

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the Notice of Exemption    )  
Of Sunflower Sky Solar Project, LLC        )     Docket No. 25-   SSSE-583-SLR  
Pursuant To K.S.A. 66-104(e)                )

**NOTICE OF EXEMPTION OF SUNFLOWER SKY SOLAR PROJECT, LLC PURSUANT TO K.S.A. 66-104(e)**

COMES NOW, Sunflower Sky Solar Project, LLC (“Sunflower Sky” or “Applicant”) and hereby provides notice to the State Corporation Commission of the State of Kansas (“Commission” or “KCC”) of its decision to opt out of public utility regulation pursuant to K.S.A. 66-104(e). In support of its Notice, the Applicant states and alleges as follows:

**I. INTRODUCTION**

1. Sunflower Sky Solar Project, LLC is a limited liability company, organized and existing under the laws of the State of Delaware, in good standing in all respects. (See **Exhibit A**, attached hereto).

2. Sunflower Sky is developing, constructing, and will own and operate a solar energy project on an approximately 735-acre site located near the city of Fredonia in Wilson County, Kansas (the “Project”). (See **Exhibit B** for a map of the Project location). All Sunflower Sky facilities will be constructed on privately-owned land pursuant to either solar leases, transmission easements, or parcels purchased by Sunflower Sky in fee simple pursuant to agreements with the respective landowners. In light of these privately negotiated lease and easement arrangements, Sunflower Sky will neither request nor require condemnation authority in order to obtain land use

rights for the Project. The Project will interconnect at Altoona-NE Parsons via an approximately .005-mile 138 kV generation tie transmission line.

3. The Project will have a nameplate capacity of approximately 65 MWac and commercial operation is currently projected to occur prior on or around 3/31/2027. The Sunflower Sky Solar Project will not sell any power at retail.

4. Sunflower Sky has worked diligently with residents and local government officials to ensure a positive local reception for the Project, and is currently working with officials to negotiate a payment in lieu of taxes ("PILOT") agreement, a Road Use and Maintenance Agreement), and a Decommissioning Agreement.

## **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. In the Commission's December 27, 2007 Final Order in Docket No. 08-WSEE-309-PRE, it concluded that the Commission may not have jurisdiction or authority over the developers that own wind farms and sell power to a utility Westar Energy Inc. through power purchase agreements.

### **III. NOTICE BY APPLICANT**

8. 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."

9. 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.

10. 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) privately owned and operated and 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).

11. As such, Sunflower Sky is exercising the option to exempt itself from the definition of “public utility” pursuant to the option to opt out of regulation contained in K.S.A. 66-104(e).<sup>1</sup> 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 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. Sunflower Sky intends to file the Form EL required by K.A.R. 82-12-1 *et seq.* at the appropriate time, at least ten days prior to commencing construction as required by the Commission’s rules.

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

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<sup>1</sup> 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. 19-SLWE-323-WND, Notice of Exemption of Soldier Creek Wind, LLC Pursuant to K.S.A. 66-104(e) (Feb. 14, 2019); 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).

Respectfully submitted,

POLSINELLI PC

/s/ Anne E. Callenbach

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ATTORNEYS FOR SUNFLOWER SKY SOLAR PROJECT,  
LLC

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was served upon the parties listed below by email, this 30th day of June, 2025.

CARLY MASENTHIN  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
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Justin.Grady@ks.gov

/s/ Anne E. Callenbach

Anne E. Callenbach

**VERIFICATION**

STATE OF MISSOURI

ss:

COUNTY OF JACKSON

I, Anne E. Callenbach, do solemnly, sincerely and truly declare and affirm that I am counsel to Sunflower Sky Solar Project, 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/ Anne E. Callenbach

Anne E. Callenbach

June 30, 2025

STATE OF KANSAS  
OFFICE OF SECRETARY OF STATE  
CERTIFICATE OF GOOD STANDING

I, SCOTT SCHWAB, Kansas Secretary of State, certify that the records of this office reveal the following:

Business ID: 4883153

Business Name: SUNFLOWER SKY SOLAR PROJECT, LLC

Type: Foreign Limited Liability Company

Jurisdiction: Delaware

was filed in this office on January 09, 2015, and is in good standing, having fully complied with all requirements of this office.

No information is available from this office regarding the financial condition, business activity or practices of this entity.



