

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

**In the Matter of:**

**In the Matter of the Electronic Application of Song )  
Sparrow Solar LLC for a Certificate of Construction )  
for an Approximately 104 Megawatt Merchant Electric ) Case No. 2023-00256  
Generating Facility in Ballard County, Kentucky )  
Pursuant to KRS 278.700 and 807 KAR 5:110 )**

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**SONG SPARROW SOLAR LLC’S  
RESPONSE TO CONSULTANT’S REPORT**

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Song Sparrow Solar LLC (“Song Sparrow Solar”), by counsel, provides the following response to BBC Research & Consulting (“BBC”) report filed with the Siting Board on December 15, 2023.

Song Sparrow 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 site for the project Song Sparrow Solar “appears to generally be well selected in terms of compatibility with the surrounding area and access to transmission infrastructure.”<sup>1</sup> BBC noted “that the proposed facility will not be incompatible with its surroundings,” particularly with the implementation of Song Sparrow Solar’s proposed vegetative screening.<sup>2</sup> Further, the consulting firm expects that the facility will not adversely affect most adjacent property values, and vegetative screening around adjacent properties will further reduce any possibility of a negative impact to

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<sup>1</sup> BBC Site Assessment Review for Song Sparrow Solar at Section B, Page 7.

<sup>2</sup> *Id.* at Section B, Page 3.

neighboring property values.<sup>3</sup> BBC also noted that there is no existing ordinance in Ballard County governing certain conditions, but that there is a resolution adopted by the Ballard County Fiscal Court, which includes setbacks with which the project has been designed to comply.<sup>4</sup>

BBC ultimately recommends approval of the certificate to construct the facility, subject to certain conditions. Song Sparrow Solar generally agrees with the content of the report and finds the suggested mitigation measures to be reasonable, and likewise recommends approval of the certificate to construct the facility. However, Song Sparrow Solar wishes to provide the following comments and recommendations to the Siting Board for consideration with its review of the report in conjunction with Song Sparrow Solar's Application.

#### **I. Setbacks**

The report notes that Ballard County has adopted a resolution “which encourages minimum setbacks for solar projects, including 250 feet from the residences of non-participating landowners; 250 feet from any church, school, schoolyard, business, or park; 50 feet and 25 feet from the centerline of primary and secondary roadways, respectively; and 100 feet from adjoining property lines.”<sup>5</sup> Song Sparrow Solar notes that the resolution also exempts all setbacks from dwellings, churches, schools, schoolyards, businesses, parks, and property lines that are participating property owners of the project.

#### **II. Vegetative buffer**

BBC suggests that Song Sparrow Solar should execute its proposed vegetative screening with plants that “should reach eight feet high within four years.” BBC noted earlier in its report

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<sup>3</sup> *Id.* at Section B, Page 4.

<sup>4</sup> *Id.* at Section B, Page 3.

<sup>5</sup> *Id.* at Section B, Page 2.

that solar facilities have a “relatively low profile,” and successful completion of Song Sparrow Solar’s vegetative screening plan will render the site scenically compatible with the project.

Song Sparrow Solar will plant vegetation consistent with regulatory vegetative screening requirements. However, Song Sparrow 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 Song Sparrow Solar will plant will have potential to reach that height, Song Sparrow Solar cannot unequivocally commit to the Siting Board that each tree or shrub will reach eight feet in height.

Notably, BBC explicitly recommends that Song Sparrow Solar should execute its proposed screening plan, as presented in pages 15 and 16 of Appendix B of the Site Assessment Report and depicted therein at Appendix E. Song Sparrow Solar’s proposed vegetative buffering was designed to maximize screening effectiveness, minimize shadows on the solar panels, and ensure spacing for air flow and wildlife management.<sup>6</sup> The proposed vegetation includes shrubs with a mature height of 4 to 10 feet and trees with a mature height of 15 to 20 feet. This diverse mixture of plants presents a more natural appearance.<sup>7</sup> Accordingly, Song Sparrow Solar respectfully requests the Siting Board to approve the construction certificate with the condition that Song Sparrow Solar shall carry out visual screening consistent with the plan proposed in its application and Site Assessment Report.

