

**COMMONWEALTH OF KENTUCKY
BEFORE THE KENTUCKY STATE BOARD
ON ELECTRIC GENERATION AND TRANSMISSION SITING**

**In the Matter of the Application of Glover Creek Solar,)
LLC, for a Construction Certificate to Construct a) Case No. 2020-00043
Merchant Electric Generating Facility)**

RESPONSE TO CONSULTANT’S REPORT

Glover Creek Solar, LLC (“Glover Creek”), by counsel, hereby provides its response to the Report prepared by Harvey Economics. Glover Creek supports Harvey Economics’ report, as the report recommends that the Siting Board approve the application for a certificate to construct based upon the considerations addressed in that review. Glover Creek encourages the Siting Board to approve the certificate of construction for its proposed facility, and is willing to commit to certain actions discussed below.

I. BACKGROUND

Glover Creek proposes to construct a 55-megawatt alternating current photovoltaic (PV) electricity generation facility, situated on agricultural land in Metcalfe County. It filed an application for a certificate to construct this solar-energy project with the Siting Board on March 27, 2020.

Glover Creek has communicated extensively with neighbors and local community leaders throughout its planning process. In order to comply with statutory requirements,¹ Glover Creek held a public meeting on December 12, 2019, to inform the public about the Project and receive

¹ KRS 278.706 (2)(f).

comments from them.² Notice of this meeting was provided to the public through publication in the *Edmonton Herald-News*. Adjoining landowners were mailed individual notices of the meeting.³ In addition to the public meeting, the Project held a neighborhood dinner on December 11, 2019, at the Edmonton City Grill.⁴

Communications with the public and local leaders started well in advance of that public meeting. Representatives of Glover Creek had several meetings starting as early as September 2019 with the Metcalfe County Judge/Executive to discuss the Project.⁵ Its representatives also discussed the Project with a Metcalfe Fiscal Court magistrate, the County Attorney, State Senator David P. Givens, State Representative Bart Rowland, the Board of Directors of the Edmonton-Metcalfe County Industrial Development Authority, the Mayor of the City of Edmonton, and with members of local fire departments.⁶

Notably, throughout this entire process, there have been no objections to the Project and no intervenors in this case. Glover Creek is very grateful for the warm welcome it has received in Metcalfe County, and believes the appropriate location and projected economic benefits of the solar project, as well as Glover Creek's transparency and open discussions with local leaders and members of the community, helped create this positive result.

Consistent with KRS 278.708(5), the Siting Board retained Harvey Economics to review the site assessment report ("SAR") filed by Glover Creek and provide recommendations concerning the adequacy of the SAR and proposed mitigation measures. Pursuant to subsection (2)(a) of that statute, the SAR is required to have a description of the proposed facility, including surrounding land uses, legal boundaries, proposed access controls, location of structures on the

² See Application, Vol. 1, Section 6 – Public Notice Report.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

property, location of roadways, location of utility infrastructure, setbacks, and anticipated noise.

The SAR must also include evaluation of four aspects of the project:

1. the compatibility of the facility with scenic surroundings,
2. potential changes in property values and land use resulting from the proposed facility for property owners adjacent to the facility,
3. anticipated peak and average noise levels associated with the facility's construction and operation, and
4. impact of the facility's operation on road and rail traffic to and within the facility, including anticipated levels of fugitive dust and any anticipated degradation of roads and lands.

KRS 278.708(2)(b)-(e). Harvey Economics focused on these four aspects of the project in preparing its report, as well as Glover Creek's proposed development plan. For each section, it discussed its findings and made certain recommendations.

II. DISCUSSION

A. PROPOSED DEVELOPMENT PLAN

The first facet of the Application that Harvey Economics reviewed was the Project's site development plan. Harvey Economics specifically stated that "the Applicant has generally complied with the legislative requirements for describing the facility and a site development plan, as required by KRS 278.708."⁷ It also determined that "[s]ecurity and access control measures appear to be adequate, given the type of facility and its location in a rural area."⁸

Harvey Economics made the following recommended actions for mitigation on this section:

1. A final site layout plan should be submitted to the Siting Board upon completion of the final site design. Deviations from the preliminary site layout plan which formed the basis for HE's review should be clearly indicated on the revised graphic. Those changes might include location of solar panels,

⁷ See Harvey Economics Report at III-11.

