

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

In the Matter of:)
)
Application of Pine Grove Solar, LLC for a Certificate)
of Construction for an Approximately 50 Megawatt) **Case No. 2022-00262**
Merchant Electric Solar Generating Facility in)
Madison County, Kentucky Pursuant to KRS 278.700)
and 807 KAR 5:110)

PINE GROVE SOLAR, LLC’S RESPONSE TO BBC SITE ASSESSMENT REVIEW

Pine Grove Solar, LLC (“Pine Grove Solar”), by counsel, provides the following response to BBC Research & Consulting (“BBC”) report filed with the Siting Board on March 31, 2023.

Pine Grove Solar appreciates the time and effort BBC has spent on reviewing information related to this project. In its Site Assessment Review, BBC acknowledged that the project site “appears to generally be well selected in terms of compatibility with the surrounding area and access to transmission infrastructure.” BBC Site Assessment Review for Pine Grove Solar at Section B, Page 7. Pine Grove Solar’s site is screened from view of neighboring homes and roadways by existing vegetative screening and the natural landscape; and BBC asserts that Pine Grove Solar’s proposed vegetative screening plans will reduce any remaining negative visual impact for adjacent properties. *Id.* at Section B, Page 3. Further, the consulting firm expects that the facility will not adversely affect adjacent property values, and vegetative screening around adjacent properties will further reduce any possibility of a negative impact to neighboring property values. *Id.* at Section B, Page 4. The project setbacks and vegetative screening plans contained in the Conditional Use Permit Pine Grove Solar has already secured from the Madison County

Planning & Zoning Commission, according to BBC, will only enhance Pine Grove Solar's suitability for the "well selected" project site. *Id.* at Section B, Page 7.

Generally, Pine Grove Solar agrees with the contents of the report and finds BBC's suggested mitigation measures to be reasonable. However, Pine Grove Solar seeks to address three issues that BBC raised to provide the Siting Board greater clarity in its review of the report in conjunction with Pine Grove Solar's Application.

First, Pine Grove Solar objects to BBC's suggested Mitigation Measure 3. BBC Site Assessment Review at Section B, Page 8. BBC recommends, "According to National Electric Code [sic] regulations, the security fence must be installed prior to any electrical *installation work*" (emphasis added). As Pine Grove Solar has repeatedly represented to the Siting Board, it will comply with all National Electric Safety Code ("NESC") regulations in the installation and operation of the project. However, the NESC requires security fencing prior to the *energization* of the projection not prior to the beginning of installation of electrical work.

Additionally, previous Siting Board orders approving construction certificates for the development of merchant generating projects have aligned with the language of the NESC. In recent cases, the Siting Board has required the following mitigation measure:

The security fence must be installed prior to *activation of any electrical installation work* in accordance with NESC standards. The substation shall have its own separate security fence and locked access installed in accordance with NESC standards (emphasis added).

See *In the Matter of: Electronic Application of Golden Solar, LLC for a Certificate of Construction for an Approximately 100-Megawatt Merchant Electric Solar Generating Facility in Caldwell County, Kentucky*, Case No. 2020-00243 at Appendix A page 2 (KSB Feb. 21, 2023); *In the Matter of: Electronic Application of Russellville Solar LLC for a Certificate of Construction for an Approximately 173 Megawatt Merchant Electric Solar Generating Facility*

in Logan County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110, Case No. 2021-00235 at Appendix A page 2 (KSB Aug. 23, 2022); In the Matter of: Electronic Application of Blue Moon Energy LLC for a Certificate of Construction for an Approximately 70 Megawatt Merchant Electric Solar Generating Facility and Nonregulated Electric Transmission Line in Harrison County, Kentucky Pursuant to KRS 278.700 and 507 KAR 5:110, Case No. 2021-00414 at Appendix A page 2 (KSB Aug. 3, 2022).

The requirement of the installation of a security fence prior to installation of electrical components will create an impracticable restraint on construction by limiting site access points for machinery and will slow the speed of construction. Pine Grove Solar moves the Siting Board apply the same mitigation measure, consistent with NESC regulation, to this project and require the installation of a security fence upon energization of the project not the installation of electrical work.

