

3. The Pixley Solar Project will have a nameplate capacity of approximately 189 MW and commercial operation is currently planned to occur in approximately April 2025. Pixley Solar is subject to a Purchase and Sale Agreement with Public Service Company of Oklahoma (“PSO”), pursuant to which PSO will acquire Pixley Solar. The Pixley Solar Project will not sell any power to retail customers in Kansas.

4. Pixley Solar has entered into a Decommissioning Agreement, Contribution Agreement, and a Road Use and Maintenance Agreement with Barber County.

II. DEFINITION OF PUBLIC UTILITY AND NOTICE OF DECISION TO OPT OUT OF PUBLIC UTILITY REGULATION

5. K.S.A. 66-104(a) states in pertinent part as follows:

The term “public utility,” as used in this act, shall be construed to mean every corporation, company, individual, association of persons, heirs, trustees, lessees or receivers, that now or hereafter may own, control, operate or manage, except for private use, any equipment, plant or generating machinery, or any part thereof, for the transmission of telephone messages or for the transmission of telegraph messages in or through any part of the state, or the conveyance of oil and gas through pipelines in or through any part of the state, except for pipelines less than 15 miles in length and not operated in connection with or for the general commercial supply of gas or oil, and all companies for the production, transmission, delivery or furnishing of heat, light, water, or power.

6. K.S.A. 66-104(e) states as follows:

At the option of an otherwise jurisdictional entity, the term “public utility” shall not include any activity or facility of such entity as to the generation, marketing and sale of electricity generated by an electric generation facility or addition to an electric generation facility which:

(1) is newly constructed and placed in service on or after January 1, 2001; and

(2) is not in the rate base of:

(A) an electric public utility that is subject to rate regulation by the state corporation commission;

(B) any cooperative, as defined by K.S.A. 17-4603 and amendments thereto, or any nonstock member-owned cooperative corporation incorporated in this state; or

(C) a municipally owned or operated electric utility.

(Emphasis added).

7. Because the Applicant is building generation capacity in Kansas, it falls within the definition of “public utility” as stated in K.S.A. 66-104(a), as it will “own, control, operate or manage, except for private use, any equipment, plant or generating machinery,” and is a company engaged in “the production, transmission, delivery or furnishing of heat, light, water, or power.”

8. However, at the option of an “otherwise jurisdictional entity,” K.S.A. 66-104(e) indicates that the term public utility shall not include “any activity or facility of such entity as to the generation, marketing and sale of electricity generated by an electric generation facility or addition to an electric generation facility” which meets the requirements of subsection (e) of the statute.

9. The Project will be:

- (1) newly constructed and placed in service on or after January 1, 2001, in accordance with K.S.A. 66-104(e)(1); and
- (2) not placed in the rate base of either an electric public utility subject to rate regulation by the KCC, nor any cooperative or municipally owned or operated electric utility, in accordance with K.S.A. 66-104(e)(2)(A) through (C).

10. It is anticipated that Pixley Solar will be sold to PSO pursuant to a Purchase and Sale Agreement. PSO is not a public utility subject to rate regulation by the KCC, nor it is a cooperative or municipally owned or operated electric utility. Pixley Solar may continue to exist after closing of the Purchase and Sale Agreement. Because the exemption is specific to the entity owning the subject facilities,¹ Pixley Solar is exercising the option to exempt itself from the

¹ See, e.g. Staff Memorandum, Docket No. 21-FR3E-079-WND (Aug. 17, 2020); Staff Memorandum, Docket No. 19-SFWE-204-WND (Feb. 14, 2029).

definition of “public utility” pursuant to the opportunity to opt out of regulation contained in K.S.A. 66-104(e).²

11. Accordingly, the Applicant hereby provides this Notice to the Commission of its decision to opt out of public utility regulation pursuant to K.S.A. 66-104(e). Because the Applicant has opted out of public utility regulation, the Applicant is likewise exempt from the application of the following statutes, as each of these statutes, by their specific terms, apply only to jurisdictional entities: K.S.A. 66-131, permit to transact business in the State of Kansas as a public utility required; and K.S.A. 66-1,177 *et seq.*, the electric transmission line siting act.