⁸ *Id.*

transformer/ inverter/ ESS groupings, panel motors, the substation or other Project facilities or infrastructure.

2. Any change in Project boundaries from the information which formed this evaluation should be submitted to the Board for review.

3. The Board will determine if any deviation in the boundaries or site development plan is likely to create a materially different pattern or magnitude of impacts. If not, no further action is required, but if yes, the Applicant will support the Board's effort to revise its assessment of impacts and mitigation requirements.

4. The Applicant or its contractor will control access to the site during construction and operation. All construction entrances will be gated and locked when not in use.

5. The fence surrounding the property boundary will be installed after grading of the site and before the main array installation begins. According to National Electric Code regulations, the security fence must be installed prior to any electrical installation work. The substation and construction staging area will also have their own separate security fences installed.

Glover Creek generally agrees with Harvey Economics' recommendations above. It can submit to the Siting Board a final site layout plan after completion of the final site design. That plan can include identification of substantial deviations from the preliminary plan, but Glover Creek submits that it would be unnecessary to identify each and every minor modification. The site plan provided in Glover Creek's response to the Siting Board's second request for information ("Final Site Plan") has a note that states that "[s]olar panel, equipment and road locations are indicative and may be adjusted within the shaded areas shown within the Project Footprint." Glover Creek submits minor modifications in compliance with this note need not be identified. For example, if the solar panels end at a point resulting in more distance from the property boundary than initially identified, it would be unnecessary to provide an explanation as to the modification. Similarly, if motors are placed on alternate paneling, it would be insignificant unless it impacted a neighboring property owner. If, however, the substation is

relocated to the opposite side of the property, a substantial deviation would exist and notification to the Siting Board is reasonable. This reporting requirement would also include a change in the Project boundaries, the vegetative buffer location, or the “Potential Project Footprint” indicated on the Final Site Plan. Glover Creek also agrees with the fourth and fifth recommendations above, namely access control and installation of fencing.

B. COMPATIBILITY WITH SCENIC SURROUNDINGS

The second facet of the Application that Harvey Economics reviewed was the Project’s compatibility with its scenic surroundings. As it described, “This component of the statute relates to how well the proposed facility will ‘blend-in’ or is compatible with its physical surroundings and associated land uses.”⁹ It mentioned that “solar farms are considered to be less visually intrusive, as they are relatively short, and can be effectively visually blocked through strategic use of surrounding vegetation.”¹⁰

With respect to the Project, Harvey Economics found that the project is generally compatible with the scenic surroundings for the following reasons:

- The number of people that will see the panels or other infrastructure will be very small.
- The substation is hidden from nearly all viewing points.
- After three years, there should be virtually no glare experienced by personal vehicles; only truckers may experience glare for less than a 20-minute period on winter mornings.
- The Project will not result in adverse visual impacts to residents or commuters.¹¹

⁹ Report at V-1.

¹⁰ *Id.*

¹¹ *Id.* at V-6 to V-7.

Harvey Economics proposed three action items for mitigation measures related to the Project's compatibility with the scenic surroundings, which are as follows:

1. The Applicant will strategically plant a vegetative buffer around certain areas of the Project. Plantings of native evergreen species will serve as visual and noise buffers to mitigate viewshed impacts. Plantings will primarily be in areas directly adjacent to the Project without existing vegetation. At the time of planting, the buffer will be three feet in height, expected to grow to six feet high after a period of three years, and hopefully continue to grow thereafter. Once the vegetative buffer has grown six feet high, the panels will be hidden throughout most of the day. The Applicant met with numerous landowners near the Project site, and the landowners had input in the placement of some of the visual buffers associated with the facility.
2. Applicant will monitor growth of vegetative buffer, ensuring that its plantings are thriving to at least six feet in height.
3. Applicant will cultivate at least two acres of native pollinator-friendly species within the solar facility site, among the solar panels.¹²

Glover Creek generally agrees with these mitigation efforts. The first recommendation above is consistent with the Project's site plan.¹³ Glover Creek is willing to commit to monitoring growth of vegetative buffer to ensure it reaches at least 6 feet in height. It is also willing to cultivate at least 2 acres of pollinator-friendly species on one or more parcels containing solar panels.¹⁴

C. POTENTIAL CHANGES IN PROPERTY VALUES

The third facet of the Application that Harvey Economics reviewed was the Project's potential impact on the changes in property values for adjacent property owners. Harvey Economics addressed how the "magnitude, timing, and duration of increased traffic volume,

¹² *Id.*

¹³ See Preliminary Site Plan, filed with the SAR as Exhibit E.

