

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

In the Matter of:

ELECTRONIC APPLICATION OF WOODPECKER)
SOLAR LLC FOR A CERTIFICATE OF)
CONSTRUCTION FOR AN APPROXIMATELY 120)
MEGAWATT MERCHANT ELECTRIC SOLAR) Case No. 2020-00261
GENERATING AND STORAGE FACILITY IN)
BARREN COUNTY, KENTUCKY PURSUANT TO)
KRS 278.700 AND 807 KAR 5:110)

**WOODPECKER SOLAR LLC’S MOTION FOR
APPROVAL OF PUBLIC MEETING FORMAT**

Woodpecker Solar LLC (“Woodpecker Solar” or “Applicant”) moves the Kentucky State Board on Electric Generation and Transmission Siting (“Board”) for approval of the form of public meeting required by KRS 278.706(2)(f). Woodpecker Solar is filing concurrently with this motion a Notice of Intent to File Application for Certificate of Construction for an approximately 120 megawatt merchant solar electric generating and storage facility in unincorporated Barren County, Kentucky (the “Project”).

KRS 278.706(2)(f) requires applicants for construction certificates to include in their applications reports of their public involvement program activities including a public meeting in the county where the project will be construction “for the purpose of informing the public of the project being considered and receiving comment on it...”¹ To meet this requirement, Woodpecker Solar would, in normal times, conduct a public meeting in Barren County to inform the public of the Project and receiving comment on the same. These, however, are not normal times.

On March 16, 2020, in response to the COVID-19 pandemic, the Public Service Commission of Kentucky (“Commission”) issued an order in Case No. 2020-00085 limiting in-person activities at the Commission and encouraging use of teleconferences to conduct official business. The Commission

¹ KRS 278.706(2)(f)(1).

relied on Governor Beshear’s Executive Order 2020-215 declaring a State of Emergency. The Commonwealth of Kentucky has subsequently issued restrictions on public gatherings that impact the ability of Woodpecker Solar to conduct in-person meetings.

In light of the restrictions on public gatherings arising from the COVID-19 pandemic, Woodpecker proposes to utilize the following approach, previously approved by the Board for use by Northern Bobwhite Solar, LLC,² to inform the public of the Project and receive comments:

1. Project Website - By August 24th, 2020, the Applicant will launch a Project website accessible to the public. The website will contain key Project information including the following:

1. A PowerPoint presentation on the Project.
2. The date and time of the virtual public information meeting described below and information on how to access and participate.
3. The date, time and location of the in-person “office hours” described below.
4. A map of the Project showing the Project area, facility layout, aerial imagery, and parcel information for all participating properties.
5. Contact information for the Applicant and instructions for submitting questions and comments to the Applicant regarding the Project.
6. Summary of frequently asked questions (“FAQ”) and responses from the Applicant’s subject matter experts.
7. Instructions on how to request more information, including paper copies of the PowerPoint presentation.

Information about the website (including the web address) will be included in the notice to neighboring landowners and the newspaper advertisement for the Project.

2. In-Person “Office Hours” - The Applicant and its representatives will be available for in-person discussions in Barren County. Parties interested in the project may attend to ask questions and pick up information. Social distancing will be maintained during these interactions. Woodpecker Solar is still confirming the date, time, and location of the “office hours” in Barren County. The date, time, and location of the “office hours” will be included in the notice to neighboring landowners and

² See, Order, *Electronic Application of Northern Bobwhite Solar LLC for a Certificate of Construction for an approximately 96 Megawatt Merchant Electric Solar Generating and Storage Facility in Marion County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110* at 4, Case No. 2020-00208 (Ky. P.S.C. July 9, 2020).

the newspaper advertisement for the Project.

3. Virtual Public Information Meeting - Woodpecker Solar and its subject matter experts will host a live presentation and question and answer (“Q&A”) session with options for attendees to join either by web or telephone. The virtual public information meeting will begin with an introduction of the Applicant’s subject matter experts and a brief description of the project as detailed in the PowerPoint presentation. Participants joining the virtual public information meeting via the project website will have access to the PowerPoint presentation described above, as well as an interactive map of the Project.

The virtual public information meeting will be hosted through a platform capable of hosting up to 300 participants. The platform will allow participants to connect by telephone or a web link and will function across desktop, browser, and mobile devices. For the Q&A portion of the virtual public information meeting:

1. Participants will be able to interact with the subject matter experts.
2. Questions will be addressed on a first-come, first-served basis.
3. Any questions that the Applicant is not able to address during the virtual public information meeting will be addressed after the presentation via telephone, email, mail, and/or updates to the FAQ section of the project website.

Woodpecker Solar is still confirming the date and time of the virtual public information meeting. The date and time of the virtual public information meeting as well as information on how to access and participate in the meeting will be included in the notice to neighboring landowners and the newspaper advertisement for the Project.

The date and time of the in-person office hours and the virtual public meeting are not yet confirmed; however, Woodpecker Solar is targeting the week of September 7-11, 2020 for these events. Accordingly, and to ensure that the two week advance notice requirement in KRS 278.706(2)(f)(2) can be met, Woodpecker Solar respectfully requests an order prior to August 17, 2020. Woodpecker Solar understands that the requested time period for an order is short. The Applicant had hoped that

conditions would have progressed such that a normal in-person public information meeting was possible, but that is unfortunately not the case.

The methods proposed by Woodpecker Solar allow persons interested in the Project three options for obtaining information and submitting comments: via the Project website, attend the in-person hours in Barren County, or participate in the virtual public information meeting. This approach allows Woodpecker Solar allow it to provide information and receive comments on the Project while doing so in a manner accounting for the public gathering limitations and social distancing requirements imposed by the COVID-19 State of Emergency in Kentucky.³

WHEREFORE, Woodpecker Solar respectfully requests an order declaring that methods described above for providing information and receiving comments on the Project satisfy the requirement of a public meeting in Barren County established by KR 278.706(2)(f).

Respectfully submitted,



Kenneth J. Gish (KBA #93970)
K&L GATES, LLP
300 South Tryon Street
Suite 1000
Charlotte, North Carolina 28202
Telephone: (704) 331-7424
Facsimile: (704) 331-7598
ken.gish@klgates.com

COUNSEL FOR WOODPECKER SOLAR LLC

³ See, Order, *Electronic Application of Horseshoe Bend Solar, LLC for a Certificate of Construction for an approximately 60 Megawatt Merchant Electric Solar Generating Facility in Green County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110* at 4, Case No. 2020-00190 (Ky. P.S.C. June 23, 2020).