

OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
MADISON FIELDS SOLAR PROJECT, LLC
FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED
ISSUED TO CONSTRUCT AN ELECTRIC
GENERATION FACILITY IN MADISON
COUNTY, OHIO.

CASE NO. 19-1881-EL-BGN

ENTRY

Entered in the Journal on September 28, 2020

{¶ 1} On October 18, 2019, Madison Fields Solar Project, LLC (Madison Fields or Company) filed a preapplication notification letter with the Ohio Power Siting Board (Board), consistent with Ohio Adm.Code 4906-3-03(A), regarding its proposed 180 megawatt solar electric generating facility in Madison County, Ohio (the Project). Among other things, the preapplication notification letter advised the Board of a public information meeting scheduled for November 5, 2019. The November 5, 2019 public information meeting was held as scheduled.

{¶ 2} On October 23, 2019, the Company filed a motion seeking a ruling that the timing requirement found in Ohio Adm.Code 4906-3-03(B)(2) was substantially complied with as to notice of an additional public information meeting scheduled for November 6, 2019. Madison Fields asserted that an additional public information meeting was scheduled as the date of the first public information meeting fell on Election Day, November 5, 2019. The public information meetings were held as scheduled on November 5 and November 6, 2019.

{¶ 3} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are required to implement procedures consistent with recommendations from the Department of Health to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the Department of Health regarding

this public health emergency in order to protect their health and safety. The Executive Order was effective immediately and will remain in effect until the COVID-19 emergency no longer exists. The Department of Health is making COVID-19 information, including information on preventative measures, available via the internet at coronavirus.ohio.gov/.

{¶ 4} On April 28, 2020, Madison Fields filed a motion for waiver from certain provisions of the Board's rule requirements, contending that good cause exists for granting its request. Specifically, Madison Fields requested waiver, in part, from Ohio Adm.Code 4906-3-03(B), which requires the public information meeting to "be held in the area in which the project is located." Given the COVID-19 pandemic, the current state of emergency in Ohio, and the fact that Madison Fields had already held two well-attended public information meetings for the Project within the last six months, Madison Fields requested authorization from the Board to hold a virtual public information meeting. Furthermore, Madison Fields requested that the Board grant its motion on an expedited basis, in accordance with Ohio Adm.Code 4906-2-27(C).

{¶ 5} No parties filed memoranda contra Madison Fields' motion for waiver.

{¶ 6} On May 4, 2020, Staff filed a letter indicating that, under the unique circumstances of this case, it did not object to Madison Fields' request to hold a virtual public information meeting and provide notice of such, as detailed in its motion and memorandum in support.

{¶ 7} Pursuant to Ohio Adm.Code 4906-3-01(B), by Entry dated May 22, 2020, the administrative law judge (ALJ) granted Madison Fields' April 28, 2020 limited request to waive the requirement that the public information meeting be held in the area where the Project is to be located. However, the ALJ noted that the Board was not endorsing or objecting to the actual manner in which the public information meeting was proposed to be held, and noted that Madison Fields carried the risk associated with planning and holding the virtual public information meeting. The ALJ also encouraged Madison Fields to provide everyone who wished to participate in the virtual public information meeting an

opportunity to do so, including providing reasonable accommodations.

{¶ 8} On June 11, 2020, Madison Fields filed a notice of compliance with service requirement for the third public information meeting for the Project. In the notice, Madison Fields indicated that pursuant to Ohio Adm.Code 4906-3-03(B)(2), it sent a letter, with accompanying insert, by first class mail to property owners and tenants affected by the project at least 21 days before the June 16, 2020 public information meeting notifying them about the meeting.

{¶ 9} Due to an inadvertent printing error related to the phone number for the public information meeting, by Entry issued June 19, 2020, the ALJ directed Madison Fields to conduct a fourth public information meeting. The fourth public information meeting was held as scheduled on July 15, 2020.

{¶ 10} On July 17, 2020, Madison Fields filed an application with the Board for a Certificate of Environmental Compatibility and Public Need to construct the Project. Madison Fields filed supplemental information on July 23, 2020 and August 3, 2020.

{¶ 11} On July 20, 2020, Madison Fields filed a notice of compliance with service requirement for the fourth public information meeting for this Project.

{¶ 12} By letter dated September 15, 2020, the Board Staff notified Madison Fields 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 letter directed Madison Fields 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 Madison Fields to submit its application fee pursuant to R.C. 4906.06(F) and Ohio Adm.Code 4906-3-12.

{¶ 13} On September 17, 2020, Madison Fields filed a certificate of service of its accepted and complete application as required by Ohio Adm.Code 4906-3-07. On the same day, the Company filed proof of compliance that it had submitted its application fee

pursuant to Ohio Adm.Code 4906-3-07(C).

