

**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)**

MOTION

Glover Creek Solar, LLC (“Glover Creek”), by counsel, hereby submits this Motion, respectfully requesting that the Siting Board grant its Petition for Reconsideration in part and deny as moot the Petition for Reconsideration in part. Glover Creek respectfully request an order no later than October 1, 2021. In support of its motion, Glover Creek states as follows:

BACKGROUND

Glover Creek proposes to construct a 55-megawatt alternating current photovoltaic electricity generation facility situated on land in Metcalfe County (the “Project”). It filed an application for a certificate to construct the Project with the Siting Board on March 27, 2020. Because of the Covid-19 pandemic, the Siting Board extended the statutory deadline an extra 60 days, such that the statutory deadline was set at September 23, 2020. Notably, no person sought intervention in this matter or filed comments in opposition to the siting of the Project. On September 23, 2020, the Siting Board approved a certificate to construct the Project. As a part of its Order, the Siting Board requires Glover Creek to comply with certain mitigation measures.

After reviewing the Siting Board's mitigation measures, Glover Creek filed a Petition for Reconsideration on October 19, 2020, seeking clarification of certain mitigation measures. On December 18, 2020, the Siting Board granted Glover Creek's Petition for Reconsideration for the purposes of further investigation. In that Order, the Siting Board established a procedural schedule with two additional rounds of written discovery requests. Glover Creek filed its responses to the last set of discovery requests on February 15, 2021.

On May 21, 2021, Glover Creek filed its Motion to Amend Project Boundaries, in which Glover Creek seeks approval to add approximately 160 acres to its project footprint. In that Motion, Glover Creek requested a decision to be issued by the Siting Board no later than August 21, 2021—three months after the Motion was filed. Glover Creek has since responded to a request for information primarily focused on the issues presented in that Motion.

It is important to Glover Creek that a final decision from the Siting Board is issued in order to satisfy certain steps in its process, provide final guidance to its engineering, procurement, and construction (EPC) contractor on mitigation measures, and maintain project development schedule. Ten months have passed since the initial construction certificate was awarded. Glover Creek is reluctant to file the present motion, as it understands the challenges facing the Siting Board and its Staff, particularly in light of the influx of other solar-development projects seeking a construction certificate. However, Glover Creek needs a definitive decision from the Siting Board in order to proceed forward.

Glover Creek has reviewed mitigation measures on which it previously sought reconsideration and determined that there were three mitigation measures and one ordering paragraph that should be modified. In the interest of expediting the Siting Board's decision, Glover

Creek will withdraw several issues identified in its Petition for Reconsideration and focus its request for relief on three mitigation measures and one ordering paragraph. Each of these modifications proposed by Glover Creek are based on modification measures approved in other Siting Board cases.

AMENDED REQUESTS

1. Vegetative Buffers

The Siting Board's seventh mitigation measure in its September 23, 2020, Order relates to the vegetative buffer that will be located on site. Specifically, the Siting Board has required the following:

7. Where there are potential visual or noise impacts created by the solar facility, Glover Creek shall plant a 15-foot wide vegetative buffer consisting of two staggered rows of evergreen shrubs. The evergreen shrubs shall be either mature at the time of planting of at least six feet in height, or if Glover Creek elects to plant non-mature evergreen shrubs of at least 3 feet at the time of planting, Glover Creek shall also include additional temporary buffers that would immediately help to mitigate any potential noise and visual impacts until the evergreen shrubs have grown to maturity.

In its Petition for Reconsideration, Glover Creek initially sought clarification on two aspects of this mitigation measure. First, the initial clause mentions that the vegetative buffer should be installed where there are *potential* visual or noise impacts created by the solar facility. As noted in Glover Creek's Petition for Reconsideration, this clause leaves room for ambiguity as to the specific location of where the vegetative buffer should be planted. Glover Creek interprets

this mitigation measure to require a 15-foot wide vegetative buffer in the locations marked on the preliminary site plan filed in this matter by Glover Creek.¹

The Siting Board has granted a mitigation measure for Horseshoe Bend Solar, LLC (“Horseshoe Bend”), that is similar to this request of Glover Creek. In Case No. 2020-00190, the Siting Board required the following: “Planting of native evergreen species as a visual buffer to mitigate viewshed impacts; see the site development plan in Attachment A for proposed planting areas, and Section 1 of the application for the proposed specifications of the vegetative buffer.”² *See Horseshoe Bend Solar, LLC, Case No. 2020-00190 at Appendix A, page 4.*