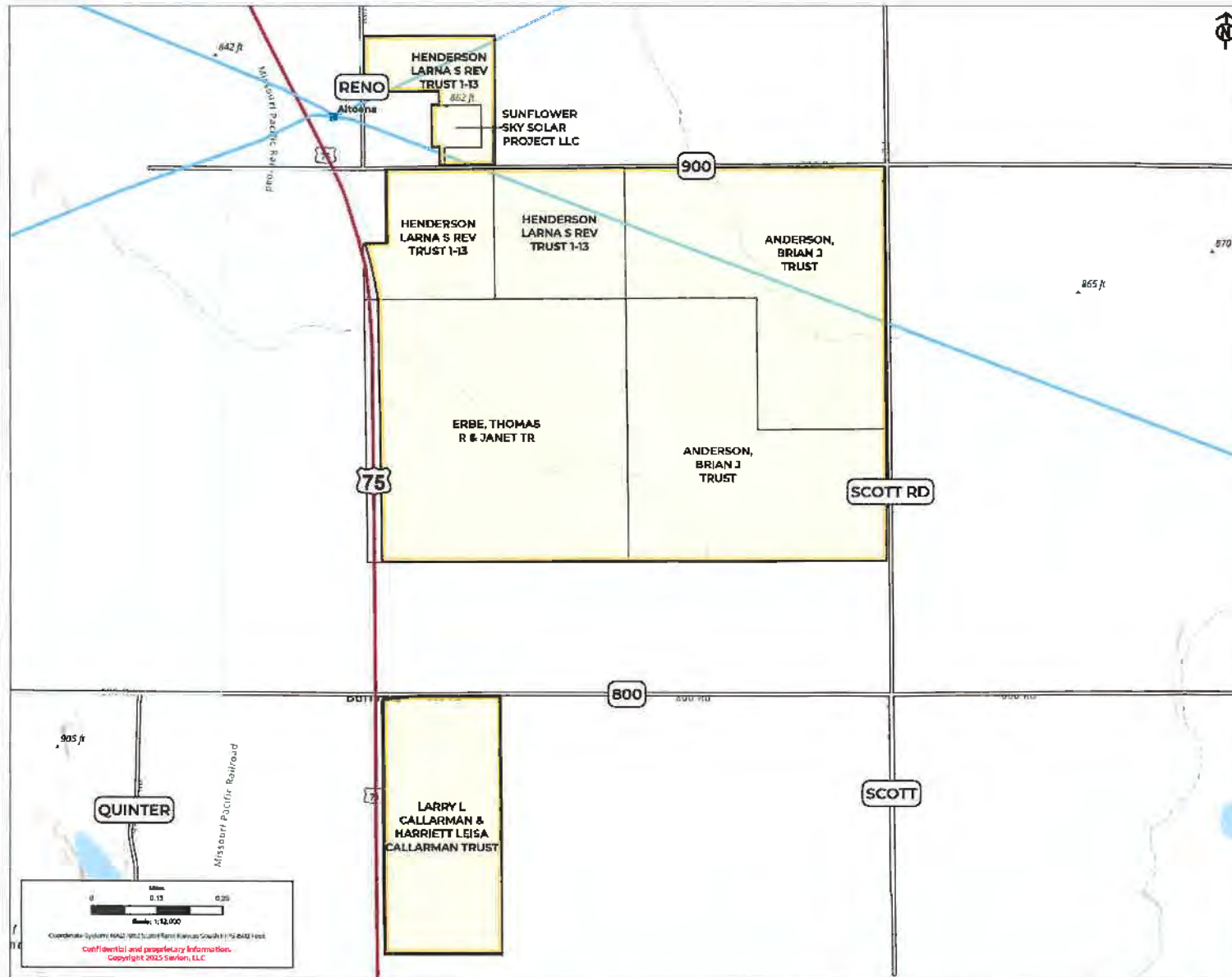
In testimony whereof:  
I affix my official certification seal.  
Done at the City of Topeka,  
on this day June 30, 2025.

SCOTT SCHWAB  
KANSAS SECRETARY OF STATE

Certification Number: 60664-20250630 To verify the validity of this certificate please visit  
<https://www.sos.ks.gov/eforms/BusinessEntity/CertifiedValidationSearch.aspx> and enter certificate number.



## SUNFLOWER SKY SOLAR PROJECT



## PRELIMINARY DESIGN - NOT FOR CONSTRUCTION

PROJECT: <b>SUNFLOWER SKY</b>	
DEVELOPER: <b>SAVION, LLC</b>	ENGINEER:
DATE: <b>5/30/2025</b>	SCALE: <b>1 INCH : 1,000 FEET</b>
NOTES:	
<b>PROJECT:</b> <b>PROJECT PARCELS</b>	