

Kentucky's Electric Generation and Transmission Siting Process

For Merchant Facilities

A Guide to Public Participation

**Kentucky State Board on Electric Generation
and Transmission Siting**

ABOUT THE SITING BOARD

The Kentucky State Board on Electric Generation and Transmission Siting (the Siting Board) was created in 2002 by an act of the Kentucky General Assembly. Its purpose is to review applications and, as appropriate, grant certificates for the construction of electric generating facilities and transmission lines that are not regulated by the Kentucky Public Service Commission.

Siting Board review focuses on three areas:

- Environmental matters not covered by permits issued by the Kentucky Department for Environmental Protection. The Department issues permits for air emissions, water withdrawals and discharges and solid waste disposal. (The Department processes are explained briefly later in this guide.) The Siting Board review covers matters such as noise and visual impacts, among others.
- Economic impacts.
- Impact of the proposed facility on Kentucky's electric transmission grid.

The generating facilities reviewed by the Siting Board sell power on the wholesale market and are commonly known as merchant power plants or independent power producers (IPPs). Siting Board approval is required for merchant plants with a generating capacity of 10 megawatts or more and for non-regulated transmission lines capable of carrying 69,000 volts or more.

The Siting Board is headquartered at the Kentucky Public Service Commission. The PSC staff also serves as staff to the Siting Board. The Siting Board's operations are funded through fees paid by applicants.

All documents submitted to the Siting Board are filed electronically and are available at the board's Web site:

<http://psc.ky.gov/Home/EGTSB>

Siting Board hearings and other proceedings may be viewed live.

The Siting Board review of applications is designed to include public participation throughout the process. The Siting Board welcomes and encourages public participation. This guide is intended to explain the siting process and the opportunities for public participation.

The Siting Board may be contacted at
Kentucky State Board on Electric
Generation and Transmission Siting
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602
502-564-3940
Toll-free 1-800-772-4636
Fax (502) 564-3460
psc.ky.gov

MEMBERSHIP OF THE SITING BOARD

The Siting Board has five permanent *ex officio* members and two *ad hoc* members who are appointed by the Governor to review specific applications. The permanent *ex officio* members are:

- The three members of the Kentucky Public Service Commission. The chair- person of the PSC also chairs the Siting Board.
- The secretary of the Kentucky Energy and Environment Cabinet, or his designee
- The secretary of the Kentucky Cabinet for Economic Development, or his designee

The two *ad hoc* members of the board are appointed as follows:

If the facility is located within a single county, the *ad hoc* members shall be:

- The chairperson of the planning commission with jurisdiction over the pro- posed site. If no planning commission exists for the site, the Governor may name either the county judge/executive or, if the proposed facility is within the limits of a city, the mayor of the city.
- A resident of the county in which the facility is proposed to be located.

If the proposed site for the facility is located in more than one county, the *ad hoc* members shall be:

- The county judge/executive of one of the counties, chosen by a majority vote of the county judge/executives of all the counties in which the facility is pro- posed.
- A resident of a county in which the facility is proposed to be located.

The *ad hoc* members serve only for the duration of the case for which they were appointed.

THE SITING APPLICATION PROCESS

NOTICE OF INTENT

Anyone planning to apply for certification from the Siting Board must submit a Notice of Intent at least 30 days before submitting the application. The notice, which is made public, must include a brief description of the proposed facility and its location, and should disclose the identity of any consultants retained to conduct analyses for the applicant. It also must identify the Local Planning and Zoning Authority and provide notice of any requested deviations from

state setback requirements. When a notice is deemed complete, the Siting Board contacts the Governor and the county and city governments where the proposed facility would be located. The *ad hoc* members of the Siting Board are to be appointed during the notice period. The Siting Board also will use the notice period to engage any consultants it may require to assist in evaluating the application.

APPLICATION

Application for a certificate from the Siting Board may be made 30 days after the filing of a completed Notice of Intent. The application must contain certain information, including:

- Evidence that public notice of the application has been made
- A report on public involvement activities conducted by the applicant
- A site assessment report containing a detailed description of the project and thorough analysis of the impacts to be considered by the Siting Board (visual impacts, traffic, property values, etc.)
- A statement of compliance with any local zoning regulations and noise control ordinances
- An analysis of the effects of the proposed facility on the electric transmission grid
- An analysis of the economic impacts of the proposed facility
- Disclosure of past environmental violations by the applicants

HEARINGS

Evidentiary hearing

An evidentiary hearing will be held upon the written request of a party to the case or on the motion of the Siting Board itself. It must be requested within 30 days of the filing of a completed application. The evidentiary hearing is a formal proceeding, with participation limited to the applicants and the parties to the case (intervenors). Testimony is taken under oath. It may be held in the county where the proposed facility would be located or in Frankfort at the Public Service Commission's offices.