In both the Glover Creek and Horseshoe Bend cases, the applicants identified the proposed planting areas in Attachment A to the Site Assessment Report. They also provided similar descriptions in Section 2 of their applications of the proposed specifications of the vegetative buffer. Glover Creek’s application stated, “Where there are potential visual impacts created by the facility, a 15’ wide vegetative buffer will be planted as shown on the attached site plan map. The buffer will consist of two staggered rows of evergreen shrubs at least three feet in height at time of planting.” Horseshoe Bend’s application stated, “The vegetative buffer will consist of two staggered rows of evergreen shrubs that have a mature height of approximately 15 feet. The rows will be spaced approximately 15 feet apart, and the shrubs will be at least three feet in height at time of planting.”

¹ If there are material changes to the final site development plan, the locations of the buffers could change, and, as Glover Creek acknowledges, the Siting Board would have the right to review and approve such substantive changes.

² Although the Siting Board indicated that the proposed specifications of the vegetative buffer were described in Section 1 of the application, it appears that the description is provided in Section 2 of the application.

Accordingly, Glover Creek respectfully requests modification of mitigation measure 7 that will reference the specific location identified in the Site Assessment Report and description of the buffer specifications in the application.

Second, in its Petition for Reconsideration, Glover Creek raised concern about the requirement that “if Glover Creek elects to plant non-mature evergreen shrubs of at least 3 feet at the time of planting, Glover Creek shall also include additional temporary buffers that would immediately help to mitigate any potential noise and visual impacts until the evergreen shrubs have grown to maturity.” On further review, Glover Creek will agree to the Siting Board’s height requirement for the buffer at the locations shown in the site development plan in Attachment A of the Site Assessment Report for planting areas and thus remove that request from the Reconsideration Motion.

Accordingly, Glover Creek respectfully requests a modification of the above-mentioned mitigation measure as identified below:

Requested Revised Mitigation Measure

7. Glover Creek shall plant native evergreen species as a visual buffer to mitigate viewshed impact at locations shown in the site development plan in Attachment A of the Site Assessment Report for planting areas and described in Section 2 of the Application. ~~Where there are potential visual or noise impacts created by the solar facility, Glover Creek shall plant a 15-foot wide vegetative buffer consisting of two staggered rows of evergreen shrubs.~~ The evergreen shrubs shall be either mature at the time of planting of at least six feet in height, or if Glover Creek elects to plant non-mature evergreen shrubs of at least 3 feet at the time of planting, Glover Creek shall also include additional temporary buffers that would immediately help to mitigate any potential noise and visual impacts until the evergreen shrubs have grown to maturity.

2. Tamping Process

The Siting Board's eighth mitigation measure relates to the tamping of the racking system and vegetative buffer. Specifically, the Siting Board has required the following:

8. Glover Creek shall implement the modified vegetative buffers to those properties that are within 1,500 feet of the solar facilities' boundary lines before the tamping of the racking panels and Glover Creek shall schedule the tamping process at these nearby homes so that the tamping will occur at the end of the tamping process period.

Recent Siting Board decisions have addressed similar concerns through a different mitigation measure.³ Those decisions have a mitigation measure that requires a construction method that will suppress noise from the pile driving process to be implemented when pile driving is within 1,500 feet from a noise sensitive receptor, and Glover Creek is amenable to this mitigation measure.

The Siting Board made the same modification on request of SR Turkey Creek, LLC. *See SR Turkey Creek, LLC*, Case No. 2020-00040 (Ky. PSC July 22, 2021). Glover Creek respectfully requests the same treatment and, specifically, a modification of the above-mentioned mitigation measure as identified below:

³ *See, e.g., AEUG Madison Solar, LLC*, Case No. 2020-00219 (K.S.B. June 9, 2021); *AEUG Fleming Solar, LLC*, Case No. 2020-00206 (K.S.B. May 24, 2021).

Requested Revised Mitigation Measure

~~8. — Glover Creek shall implement the modified vegetative buffers to those properties that are within 1,500 feet of the solar facilities' boundary lines before the tamping of the racking panels and Glover Creek shall schedule the tamping process at these nearby homes so that the tamping will occur at the end of the tamping process period.~~

8. If the pile driving activity occurs within 1,500 feet of a noise sensitive receptor, Glover Creek should implement a construction method that will suppress the noise generated during the pile driving process (i.e., semi-tractor and canvas method; sound blankets on fencing surrounding the solar site; or any other comparable method).

3. Potential damage to roads

The Siting Board's seventeenth mitigation measure relates to potential damage to roads.

