

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
HARDIN SOLAR ENERGY LLC FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED TO
CONSTRUCT A SOLAR-POWERED
ELECTRIC GENERATION FACILITY IN
HARDIN COUNTY, OHIO.

CASE NO. 17-773-EL-BGN

IN THE MATTER OF THE APPLICATION OF
HARDIN SOLAR ENERGY II LLC FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED TO
CONSTRUCT A SOLAR-POWERED
ELECTRIC GENERATION FACILITY IN
HARDIN COUNTY, OHIO.

CASE NO. 18-1360-EL-BGN

ENTRY

Entered in the Journal on April 16, 2020

I. SUMMARY

{¶ 1} The Ohio Power Siting Board grants the request to transfer a portion of the Hardin Solar Energy II LLC project area to Hardin Solar Energy LLC in accordance with R.C. 4906.04.

II. DISCUSSION

{¶ 2} Hardin Solar Energy LLC (Hardin Solar I) and Hardin Solar Energy II LLC (Hardin Solar II) are persons as defined in R.C. 4906.01. Both Hardin Solar I and Hardin Solar II are wholly-owned indirect subsidiaries of Invenergy LLC (Invenergy).

{¶ 3} On February 15, 2018, in Case No. 17-773-EL-BGN, the Ohio Power Siting Board (Board) issued a certificate to construct and operate a 150 megawatt (MW) solar-powered electric generation facility in Hardin County, Ohio, to Hardin Solar I.

{¶ 4} On May 16, 2019, in Case No. 18-1360-EL-BGN, the Board issued a certificate to construct and operate a 170 MW solar-powered electric generation facility in Hardin County, Ohio, to Hardin Solar II.

{¶ 5} On April 23, 2019, in accordance with R.C. 4906.04, Hardin Solar I and Hardin Solar II (Joint Applicants) filed a request to transfer the Hardin Solar I certificate to Hardin Solar II and for approval to merge the certificates. Joint Applicants averred that transferring the Hardin Solar I certificate to Hardin Solar II and merging the certificates would enable the first and second phases of the Hardin Solar Energy Center to be constructed in the most effective and efficient manner possible. The Board approved the transfer and merger on May 16, 2019.

{¶ 6} On October 1, 2019, Hardin Solar I and Hardin Solar II filed a joint application seeking Board approval to transfer a portion of the Hardin Solar II certificate authority and project area to Hardin Solar I. In support, Joint Applicants submit that extensive geotechnical testing of the Hardin I Solar project area reveals that subsurface conditions in specific areas are prohibitively expensive to construct upon at this time. Therefore, to meet the demands of offtake customers and build an economically viable 150 MW initial phase, Joint Applicants are seeking authority to supplement the best available Phase 1 land with land from the Hardin Solar II project in order to construct the initial 150 MW facility.

{¶ 7} On April 1, 2020, Joint Applicants filed additional information supplementing the joint application. In the April 1, 2020 supplement, Joint Applicants reveal that Invenenergy has secured a power purchase agreement with a commercial customer for 150 MW of the overall 320 MW certificate currently held by Hardin Solar II. Construction on the 150 MW project has already commenced and the targeted operation date is December 2020. As explained in the Joint Application, it was necessary to merge the certificates for Hardin Solar I and Hardin Solar II in order to ensure that there was enough viable land to build the initial 150 MW project to fulfill the requirements of the commercial offtaker. Joint Applicants further aver that the initial geotechnical studies of the project area for Hardin Solar I did not identify the unique level of complexity to the area. However, subsequent testing and engineering illuminated the geotechnical abnormalities specific to the project area, including the great variability of the soil located within the project boundary and the

significant areas with especially poor subsurface conditions. Joint Applicants further note that given the poor subsurface conditions over part of the combined project area, it would be difficult, if not impossible, to find contractors capable of constructing solar facilities on parts of the project area that would warrant the work performed. Moreover, specialized equipment not readily available would be necessary in order to build in parts of the project area. In support, Joint Applicants submitted both the initial and subsequent geotechnical studies from Terracon Consultants, Inc., the consultant hired to study the project area, dated January 30, 2019, and September 23, 2019, respectively.

{¶ 8} Joint Applicants further clarified that those portions of the Hardin Solar I and Hardin Solar II project areas that do not host solar panels will either be released to the landowner(s) for use or will be used for underground collection but that in both cases, the land can continue to be used for agricultural purposes. Once it is determined what portions of the project area will not host solar panels or associated facilities, and will instead remain being used as the landowner sees fit, Invenenergy will update the Board's Staff on the timing of the release of those areas to the landowner(s).

{¶ 9} According to the Joint Applicants, Hardin Solar I and Hardin Solar II each commit to comply with all of the terms, conditions, and any modifications contained in the certificates issued to Hardin Solar I in Case No. 17-773-EL-BGN and Hardin Solar II in Case No. 18-1360-EL-BGN. Finally, Joint Applicants explain that a letter and a copy of the joint application as well as the application supplement have been sent to all public officials explaining the nature of the transfer.

{¶ 10} R.C. 4906.04 provides that a certificate may be transferred, subject to the approval of the Board, to a person that agrees to comply with the terms, conditions, and modifications contained in the certificate.

{¶ 11} Upon consideration of the request to transfer a portion of the certificate authority and project area from Hardin Solar II to Hardin Solar I, the Board finds that the

request is reasonable and should be granted in accordance with R.C. 4906.04. Accordingly, Joint Applicants shall abide by all conditions granted in the certificates for Hardin Solar I and Hardin Solar II including that the certificates shall become invalid if a continuous course of construction has not commenced within five years of the journalization of the certificates, unless the Board grants a waiver or extension of time. Lastly, the Board instructs the Joint Applicants to identify, within 90 days of this Entry, those parcels within the project area that will not be used for solar panels or associated facilities and arrange to release these parcels back to the involved landowner(s).

III. ORDER

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That the joint request to transfer a portion of the Hardin Solar II certificate authority and project area filed in these matters on October 1, 2019, be granted in accordance with Paragraph 11. It is, further,

{¶ 14} ORDERED, That a copy of this Entry be served upon all parties of record.

BOARD MEMBERS:

Approving:

Sam Randazzo, Chairman
Public Utilities Commission of Ohio

Rachel Near, Designee for Lydia Mihalik, Director
Ohio Development Services Agency

Mary Mertz, Director
Ohio Department of Natural Resources

Gene Phillips, Designee for Amy Acton, M.D., MPH, Director
Ohio Department of Health

Drew Bergman, Designee for Laurie Stevenson, Director
Ohio Environmental Protection Agency

George McNab, Designee for Dorothy Pelanda, Director
Ohio Department of Agriculture

Greg Murphy, Public Member

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in

Case No(s). 17-0773-EL-BGN, 18-1360-EL-BGN

Summary: Entry granting the request to transfer a portion of the Hardin Solar Energy II LLC project area to Hardin Solar Energy LLC in accordance with R.C. 4906.04 electronically filed by Heather A Chilcote on behalf of The Ohio Power Siting Board