12. Pursuant to K.S.A. 66-104(e)(2), an entity that has exercised to exempt itself from regulation is still subject to the Commission’s jurisdiction over wire-stringing, and is therefore required to comply with the K.S.A. 66-183, guidelines for stringing wires along or across streets, highways, or public places; and K.A.R. 82-12-1 *et seq.*, the Commission’s wire-stringing regulations. Pixley Solar intends to file the Form EL required by K.A.R. 82-12-1 *et seq.*

² Similarly situated independent power producers have exercised their option to exempt themselves from the definition of “public utility” by filing notices with the Commission. *See, e.g.*, Docket No. 21-FR3E-079-WND, Notice of Exemption of Flat Ridge 3 Wind Energy, LLC, Pursuant to K.S.A. 66-104(e) (Aug. 10, 2020); Docket No. 19-SFWE-204-WND, Notice of Exemption of Solomon Forks Wind Project, LLC Pursuant to K.S.A. 66-104(e) (Nov. 15, 2018); Docket No. 18-PTWE-447-WND, Notice of Exemption of Pratt Wind, LLC Pursuant to K.S.A. 66-104(e) (April 13, 2018); Docket No. 17-CPBE-139-WND, Notice of Exemption of CP Bloom Wind LLC Pursuant to K.S.A. 66-104(e) (Oct. 21, 2016).

WHEREFORE, Applicant respectfully submits to the Commission this Notice of Exemption pursuant to K.S.A. 66-104(e).

Respectfully submitted,

POLSINELLI PC

/s/ Andrew O. Schulte

Andrew O. Schulte (KS Bar #24412)

900 West 48th Place, Suite 900

Kansas City, Missouri 64112

(816) 691-3731

Fax No. (816) 751-1536

aschulte@polsinelli.com

ATTORNEY FOR PIXLEY SOLAR ENERGY, LLC

August 30, 2024

Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "PIXLEY SOLAR ENERGY LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TWENTY-THIRD DAY OF JULY, A.D. 2024.

AND I DO HEREBY FURTHER CERTIFY THAT THE SAID "PIXLEY SOLAR ENERGY LLC" WAS FORMED ON THE TWENTIETH DAY OF SEPTEMBER, A.D. 2021.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE BEEN PAID TO DATE.



A handwritten signature in black ink, appearing to read "JBullock", is written over a horizontal line. Below the line, the text "Jeffrey W. Bullock, Secretary of State" is printed.