¹⁴ These plantings may not be "among" the solar panels, as described by Harvey Economics, but will be in the general vicinity and on the same parcel as solar panels.

noise, odor, visual impairments, or other emissions associated with the facility can influence the marketability and value of nearby properties.”¹⁵

Harvey Economics noted that “the few existing studies related to this issue generally indicate no impacts to property values” and that it “is not aware of any concerns from local residents related to changes in property values resulting from the Glover Creek facility.”¹⁶ It concluded that “[g]iven the operations of the facility as described by the Applicant, there is no reason to believe that the Glover Creek solar facility would affect the current or future desired land uses of surrounding agricultural or residential properties.”¹⁷ Accordingly, it found that there were no necessary mitigation efforts needed for this component.

D. ANTICIPATED NOISE LEVELS

The fourth facet of the Application that Harvey Economics reviewed was the Project’s noise levels associated with construction and operation of the proposed Glover Creek facility. Harvey Economics believes that there could be up to eight months of construction with intermittent noises that the EPA classifies as annoying for residents within 1,500 feet from the originating sound. In addition, there may be noise from the solar tracker motors during operation that would be noticeable to less than nine residences, but that the impact from the noise from the motors would be reduced by the vegetative buffer and undulating, agricultural land.¹⁸

Based on these findings, Harvey Economics made the following recommendations:

1. Residents within 1,500 feet of the property boundaries should be notified about potential construction noises. Residents within 500 feet of the solar panels should be notified about potential operational noises.

¹⁵ Report at V-8.

¹⁶ *Id.* at V-12.

¹⁷ *Id.* at V-13.

¹⁸ *Id.* at V-18.

2. The Applicant should remain in contact with nearby residents to confirm that noise levels are not unduly high or annoying after the pounding and placement of the solar panel racking begins.
3. If noise levels during this period are unacceptable to nearby residents or landowners, the Applicant will take such steps to mitigate the noise impact.
4. The Applicant should contact nearby residents to confirm that noise levels are not unduly high or annoying after operations begin.
5. Additional buffering or fencing should be considered in those areas where noise impacts are annoying residents or will potentially annoy them.

Glover Creek is fully committed to minimizing the negative impact of unreasonable noise in order to be a good neighbor and steward of the community that it seeks to join. It has been transparent with landowners and local officials in its plans and the anticipated noise levels during construction and operation, and will continue to be transparent. It is concerned, however, by the subjective nature of Harvey Economics' recommendations 2 and 4 above. One person may find noise to be "unduly high or annoying" or "unacceptable," while it may be music to someone else's ears. Glover Creek is also concerned that it is unclear what the mitigation steps would be, or how they would be determined, if a neighbor were to say that they considered construction or operation noise levels "unacceptable". Glover Creek therefore respectfully requests that the Siting Board consider what neighbor outreach and noise mitigation requirements are fair and reasonable, and ensure that requirements, if any, have clear and commercially achievable compliance guidelines.

With this in mind, Glover Creek understands with the sentiment behind Harvey Economics' recommendations, and agrees with the last recommendation in this section. Glover Creek will meet with local residents on their request and be sensitive to their noise-related concerns. If residents communicate concerns to Glover Creek, it will consider implementing

additional buffering or fencing in those areas where ongoing operations noise impacts are annoying residents, and where such mitigation efforts would make a meaningful impact. Glover Creek will clearly communicate its plans regarding timelines for mitigation of noise impacts with any residents who communicate concerns to Glover Creek regarding noise. Throughout construction and operations, Glover Creek will remain transparent and open to the local residents' concerns in order to be that good neighbor that it strives to be.

E. EFFECT ON ROAD TRAFFIC

The fifth facet of the Application that Harvey Economics reviewed was the Project's impact on road and rail transportation, including traffic, fugitive dust, and road degradation. With no impact on railroads, Harvey Economics focused on impact to roadways and vehicular traffic.