### **III. Economic Impact Study**

Although not specifically within the Site Assessment Report, BBC summarized the economic impact report prepared by Dr. Paul Coomes and submitted by Song Sparrow Solar as Attachment G to the Application. BBC relied on the information presented in Dr. Coomes’ initial report, which was based on estimated amounts related to an Industrial Revenue Bond and Payment

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<sup>6</sup> See Preliminary Site Layout at A103, attached as Appendix B to the Site Assessment Report.

<sup>7</sup> *Id.*

in Lieu of Taxes agreement that were being negotiated. Subsequent to BBC's report being finalized, Song Sparrow Solar submitted the finalized information, indicating as follows:

Song Sparrow has finalized its IRB and PILOT with Ballard County, which will provide greater economic benefit than what was presumed in Dr. Coomes's economic analysis that was filed with the application. In the economic impact report, the project predicted \$104,000 of annual payments through the first 20 years and \$52,000 through the second 20 years. The final approved PILOT includes \$120,000 in annual payments through the first 20 years (with \$16,000 allocated to the school district) and \$60,000 through the second 20 years (with \$8,000 allocated to the school district).

Song Sparrow Solar notes that the finalized payments are more beneficial to the local community than what was initially projected.

#### **IV. National Electric Code regulations**

The report recommends a condition suggesting that National Electric Code regulations require a security fence to be installed prior to any electrical installation work.<sup>8</sup> Song Sparrow Solar notes that the applicable National Electric Safety Code requires that security fencing be installed prior to energization of the facility. It appears that the Siting Board is aware of this distinction as it has previously required that a "security fence must be installed prior to activation of any electrical installation work in accordance with NESC standards."<sup>9</sup>

#### **V. Noise Impacts**

The BBC report recommends certain mitigation measures related to pile driving, including (1) limiting pile driving to Monday through Friday between 9 a.m. and 5 p.m., (2) methods to suppress noise generated during pile driving within a certain radius of noise receptors, and (3)

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<sup>8</sup> *Id.* at Section B, Page 7; *id.* at Section C, Page 12.

<sup>9</sup> *See, e.g., 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).

confirming the noise levels generated by the pile drivers actually used in construction is consistent with the noise levels identified in this case.<sup>10</sup>

Song Sparrow Solar respectfully submits it is not necessary to have both time limitations for pile driving *and* additional noise-suppression methods. Based on previous experience constructing solar projects, Song Sparrow Solar believes that noise concerns resulting from pile driving activities are most effectively managed through limiting pile driving activities within a certain radius to certain hours during the day to avoid potentially impacting nearby receptors. To this end, Song Sparrow Solar proposes to limit pile driving activities within 1,000 feet of potentially impacted receptors to 9 a.m. to 5 p.m. Monday through Friday. Previous experience has shown this to be an effective method, and Song Sparrow believes that these measures will adequately address possible noise concerns.

Notably, the Ballard County resolution specifically limits construction of a solar facility to be conducted between 6 a.m. and 7 p.m. and only on Monday to Saturday. Song Sparrow Solar is not aware of any local ordinance or resolution that would otherwise limit noise during construction. In addition, Song Sparrow Solar is not aware of any state law or local ordinance that would limit construction noise for any particular land use.

In the application filing and in response to the first request for information, Song Sparrow Solar proposed time limitations as an alternative method to sound suppression methods. The intent was not to suggest implementing both the time limitation and sound suppression methods as Song Sparrow Solar does not believe there is additional benefit in doing so. While Song Sparrow Solar respectfully believes that the time limitation method would be more effective in mitigating noise

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<sup>10</sup> BBC Site Assessment Review for Song Sparrow Solar at Section B, Pages 8-9.

concerns, the project is prepared to accept the sound suppression methods as an alternative to the time limitations if the Siting Board deems that as more appropriate.

