	Filing Requirement	Requirement Met		Waiver Requested	Approve Waiver?	
			Yes	No		Yes	No
		<p>proposed facility and any wind turbine is at least one thousand (1,000) feet from the property boundary of any adjoining property owner and all proposed structures or facilities used for generation of electricity are two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility, unless facilities capable of generating ten megawatts (10MW) or more currently exist on the site.</p>					
		<p>2. If the facility is proposed to be located on site of a former coal processing plant and the facility will use on-site waste coal as a fuel source, a statement that the proposed site is compatible with the setback requirements provided under KRS 278.704(5).</p>					
		<p>3. If the facility is proposed to be located in a jurisdiction that has established setback requirements pursuant to KRS 278.704(3), a statement that the proposed site is compatible with those established setback requirements;</p>					
Legal	KRS 278.706(2)(f)	<p>A complete report of the applicant's public involvement program activities undertaken prior to the filing of the application, including the following:</p> <ol style="list-style-type: none"> 1. The scheduling and conducting of a public meeting in the county or counties in which the proposed facility will be constructed at least ninety (90) days prior to the filing of an application, for the purpose of informing the public of the project being considered and receiving comment on it; 2. Evidence that notice of the time, subject and location of the meeting was published in the newspaper of general circulation in the county, and that individual notice was mailed to all owners of property adjoining the proposed project at least two (2) weeks prior to the meeting; and 3. Any use of media coverage, direct mailing, fliers, newsletters, public meetings, establishment of a community advisory group, and any other efforts to obtain local involvement in the siting 					

Division Responsible	Law/Regulation	Filing Requirement	Requirement Met		Waiver Requested	Approve Waiver?	
			Yes	No		Yes	No
		process;					
Legal	KRS 278.706(2)(g)	A summary of the efforts made by the applicant to locate the proposed facility on a site where existing electric generating facilities are located;					
Legal	KRS 278.706(2)(h)	Proof of service of a copy of the application upon the chief executive officer of each county and municipal corporation in which the proposed facility is to be located, and upon the chief officer of each public agency charged with the duty of planning land use in the jurisdiction in which the facility is proposed to be located;					
Legal	KRS 278.706(2)(i)	An analysis of the proposed facility's projected effect on the electricity transmission system in Kentucky;					
Legal	KRS 278.706(2)(j)	An analysis of the proposed facility's economic impact on the affected region and the state;					
Legal	KRS 278.706(2)(k)	A detailed listing of all violations by it, or any person with an ownership interest, of federal or state environmental laws, rules, or administrative regulations, whether judicial or administrative, where violations have resulted in criminal convictions or civil or administrative fines exceeding five thousand dollars (\$5,000) and the status of any pending action, whether judicial or administrative, shall also be submitted;					
Legal	KRS 278.706(2)(l)	A site assessment report as specified in KRS 278.708 or a request that the Board accept documentation of compliance with the National Environmental Policy Act (NEPA) in lieu of a site assessment report, in which case documentation of NEPA compliance is included in the application.					
Legal	KRS 278.706(2)(m)	A decommissioning plan that shall describe how the merchant electric generating facility will be decommissioned and dismantled following the end of its useful life. The decommissioning plan shall, at a minimum, include plans to:					

Division
Responsible

Law/Regulation

Filing Requirement

Requirement
Met

Waiver
Requested

Approve
Waiver?

Requirement Met		Waiver Requested	Approve Waiver?	
Yes	No		Yes	No

1. Unless otherwise requested by the landowner, remove all above-ground facilities;
2. Unless otherwise requested by the landowner, remove any underground components and foundations of above-ground facilities. Facilities removed under this subparagraph shall be removed to a depth of three (3) feet below the surface grade of the land in or on which the component was installed, unless the landowner and the applicant otherwise agree to a different depth;
3. Return the land to a substantially similar state as it was prior to the commencement of construction;
4. Unless otherwise requested by the landowner, leave any interconnection or other facilities in place for future use at the completion of the decommissioning process;
5. Secure a bond or other similar security for the project to assure financial performance of the decommissioning obligation, provided that:
 - a. The amount of the proposed bond or similar security shall be determined by an independent, licensed engineer who is experienced in the decommissioning of solar electric generating facilities and has no financial interest in either the merchant electric generating facility or any parcel of land upon which the merchant electric generating facility is located. The proposed amount of the bond or similar security shall be either:
 - i. The net present value of the total estimated cost of completing the decommissioning plan, less the current net salvage value of the merchant electric generating facility's components; or
 - ii. The bond amount required by a county or municipal government that has established a decommissioning bond requirement or similar security obligation in the county or municipality where the