Harvey Economics determined that “[t]raffic impacts during construction will be limited, but somewhat higher during the peak construction weeks,” particularly on SR 640.¹⁹ It also expressed concern about the potential for damage by large Class 21 trucks that may be required to deliver materials during construction.²⁰ But once construction ends and operations begin, there will be no noticeable impact on traffic.²¹

With respect to these conclusions, Harvey Economics made the following recommendations:

1. The Applicant will use appropriate signage and traffic signaling as needed to aid construction traffic and prevent severe traffic issues.
2. As needed, the Applicant will provide a temporary traffic signal at the intersection of SR 640 and SR 90.

¹⁹ *Id.* at V-24.

²⁰ *Id.*

²¹ *Id.*

3. As needed, the Applicant will shuttle commuting construction workers.
4. The Applicant's contractor will apply best management practices (BMPs) regarding dust mitigation, including but not limited to: water applied to internal roads as needed; internal roads compacted; internal roads constructed or improved as needed; loads of dirt and other air-pollution causing particles covered while in transit; revegetation measures and covering of spoil piles.
5. The Applicant will inform and obtain permits from State and local road authorities as pertaining to the Class 21 vehicle transport to the site. The Applicant will comply with those permit requirements.
6. The Applicant will fix or pay for damage resulting from Class 21 vehicle transport to the Project site and will coordinate with proper road officials prior to these trips.

Glover Creek agrees that it should minimize negative impacts to traffic and roads. It agrees with Harvey Economics' recommendations to use appropriate signage and traffic signaling as needed to aid construction traffic and prevent severe traffic issues, including the use of a temporary signal at the intersection of SR 640 and SR 90, if needed and approved by applicable state and local authorities. It will shuttle commuting construction workers, if necessary. Glover Creek will adhere to Best Management Practices regarding dust mitigation. It will obtain necessary permits on roads from state and local authorities and comply with those permits. Likewise, it will coordinate with state and local transportation officials and pay any assessments.

F. ADDITIONAL CONCLUSIONS AND RECOMMENDATIONS

Harvey Economics also commented on a few other features of Glover Creek's site assessment report. In addressing economic benefits, Harvey Economics concluded:

Construction and operation of the Glover Creek Solar facility will provide some, limited economic benefits to the region and to the State. Overall, the Glover Creek Project will result in measurable, but temporary, positive economic effects

to the region during the construction phase. Construction activity will generate regional employment and income opportunities; those effects will be temporary, but local hires will increase employment and incomes to an area which needs it. Many construction purchases will be made outside of Kentucky.²²

Although generally positive in its conclusion and not recommending any mitigation efforts in this arena, Harvey Economics stated that a payment-in-lieu-of-taxes amount of approximately \$55,000 annually “are likely very small percentages of total Metcalfe County property taxes.”²³ Glover Creek respectfully disagrees with this characterization. According to the most recent FY 2018 audit,²⁴ Metcalfe County collected \$1,215,103 from taxes. An additional annual amount of \$55,000 is quite significant to a small community such as Metcalfe County.

Harvey Economics also considered decommissioning in its Report. Based on its review of information, it recommended the following:

1. The Applicant, its successors or assigns will decommission the entire site and complete reclamation to its original or a superior state after the Project has served its useful life. This mitigation requirement should be deferred if Glover Creek continues with its currently proposed operation beyond 40 years.
2. If the Applicant, its successors or assigns retrofit the current proposed facility to produce solar energy beyond 40 years, it must demonstrate to the Board that the retrofit facility will not result in a material change in the pattern or magnitude of impacts as addressed herein. Otherwise, a new SAR must be submitted for Board review.
3. The Applicant, its successors or assigns will prepare a new SAR for Board review if the power producer intends to retire the currently proposed facility and employ a different technology.

²² *Id.* at V-28.

²³ *Id.*

²⁴ This audit is available online at http://apps.auditor.ky.gov/Public/Audit_Reports/Archive/2018metcalfeaudit.pdf (last visited July 22, 2020).

Glover Creek agrees with Harvey Economics' recommendations regarding decommissioning. In the leases between Glover Creek and the landowners from whom Glover Creek is leasing property, Glover Creek has agreed upon termination of the leases to restore the land in substantially the same condition as it currently exists including removal of fencing, roads, solar panels and mounts, and other improvements, and the landowners agree with that plan. Accordingly, Glover Creek believes that this is a reasonable condition for decommissioning. Glover Creek also agrees that, if the use of the land materially changes and regulations require a new certificate of construction or permit, Glover Creek will obtain the required approvals. This would include if a power producer intends to retire the current proposed facility and employ a different method of generating power.