Next, in its proposed Mitigation Measure 5, BBC asserts that Pine Grove Solar should execute its proposed vegetative screening with plants that “should reach eight feet high within four years.” BBC Site Assessment Review at Section B, Page 8. BBC noted earlier in its report that solar facilities have a “relatively low profile,” and successful completion of Pine Grove Solar’s vegetative screening plan will increase the project’s scenic compatibility with the existing landscape. BBC Site Assessment Review at Section B, Page 3.

Pine Grove Solar proposed to implement screening consistent with the requirements set forth in the Madison County Conditional Use Permit, “a continuous line of native evergreen foliage and/or native shrubs and/or native trees and/or any existing wooded area and/or plantings of tall native grasses and other native flowering plants.” See Pine Grove Solar Application, Attachment D. Pine Grove Solar will plant foliage consistent with regulatory vegetative screening

requirements. However, Pine Grove Solar cannot guarantee to the Siting Board that any evergreen trees it plants will reach a height of eight feet in four years. While many of the trees Pine Grove Solar will plant will have potential to reach that height, Pine Grove Solar cannot unequivocally promise the Siting Board that each tree will reach eight feet in height in four years.

Siting Board precedent has consistently required that vegetation reach a thickness of ten feet and a height of “six feet at maturity (in four years).” See *Golden Solar, LLC*, Case No. 2020-00243 at Appendix A page 2 (KSB Feb. 21, 2023); *Russellville Solar LLC*, Case No. 2021-00235 at Appendix A page 2 (KSB Aug. 23, 2022); *Blue Moon Energy LLC*, Case No. 2021-00414 at Appendix A page 2 (KSB Aug. 3, 2022). Given the nature of the evergreen trees Pine Grove intends to plant, Pine Grove Solar can commit to planting a vegetative buffer of evergreen trees that will reach six feet in height at maturity. Pine Grove Solar will select trees with the intention that the trees will grow at least to a height of six feet at maturity with the hope that the trees will continue to grow and reach eight feet in height at maturity.

Finally, Pine Grove Solar objects to BBC’s proposed sound suppressant measures detailed in its proposed Mitigation Measure 13. BBC Site Assessment Review at Section B, Page 9. Pine Grove Solar will employ the standard construction practices of its parent company, AES, in the development of the project. AES mitigates construction noise effects primarily through time restrictions on construction activities. Typically, AES does not implement enhanced noise mitigation measures, such as those BBC recommends, when developing solar projects. AES has developed over 450 renewable energy projects throughout the country and has received very few noise complaints associated with construction on those projects because of its standard noise mitigation measures.

Time restrictions for construction activities will already limit the time in which pile driving would occur onsite. Currently, in accordance with its Madison County Conditional Use Permit, Pine Grove Solar already plans to limit the hours in which it will conduct pile driving to 7:00 a.m. to 5:00 p.m. Monday through Friday. See Pine Grove Solar Application, Attachment D. Pine Grove Solar anticipates that all pile driving activities across the site will take less than 25 working days. Further, the process of pile driving is highly transient and short in nature as the pile drivers quickly move from location to location around the project. Pile driving crews will only spend a few hours on any one portion of the site.

Pine Grove Solar will develop a Customer Relations Program to serve the needs of neighboring and adjacent property owners. As part of this Program, Pine Grove Solar will monitor complaints and inquiries it receives regarding noise concerns for specific receptors. It will implement any necessary enhanced noise mitigation measure specific to a particular noise receptor if pile driving will adversely affect that noise receptor. Pine Grove Solar has developed relationships with its neighboring landowners and commits to taking great care that the project will not harm any neighboring landowner.

In sum, Pine Grove Solar generally agrees with BBC's conclusions and proposed mitigation measures. Nonetheless, Pine Grove Solar moves the Siting Board to impose mitigation measures that coincide with Siting Board precedent specifically as they relate to the installation of security fencing and the required height of vegetative screening.

RESPECTFULLY SUBMITTED,

STURGILL, TURNER, BARKER & MOLONEY, PLLC



James W. Gardner
M. Todd Osterloh
Rebecca C. Price
333 West Vine Street, Suite 1500
Lexington, KY 40507
Phone: (859) 255-8581
E-mail: jgardner@sturgillturner.com
E-mail: tosterloh@sturgillturner.com
E-mail: rprice@sturgillturner.com
Counsel for Pine Grove Solar, LLC