Division
Responsible

Law/Regulation

Filing Requirement

merchant electric generating facility will be located. If the facility will be located in more than one (1) county or municipality that has established a decommissioning bond or similar security obligation, then the higher amount shall be required for the facility;

b. The bond or other similar security names:

- i. For property that is leased by the applicant, each landowner from whom the applicant leases land and the Energy and Environment Cabinet as the primary co-beneficiaries; or
- ii. For property that is owned by the applicant, the Energy and Environment Cabinet as the primary beneficiary;

c. If the merchant electric generating facility is to be located in a county or municipality that has not established a decommissioning bond or other similar security obligation, the bond or other similar security shall name the county or municipality as a secondary beneficiary with the county's or municipality's consent;

d. The bond or other similar security shall be provided by an insurance company or surety that shall at all times maintain at least an "Excellent" rating as measured by the AM Best rating agency or an investment grade credit rating by any national credit rating agency and, if available, shall be noncancelable by the provider or the customer until completion of the decommissioning plan or until a replacement bond is secured; and

e. The bond or other similar security shall provide that at least thirty (30) days prior to its cancellation or lapse, the surety shall notify the applicant, its

Requirement Met		Waiver Requested	Approve Waiver?	
Yes	No		Yes	No

Division
Responsible

Law/Regulation

Filing Requirement

Requirement
Met

Waiver
Requested

Approve
Waiver?

Yes	No		Yes	No
		<p>successor or assign, each landowner, the Energy and Environment Cabinet, and the county or city in which the facility is located of the impending cancellation or lapse. The notice shall specify the reason for the cancellation or lapse and provide any of the parties, either jointly or separately, the opportunity to cure the cancellation or lapse prior to it becoming effective. The applicant, its successor, or its assign, shall be responsible for all costs incurred by all parties to cure the cancellation or lapse of the bond. Each landowner, or the Energy and Environment Cabinet with the prior approval of each landowner, may make a demand on the bond and initiate and complete the decommissioning plan.</p> <p>6. Communicate with each affected landowner at the end of the merchant electric generating facility's useful life so that any requests of the landowner that are in addition to the minimum requirements set forth in this paragraph and in addition to any other requirements specified in the lease with the landowner may, in the sole discretion of the applicant or its successor or assign, be accommodated; and</p> <p>7. Incorporate the requirements of subparagraphs 1. to 6. of this paragraph into the applicant's leases with landowners.</p>		
		<p>A site assessment report shall include a description of the proposed facility, including a proposed site development plan that describes:</p> <p>1. Surrounding land uses for residential, commercial, agricultural, and recreational purposes;</p> <p>2. The legal boundaries of the proposed site;</p> <p>3. Proposed access control to the site;</p>		

Legal

KRS 278.708(3)(a)

Division Responsible	Law/Regulation	Filing Requirement	Requirement Met		Waiver Requested	Approve Waiver?	
			Yes	No		Yes	No
		4. The location of facility buildings, transmission lines, and other structures;					
		5. Location and use of access ways, internal roads, and railways;					
		6. Existing or proposed utilities to service the facility;					
		7. Compliance with applicable setback requirements as provided KRS 278.704(2), (3), or (5);					
		8. Evaluation of the noise levels expected to be produced by the facility;					
Legal	KRS 278.708(3)(b)	A site assessment report shall also include the following (1) an evaluation of the compatibility of the facility with scenic surroundings;					
	KRS 278.708(3)(c)	(2) The potential changes in property values resulting from the siting, construction, and operation of the proposed facility for property owners adjacent to the facility;					
	KRS 278.708(3)(d)	(3) Evaluation of anticipated peak and average noise levels associated with the facility's construction and operation at the property boundary; and					
	KRS 278.708(3)(e)	(4) 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.					
	KRS 278.708(4)	The site assessment report shall also suggest any mitigating measures to be implemented by the applicant to minimize or avoid adverse effects identified in the site assessment report.					
Legal	807 KAR 5:110 § 1(3)	The application shall be signed by at least one attorney of record in the attorney's individual name and shall include the attorney's address.					

Division Responsible Law/Regulation Filing Requirement

Requirement Met		Waiver Requested	Approve Waiver?	
Yes	No		Yes	No