III. CONCLUSION

Glover Creek is pleased with Harvey Economics' report, in which Harvey Economics recommends that the Siting Board "approve Glover Creek Solar, LLCs application for a certificate to construct a merchant electric generating facility" and appreciates the care and thought that the Harvey Economics team put into evaluating the Project. Glover Creek is one of the first utility scale solar projects to apply for a Siting Board permit in Kentucky, and appreciates the time and effort that is required in order to carefully evaluate the Project and its potential impact on its neighbors and the broader Metcalfe County community. It believes that most of Harvey Economics' recommendations are reasonable, and accordingly, Glover Creek can commit to the following actions discussed above:

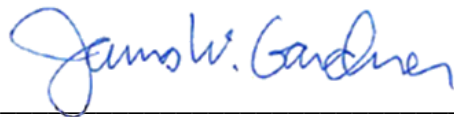
- Glover Creek will submit to the Siting Board a final site layout plan after completion of the final site design. That plan will include identification of substantial deviations from the preliminary plan, but not minor modifications.
- Glover Creek or its contractor will control access to the site during construction and operation. All construction entrances will be gated and locked when not in use.

- The fence surrounding the property boundary will be installed after grading of the site and before the main array installation begins. According to National Electric Code regulations, the security fence must be installed prior to any electrical installation work. The substation and construction staging areas will also have their own separate security fences installed.
- Glover Creek will strategically plant a vegetative buffer around certain areas of the Project where a buffer currently does not exist. Plantings of native evergreen species will serve as visual and noise buffers to mitigate viewshed impacts. Plantings will primarily be in areas directly adjacent to the Project without existing vegetation. At the time of planting, the buffer will be three feet in height, expected to grow to six feet high after a period of three years, and hopefully continue to grow thereafter. Once the vegetative buffer has grown six feet high, the panels will be hidden throughout most of the day.
- Glover Creek will monitor growth of vegetative buffer, ensuring that its plantings are thriving to at least six feet in height.
- Glover Creek will ensure the cultivation of at least 2 acres of native pollinator-friendly species onsite.
- Glover Creek will meet with local residents on their request and be sensitive to their noise-related concerns. If residents communicate concerns to Glover Creek, it will consider implementing additional buffering or fencing in those areas where ongoing operations noise impacts are annoying residents, and where such mitigation efforts would make a meaningful impact.
- Throughout construction and operations, Glover Creek will remain transparent and open to the local residents' concerns.
- Glover Creek will use appropriate signage and traffic signaling as needed to aid construction traffic and prevent severe traffic issues.
- As needed and approved by state and local authorities, Glover Creek will provide a temporary traffic signal at the intersection of SR 640 and SR 90.
- As needed, Glover Creek will shuttle commuting construction workers.
- Glover Creek will adhere to Best Management Practices regarding dust mitigation.

- Glover Creek will obtain necessary permits on roads from state and local authorities and comply with those permits.
- Glover Creek will coordinate with state and local transportation officials and pay any assessments.
- At the conclusion of operations, Glover Creek will restore the land in substantially the same condition as it exists including removal of fencing, roads, solar panels and mounts, and other improvements, and the landowners agree with that plan.
- If the use of the land materially changes and regulations require a new certificate of construction or permit, Glover Creek will obtain the required approvals. This would include if a power producer intends to retire the current proposed facility and employ a different method of generating power.

Based on Harvey Economics' recommendation and Glover Creek's commitments explained above, Glover Creek respectfully requests Siting Board approval of the certificate to construct this facility.

Respectfully submitted,



STURGILL, TURNER, BARKER & MOLONEY, PLLC
JAMES W. GARDNER
M. TODD OSTERLOH
333 W. Vine Street, Suite 1500
Lexington, Kentucky 40507
Telephone No.: (859) 255-8581
Fax No. (859) 231-0851
tosterloh@sturgillturner.com
jgardner@sturgillturner.com

ATTORNEYS FOR GLOVER CREEK SOLAR, LLC