

OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
NESTLEWOOD SOLAR I LLC FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED TO
CONSTRUCT AN ELECTRIC GENERATING
FACILITY IN BROWN AND CLERMONT
COUNTIES, OHIO.

CASE NO. 18-1546-EL-BGN

ENTRY

Entered in the Journal on March 13, 2019

{¶ 1} Nestlewood Solar I LLC (Nestlewood) is a person as defined in R.C. 4906.01.

{¶ 2} Pursuant to R.C. 4906.04, no person shall construct a major utility facility without first having obtained a certificate from the Ohio Power Siting Board (Board). In seeking a certificate, applicants must comply with the filing requirements outlined in R.C. 4906.04, as well as Ohio Adm.Code 4906-2-01 and 4906-4-01.

{¶ 3} On October 22, 2018, Nestlewood filed a pre-application notification letter with the Board regarding its Nestlewood Solar 80 megawatt solar electric generating facility in Clark Township, Brown County and Tate Township, Clermont County (the Project). In the letter, Nestlewood explained that the proposed Project will be located within approximately 610 acres of privately owned land approximately 3 miles west of Hamersville, Ohio. The purpose of the Project will be to generate electricity and interconnect with the regional transmission grid to supply the region with power. Construction of the facility is expected to commence during the second quarter of 2019. The Project is scheduled to be in service by the second quarter of 2020.

{¶ 4} On November 1, 2018, Nestlewood filed affidavits of publication demonstrating its compliance with the notice requirements of Ohio Adm.Code 4906-3-03(B)(1) and (2). On November 7, 2018, Nestlewood held a public information meeting to discuss the proposed project with interested persons and landowners.

{¶ 5} Nestlewood filed its application with the Board for a certificate of environmental compatibility and public need for the Project on December 14, 2018. In the application,

Nestlewood states that the Project will consist of solar panel generators, as well as access roads, 34.5 kilovolt (kV) electrical collector cables, meteorological stations, a facility substation, a utility-owned switchyard, and a 69 kV electric generation tie line within the 610 acre Project Area. Nestlewood states that it is a wholly-owned affiliate of Lendlease Energy Development LLC, which, in turn, is a wholly-owned affiliate of Lendlease Americas Inc.

{¶ 6} Pursuant to Ohio Adm.Code 4906-3-06, within 60 days of receipt of an application for a major utility facility, the Chairman of the Board must either accept the application as complete and compliant with the content requirements of R.C. 4906.06 and Ohio Adm.Code Chapters 4906-1 through 4906-7, or reject the application as incomplete. By letter dated February 12, 2019, the Board notified Nestlewood that its application was compliant and provided sufficient information to permit Staff to commence its review and investigation. Pursuant to Ohio Adm.Code 4906-3-06 and 4906-3-07, the Board's February 12, 2019 letter directed Nestlewood to serve appropriate government officials and public agencies with copies of the complete, certified application and to file proof of service with the Board. The letter further instructed Nestlewood to submit its application fee pursuant to R.C. 4906.06(F) and Ohio Adm.Code 4906-3-12.

{¶ 7} On March 11, 2019, Nestlewood filed a certificate of service of its accepted and complete application as required by Ohio Adm.Code 4906-3-07. And, in compliance with Ohio Adm.Code 4906-3-07(C), Nestlewood also filed correspondence on March 11, 2019, indicating that it had submitted its application fee to the Treasurer of the State of Ohio on March 7, 2019.

{¶ 8} Ohio Adm.Code 4906-3-08(A) states that, once the applicant has complied with Ohio Adm.Code 4906-3-07, the Board or the administrative law judge (ALJ) shall file an entry indicating the date on which the accepted, complete application is deemed filed. Additionally, once the effective date is established, the ALJ must promptly fix the dates for public hearings. Under R.C. 4906.07(A), the public hearing must be held not less than 60 nor more than 90 days after the effective date.

{¶ 9} Therefore, the effective date of the application shall be March 11, 2019. The ALJ finds that a local public hearing in this matter shall be held on May 31, 2019, at 6:00 p.m., Hamersville Elementary and Middle School, 1950 State Route 125, Hamersville, Ohio 45130. The evidentiary hearing shall commence on June 10, 2019, at 10:00 a.m., in Hearing Room 11D at the offices of the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793.

{¶ 10} Petitions to intervene in this proceeding will be accepted by the Board up to May 17, 2019.

{¶ 11} In accordance with Ohio Adm.Code 4906-3-09, Nestlewood should issue public notices of the application and hearings. Pursuant to the same rule, in addition to other required information, that notice shall include a statement that the public hearing in this case shall consist of two parts:

- (a) A local public hearing, pursuant to R.C. 4906.08(C), where the Board shall accept written or oral testimony from any person on May 31, 2019, at 6:00 p.m., at Hamersville Elementary and Middle School, 1950 State Route 125, Hamersville, Ohio 45130.
- (b) An evidentiary hearing commencing on June 10, 2019, at 10:00 a.m., in Hearing Room 11D at the offices of the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793.

{¶ 12} Further, under R.C. 4906.06(C) and Ohio Adm.Code 4906-03-09, the initial notice shall include the following language:

Petitions to intervene in the adjudicatory hearing are due not later than May 17, 2019. However, the Board strongly encourages interested persons who wish to intervene in the adjudicatory hearing to file their petitions as soon as possible. Petitions should be addressed to Docketing Division, the

Ohio Power Siting Board, 180 East Broad Street, Columbus, Ohio 43215-3793 and cite the above-listed case number.

{¶ 13} Ohio Adm.Code 4906-2-09 provides that the ALJ shall regulate the course of the hearing. In so doing, the ALJ may require expert or factual testimony to be offered at Board proceedings to be reduced to writing and filed with the Board. Accordingly, the ALJ establishes the following procedural schedule and process:

- (a) Pursuant to Ohio Adm.Code 4906-3-06(C), Staff shall file its report of investigation (Staff Report) on or before May 16, 2019.
- (b) On or before May 23, 2019, each party shall file a list of issue(s) citing specific concerns about which they may be interested in pursuing cross-examination of witnesses at the evidentiary hearing.
- (c) All expert and factual testimony to be offered by Nestlewood shall be filed by June 3, 2019. All expert and factual testimony to be offered by the intervenors and Staff shall be filed by June 6, 2019.
- (d) The parties are strongly encouraged to arrange for electronic service of testimony and other pleadings amongst themselves. If electronic service is agreed to, the parties are also directed to provide an electronic copy to the assigned ALJ.

{¶ 14} It is, therefore,

{¶ 15} ORDERED, That the hearings in this matter be scheduled at the times and places designated in Paragraph 9. It is, further,

{¶ 16} ORDERED, That notices of the application and hearings be issued by Nestlewood in accordance with Paragraphs 11 and 12. It is, further,

{¶ 17} ORDERED, That the parties file their issues lists and testimony in accordance with Paragraph 13. It is, further,

{¶ 18} ORDERED, That Staff file its Staff Report pursuant to Paragraph 13. It is, further,

{¶ 19} ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE OHIO POWER SITING BOARD

/s/Anna Sanyal

By: Anna Sanyal
Administrative Law Judge

JRJ/mef

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in

Case No(s). 18-1546-EL-BGN

Summary: Administrative Law Judge Entry setting the procedural schedule and ordering issuance of the Staff Report electronically filed by Ms. Mary E Fischer on behalf of Anna Sanyal, Administrative Law Judge, Ohio Power Siting Board