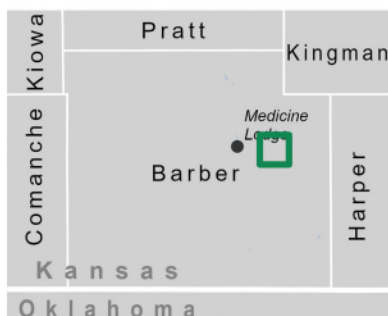
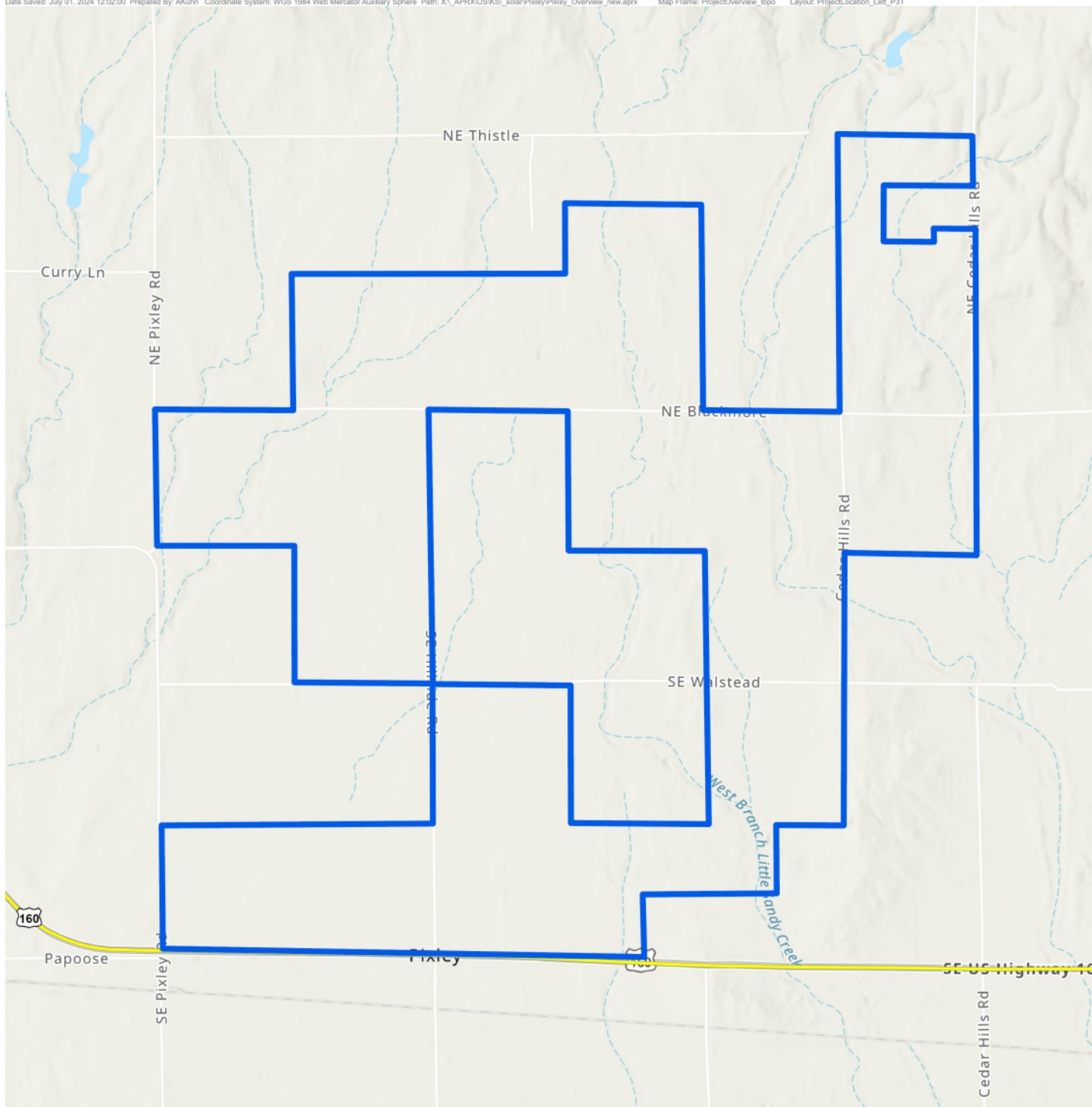
6246698 8300

SR# 20243216321



You may verify this certificate online at corp.delaware.gov/authver.shtml

Authentication: 203994306

Date: 07-23-24



Legend

-  Project Boundary
- Road Classification**
-  US/State Route



1,000 0 1,000
Feet

Project Location

Pixley Solar Energy Center | Barber County, Kansas

July 01, 2024

Invenergy

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon the parties listed on the official service list by email, this 30th day of August, 2024.

BRIAN FEDOTIN
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
b.fedotin@kcc.ks.gov

CARLY MASENTHIN
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
c.masenthin@kcc.ks.gov

/s/ Andrew O. Schulte

Andrew O. Schulte

VERIFICATION

STATE OF MISSOURI

ss:

COUNTY OF JACKSON

I, Andrew O. Schulte, do solemnly, sincerely and truly declare and affirm that I am counsel to Pixley Solar Energy LLC, that I have read the foregoing pleading and know the contents thereof, and that the facts set forth therein are true and correct to the best of my knowledge and belief, and this I do under the pains and penalties of perjury.

By: /s/ Andrew O. Schulte

Andrew O .Schulte

August 30, 2024