Specifically, the Siting Board has require the following:

17. Glover Creek shall fix or pay for damage resulting from any vehicle transport to the project site.

In its Petition for Reconsideration, Glover Creek explained how it and its vendors would be required to obtain necessary transportation permits and comply with all transportation regulations. Accordingly, it requested that the modification measure specifically refer to those transportation permits.

Glover Creek's requested modification is the same as the mitigation measure issued for other projects. For example, the Siting Board required Unbridled Solar to "fix or pay for damage resulting from any vehicle transport to the project site in accordance with all transportation permits

obtained from state and local road authorities.”⁴ Similarly, the Siting Board included the exact same mitigation measure for Northern Bobwhite Solar.⁵

Accordingly, Glover Creek seeks similar treatment as Unbridled Solar and Northern Bobwhite on this mitigation measure.

Requested Revised Mitigation Measure

17. Glover Creek shall fix or pay for damage resulting from any vehicle transport to the project site in accordance with all applicable transportation permits obtained from State and local road authorities.

4. Setback for Inverters

In its Order, the Siting Board approved Glover Creek’s motion for deviation from the setback requirements with one exception: “that the inverters be located at least 2,000 feet from the closest residence given that the application provided that the location of the inverters will be at least at such a distance.” In its Petition for Reconsideration, Glover Creek acknowledged the imprecise and inconsistent statements in the Application materials regarding the distance of any inverters to the closest residence. It also pointed out the why it would be reasonable for the setbacks for inverters being at least 150 feet from the nearest residence. It specifically requested that the setback for string inverters and all other solar infrastructure be at least 100 feet from the external property boundaries, unless central inverters would be used, in which case there would be a 150-foot setback for central inverters.

⁴ *Unbridled Solar, LLC*, Case No. 2020-00242 at Appendix A, page 2 (K.S.B. June 4, 2021).

⁵ *Northern Bobwhite Solar, LLC* Case No. 2020-00208 at 2 (K.S.B. July 19, 2021).

Following the filing of Glover Creek’s Petition for Reconsideration, the Siting Board approved several projects with the following setbacks: (1) the Central Inverter shall be no closer to a noise receptor than 450 feet, (2) the String Inverter shall be no closer to a noise receptor than 150 feet, and (3) Solar Panels shall be no closer to a noise receptor than 150 feet.⁶ Glover Creek has reviewed these identified setbacks and is willing to comply with them for its project. Accordingly, Glover Creek respectfully requests similar treatment and revised its proposal as follows:

Requested Revised Ordering Paragraph

2. Glover Creek's motion for deviation from the 2,000 feet setback requirement is granted in part, such that the following setbacks shall apply: (1) the Central Inverter shall be no closer to a noise receptor than 450 feet, (2) the String Inverter shall be no closer to a noise receptor than 150 feet, and (3) Solar Panels shall be no closer to a noise receptor than 150 feet. ~~except for the location of the inverters.~~ These setbacks shall not be required for residences owned by landowners involved in the project.

WITHDRAWN REQUESTS

In its Petition for Reconsideration, Glover Creek sought modification of six other mitigation measures (Numbers 2, 4, 11, 19, 20, and 21). In order to expedite the Siting Board’s decision-making process, Glover Creek will withdraw its request for modification of those mitigation measures because time is of the essence in order to maintain a viable project.

⁶ See *Horseshoe Bend Solar, LLC*, Case No. 2020-00190 at Appendix A, page 4 (K.S.B. June 11, 2021); *Northern Bobwhite Solar, LLC*, Case No. 2020-00208 at Appendix A, page 2 (K.S.B. June 18, 2021); *Ashwood Solar I, LLC* Case No. 2020-00280 at 5 (K.S.B. June 21, 2021).

CONCLUSION

As discussed above, Glover Creek respectfully requests modification of mitigation measure numbers 7, 8, and 17, as well as ordering paragraph number 2. If these modifications are approved by the Siting Board, Glover Creek agrees to withdraw the other previously requested modifications.

Glover Creek is given strict timelines by PJM, the electric system operator, by which it must request and pay millions of dollars of upgrades to the system operator in order to construct the facility. For this reason, it is highly critical to the project's viability that the Siting Board make a determination on the items listed above. Because each of these requested modifications are based on other mitigation measures already approved by the Siting Board, Glover Creek hopes the Siting Board's process will be streamlined and that it can approve these modifications, as well as the Motion to Amend Project Boundaries no later than October 1, 2021.

Respectfully submitted,

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