

**SUGGESTED SUBSTITUTE – TO AMENDED AFTER COMMENTS VERSION**

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**ENERGY AND ENVIRONMENT CABINET  
Department for Environmental Protection  
Division of Waste Management**

**401 KAR 103:005. Definitions ~~for~~[related to] 401 KAR Chapter 103.**

RELATES TO: KRS 224.10-100, 224.10-285, 224.43-345, 278.700 - 278.716

STATUTORY AUTHORITY: KRS 224.10-100(28), ~~[224.10-100]~~(30), (31), 224.10-285, ~~[224.43-345, 278.710(3)–[ (4),]~~ (5), (7) - (10)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-285(2) requires the Energy and Environment Cabinet to establish monitoring and enforcement requirements for the obligation established~~[set for]~~ in KRS 278.710(3) through~~[–(4),]~~ (5), and (7) through (10) and 224.10-100(30) and (31). This administrative regulation defines ~~[essential-]~~terms that are used in 401 KAR Chapter 103~~[this chapter]~~.

Section 1. Definitions. Unless otherwise specifically defined in KRS Chapter 224 and Chapter 278, terms in 401 KAR Chapter 103 shall have the meanings given in this section.

(1) "Abandon" or "Abandonment" means the relinquishment of all rights, title, or claim to the merchant electric generating facility.

(2) "Above-ground facility~~[facilities]~~" means any portion of a system or structure located on the surface of the site.

(3) "Annual report" means a yearly document that includes~~[describes]~~ all operational activities in the previous year.

(4) "Applicant" means any person ~~[who received a construction certificate pursuant to KRS 278.710, or]~~who is seeking the transfer of a construction certificate for ownership or control, or rights and obligations under a construction certificate, ~~[controlling rights, or ownership]~~of a constructed and generating merchant electric generating facility.

(5) "Cabinet" is defined by KRS 224.1-010(8).

(6) "Commence to construct" is defined by KRS 278.700(4).

(7) "Components" means:

(a)~~[either]~~ The solar panel or ancillary equipment of a solar array or solar panel system; or

(b)~~[, or]~~ A constituent part of the solar panel or solar array.

(8) "Construction certificate" means a formal certification approved and issued by the Kentucky State Board on Electric Generation and Transmission Siting (~~[“]Siting-~~board~~[“]”) ~~[to an owner-operator, or persons who have controlling rights, of a merchant electric generating facility]~~that authorizes a person~~[persons]~~ to construct and operate a merchant generating facility.~~

(9) "Construction certificate holder" means any person who received board approval to construct a merchant~~[merchang]~~ electric generating facility pursuant to KRS 278.710(1)~~[178.710(1)]~~ or any person who received approval to acquire~~[acquirer]~~ rights and obligations under the construction certificate pursuant to KRS 278.710(3)(b).

(10) "Control" is defined by KRS 278.010(19).

(11)~~(10)~~ "Current net salvage value" means, in current US dollars, the:

(a)~~[the]~~ Value of an asset ~~[expressed in current US dollars-]~~after the asset~~[it]~~ has become useless to the owner; or

~~(b)[the]~~ Amount expected to be obtained ~~if[when]~~ a fixed asset is disposed of at the end of its useful life and pursuant to KRS 278.706~~(2)~~.

~~(12)[(11)]~~ "Decommission" means the process of removing components [~~removal~~] or ~~facilities~~~~[closing of solar panel system]~~ at the end of the useful life.

~~[(12)]~~ [~~"Decommission bond" or "Decommissioning bond" means an approved financial assurance mechanism used to guarantee the land used for a merchant electric generating facility will be returned to a substantially similar state upon decommissioning or abandonment of the project, unless otherwise requested by the landowner.~~]

(13) "Decommission costs" or "decommissioning costs" means the amount of all costs and expenses incurred in connection with the ~~decommissioning~~~~[decommissioning]~~~~[dismantlement, removal, and disposal of structures, systems, and components]~~ of a merchant electric generating facility [~~at the time of decommissioning~~] pursuant to KRS 278.706.

(14) "Decommission plan" or "decommissioning plan" means a plan to retire physical facilities of a merchant electric generating facility, pursuant to KRS 278.706.

(15) "Disposal" is defined by KRS 224.1-010~~(9)~~.

(16) "Facility" is defined by KRS 278.010~~(11)~~.

(17) "Hazardous substance" is defined by KRS 224.1-400~~(1)(a)~~.

(18) "Land disposal" is defined by KRS 224.1-010~~(42)~~.

(19) "Landowner" means a person who has legal ownership of land where a merchant electric generating facility is located.

(20) "Megawatt" means a unit of power equal to one ~~(1)~~ million watts, measure of output of electrical power.

(21) "Merchant electric generating facility" is defined by KRS 278.700~~(2)~~.

(22) "Mitigation measures" means an act or requirement established by the siting board pursuant to KRS 278.708.

(23) "Modification" means a change in existing order or certificate, necessary to cure an error.

(24) "Monitoring" ~~means~~~~[is defined as]~~ the act of systematically inspecting and collecting data on operational parameters or on the quality of a merchant electric generating facility.

(25) "Municipal government" means a city, town, or other local authority with an elected governing body.

(26) "Net present value" means the difference between the present value inflow and outflow over a period of time and pursuant to KRS 278.706~~(2)~~.

(27) "Ordinance" means an official written act of a local government, the effect of which is general and permanent in nature, which is enforceable by the enacting local government as a local law within its jurisdiction.

~~(28)~~ [~~"Owner-operator" is defined as any person who owns a merchant electric generating facility or is responsible for overall operation of a merchant electric generating facility, including any contractor conducting operational activities.~~]

~~[(29)]~~ "Person" is defined by KRS 278.700~~(3)~~.

~~(29)[(30)]~~ "Professional engineer" is defined by KRS 322.010~~(3)~~ ~~and licensed pursuant to KRS 322.040~~~~[- an independent, professional engineer shall be registered in Kentucky pursuant to KRS 322.040 and shall be experienced]~~ to engage in the decommissioning of solar electric generating facilities.

~~(30)[(31)]~~ "Recycling" is defined by KRS 224.1-010~~(21)~~.

~~(31)[(32)]~~ "Secretary" is defined by KRS 224.1-010~~(23)~~.

~~(32)[(33)]~~ "Service" is defined by KRS ~~278.010(13)~~~~[278.700]~~.

~~(33)~~~~(34)~~ "Solar panel" means a panel or device containing photovoltaic cells designed to absorb and convert sunlight into a source of generating electricity.

~~(34)~~~~(35)~~ "Successor" means one who succeeds to the rights to own or control a merchant electric generating facility.

~~(35)~~~~(36)~~ "Useful life" means the estimated length of time that depreciable property will generate income.

~~(36)~~~~(37)~~ "Waste" is defined by KRS 224.1-010~~(30)~~.

Section 2. Acronyms and Abbreviations. Unless otherwise specifically indicated by context, acronyms and abbreviations used in 401 KAR Chapter 103 shall have the meaning ~~[as identified]~~ in Table 1 of this ~~section~~~~administrative regulation~~.

KAR	Kentucky Administrative Regulations
KRS	Kentucky Revised Statutes
MEGF	Merchant Electric Generating Facility
MW	Megawatt

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