Local public hearing

This is an informal proceeding held to give the general public an opportunity to be heard by the Siting Board. A local public hearing will be held if requested by a local government entity - city, county or planning and zoning authority – or by at least three residents of the city or county in which the proposed facility would be located. Requests must be made in the form of a letter to the Siting Board. The local public hearing must be re-quested within 30 days of the filing of a completed application. It must be held within 60 days of the filing date , with 20 days' advance notice given to the public of the date, time and location of the hearing. The local public hearing will be held within the county in which the facility is proposed. If the facility spans more than one county, the local public hearing will be held in the most populous county.

How to submit comments

There is no requirement to sign up in advance to speak at a local public hearing. However, those wishing to speak will be asked to sign up upon arrival at the hearing. The time allocated to each speaker may be limited in order to allow everyone who wishes to comment to be heard.

The most helpful comments are those which:

- Are clear, concise and to the point.
- Address matters under Siting Board jurisdiction, rather than those under the purview of the Kentucky Department for Environmental Protection.
- Address specific aspects of the proposed facility, rather than simply general support or opposition.
- Suggest ways to remedy any perceived shortcomings in the application.

Comments also may be submitted to the Siting Board in writing. People with extensive, detailed comments are encouraged to submit them in writing to:

Kentucky State Board on Electric Generation and Transmission Siting

211 Sower Boulevard

P.O. Box 615

Frankfort, KY 40602

Fax (502) 564-3460

psc.ky.gov

INTERVENORS

Any interested party may apply to the Siting Board to become an intervenor in the proceeding. The request must be made in writing within 30 days of the filing of a completed application. Intervenors can be, but are not limited to, residents of the city or county in which the proposed facility would be located. Intervenors have the right to participate fully in the board proceedings. This includes the right to file requests for information from the applicant or other parties and to cross-examine witnesses during formal proceedings of the Siting Board. Parties to a case before the Siting Board also have the right to appeal the Siting Board decision to the Circuit Court in the county in which the facility is proposed to be located.

THE SITING BOARD DECISION

The Siting Board is required to make its decision no later than 120 days after the submission of a complete application.

The Siting Board will consider information submitted by the applicant, evidence and public comments from the hearings, other public comments and reports submitted by consultants to the Siting Board. The Siting Board also may conduct its own inspection of the location for the proposed facility.

The Siting Board may accept or deny an application as submitted, order mitigation measures to reduce impacts and allow deviations from setback requirements. The Siting Board may not order relocation of a proposed facility.

THE SITING BOARD PROCESS

SUMMARY/TIMELINE

-30 DAYS

NOTICE OF INTENT FILED

**AD HOC BOARD MEMBERS,
CONSULTANTS SELECTED**

0 DAYS

APPLICATION FILED

FILINGS FOR INTERVENORS

30 DAYS

DEADLINE FOR REQUESTING HEARINGS

NOTICE OF PUBLIC HEARINGS

60 DAYS

DEADLINE FOR PUBLIC HEARINGS

BOARD CONSULTANTS FILE REPORTS

120 DAYS

BOARD DECISION DUE

+30 DAYS

DEADLINE FOR FILING APPEALS

THE ROLE OF THE KENTUCKY DEPARTMENT FOR ENVIRONMENTAL PROTECTION

The law creating the Siting Board does not alter the role of Kentucky Department for Environmental Protection in granting permits for electric generating facilities. The required permits include those for:

- Air emissions
- Wastewater discharges
- Water withdrawal
- Solid waste disposal

It is likely that some or all of these permits may have been granted prior to application being made to the Siting Board. Therefore, members of the public interested in electric generation facility siting issues should not rely solely on the Siting Board process to gain notice of or comment upon such facilities.

The Department has its own procedures for gathering public input on pending permit applications. They are as described on the chart on the following page.

Similarly, the Siting Board does not have jurisdiction over matters that fall under the authority of other state or federal agencies. Such issues include, but are not limited to

- Endangered or threatened species
- Historic preservation
- Aviation safety

Public Input Opportunities for Each of the DEP Permits Typically Issued to Kentucky Power Plants

Type of Permit	Public Comment Periods (Opportunities to submit written comments)	Public Hearing Opportunities (Opportunities to present verbal comments)
Air Quality Permit	30 day public comment period on the draft permit	Members of the public can request a hearing during the public comment period. DEP may self-initiate a public hearing if there is significant public interest.
KPDES Permit for Wastewater Discharge	30 day public comment period on the draft permit	Members of the public can request a hearing during the public comment period or DEP may self-initiate a public hearing if there is significant public interest.
Special Waste Landfill Permit for Ash Management	30 day public comment period notice when application is administratively complete. 30 day public comment period on the draft permit.	Members of the public can request an informational hearing with the Department during the permit application public comment period. Members of the public can request a hearing with a Cabinet Hearing Officer during the draft permit public comment period.
Water Withdrawal Permit (Non-Utilities only)	30 day public comment period if there will be an inter-basin water transfer. (An inter-basin transfer is when water is withdrawn from one stream system and then discharged into a different stream system)	No public hearings