In addition, in regards to BBC's recommendation for subsequent confirmation of noise generated by the pile drivers, the Vermeer pile driver on which the sound analysis in this case is based is commonly used and marketed for solar-facility installation. The anticipated modeled noise levels at 50 feet are consistent with information provided to the Siting Board by other projects. Accordingly, Song Sparrow Solar submits that any further verification of sound levels is unnecessary as the anticipated sound levels are consistent with previous projects which were not required to submit further verification. And to the extent that the noise during construction raises concerns, Song Sparrow Solar will have a Complaint Resolution Program through which concerns can be addressed.

## **VI. Transportation Impacts**

BBC recommends that "Song Sparrow Solar should commit to rectify any damage to public roads by fixing or fully compensating the appropriate transportation authorities for any damage or degradation to the existing road network that it causes or to which it materially contributes." Song Sparrow Solar is dedicated to being a good member of the community and not adding additional burden to Ballard County and the Commonwealth. Song Sparrow Solar or its contractors will be required to obtain necessary transportation permits. Likewise, Song Sparrow Solar or its contractors would be liable for citations if the applicable permits were not acquired from the Kentucky Transportation Cabinet prior to any shipments within or into Kentucky. Those potential assessments associated with failing to comply with the permit requirements presumably encompass all concerns of the Kentucky Transportation Cabinet and other state or local agencies regulating transportation.

In recent cases, the Siting Board has commonly addressed this concern by requiring that a project “fix or pay for repairs for damage to roads and bridges resulting from any vehicle transport to the site. For damage resulting from vehicle transport in accordance with all permits, those permits will control.” Accordingly, Song Sparrow Solar requests that the Siting Board adopt this mitigation measure, as opposed to the one proposed by BBC.

## **VII. Other Considerations**

Song Sparrow Solar has identified the following considerations:<sup>11</sup>

- The report occasionally refers to “Song Sparrow Solar, LLC.” We note that there is no comma in the legal name of the company entity.
- The report indicates that the project will generate 104-MWac. At this time, we anticipate that the project will be approximately 104-MWac; however, future actions unknown at this time could require the project to reduce the generating capacity.
- The report suggests implementation of a “Customer Resolution Program” or a “Complaint Resolution Program.” This discrepancy is found in several cases before the Siting Board, and it is Song Sparrow Solar’s understanding that they are the same concept. Song Sparrow Solar recommends the use of “Complaint Resolution Program” because the measure is not limited to customers of the project.
- The report would require ridesharing for construction workers.<sup>12</sup> Generally, Song Sparrow Solar supports this concept, but cannot guarantee that ridesharing will be possible at all times and in all circumstances. Accordingly, Song Sparrow Solar

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<sup>11</sup> Some of the following items may seem minor, but Song Sparrow strives to provide the most accurate information. It acknowledges that some of the items noted below may also have inconsistent treatment in the materials filed in this matter.

<sup>12</sup> BBC Site Assessment Review for Song Sparrow Solar at Section B, Page 9.

requests that the Siting Board utilize its standard condition that ridesharing be implemented “when feasible.”<sup>13</sup>

RESPECTFULLY SUBMITTED,

STURGILL, TURNER, BARKER & MOLONEY, PLLC



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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](mailto:jgardner@sturgillturner.com)  
E-mail: [tosterloh@sturgillturner.com](mailto:tosterloh@sturgillturner.com)  
E-mail: [rprice@sturgillturner.com](mailto:rprice@sturgillturner.com)  
*Counsel for Song Sparrow Solar, LLC*

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<sup>13</sup> See, e.g., *Hummingbird Energy, LLC*, Case No. 2022-00272 at Appendix A, page 5.