{¶ 14} 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 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.

{¶ 15} Therefore, the effective date of the application shall be September 28, 2020. Additionally, a local public hearing in this case will be held on December 3, 2020, at 6:00 p.m. and the evidentiary hearing shall commence on December 17, 2020, at 10:00 a.m.

{¶ 16} Petitions to intervene in this proceeding will be accepted by the Board up to November 19, 2020.

{¶ 17} In accordance with Ohio Adm.Code 4906-3-09, Madison Fields 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 oral testimony from any person on December 3, 2020, in a session beginning at 6:00 p.m.
- (b) An evidentiary hearing, also conducted remotely, commencing on December 17, 2020, at 10:00 a.m.
- (c) Due to the continued state of emergency, and given the passage of Am. Sub. H.B. 197, the local public and adjudicatory hearings will both be held using remote access technology that facilitates participation by telephone and/or live video on the internet.

{¶ 18} 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 November 19, 2020. 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, Ohio Power Siting Board, 180 East Broad Street, Columbus, Ohio 43215-3793 and cite the above-listed case number.

{¶ 19} Due to the continued COVID-19 state of emergency declared by the governor in Executive Order 2020-01D, and given the passage of Am. Sub. H.B. 197, the local public and adjudicatory hearings will both be held using remote access technology that facilitates participation by telephone and/or live video on the internet. Specifically, with regard to the local public hearing, persons that wish to provide testimony regarding the project must register before 12:00 p.m. on December 2, 2020, online at <https://opsb.ohio.gov/wps/portal/gov/opsb/events/madison-fields-public-hearing>, or with the Consumer Call Center for the Public Utilities Commission of Ohio (Commission) by calling 1-800-686-7826. Testimony to be provided will be limited to five minutes in duration.

{¶ 20} Interested individuals who wish to attend the public hearing remotely and not offer testimony can do so by calling 1-408-418-9388 and entering access code 173 624 6802. The local public hearing will also be live streamed for viewing at www.youtube.com/user/PUCOhio. Additional information is available by viewing the Board's web site <https://opsb.ohio.gov/wps/portal/gov/opsb/cases/19-1881-el-bgn> or by contacting the Commission's Consumer Call Center at 1-800-686-7826.

{¶ 21} Madison Fields should issue public notice of the hearings and the application in this matter. The notice should be published in newspapers of general circulation in those municipal corporations and counties in which the chief executive officer received service of a copy of the application pursuant to Ohio Adm.Code 4906-3-07. The notice should be

published with letters not less than ten-point type, bear the heading "Notice of Proposed Major Utility Facility" in bold type not less than one-fourth inch high or 30-point type, and include the following information: the name and a brief description of the project; a map showing the location and general layout of the proposed facility; statement, including the assigned docket number, that an application for a certificate to construct, operate, and maintain said facility is now pending before the Board; the date and time of the adjudicatory and local public hearings; a statement that the hearings will be conducted by telephone and live video on the internet; and a statement that the public will be given an opportunity to comment on the proposed facility.

{¶ 22} The notice should also state that interested persons who wish to provide testimony regarding the project must pre-register before 12:00 p.m. on December 2, 2020, online at <https://opsb.ohio.gov/wps/portal/gov/opsb/events/madison-fields-public-hearing>, or with the Commission Call Center at 1-800-686-7826. The notice should further indicate that the testimony to be provided will be limited to five minutes in duration.

{¶ 23} Individuals interested in providing public testimony will be required to provide their full name, home address, telephone number, and electronic mail address, if available; state that they wish to register for the local public hearing in Case No. 19-1881-EL-BGN; specify whether they plan to join the remote access event by internet or by telephone; and indicate whether they intend to offer testimony. Individuals that plan to attend the remote access event through internet access must have a computer or smart device with a microphone and speakers, an electronic mail address, and reliable internet service.

{¶ 24} For purposes of the local public hearing, the Board will begin hearing testimony at 6:00 p.m. on Thursday, December 3, 2020. Individuals who have registered to testify will be asked to speak beginning shortly after 6:00 p.m., so all those who have registered to testify should be prepared to speak at that time. For individuals who are speaking by telephone, the Board's staff will contact those individuals by telephone when it is time for their testimony and connect them to the public hearing. If access or other issues

are experienced during the local public hearing, individuals should immediately use the chat function within Webex or contact the Board's legal department at 1-614-466-6843 for assistance.

{¶ 25} If individuals wish to supplement their testimony with an exhibit for the Board's consideration, a copy of the document, along with a reference to Case No. 19-1881-EL-BGN, must be provided to the Board by December 2, 2020, if possible, but no later than December 9, 2020, by electronic mail to contactOPSB@puco.ohio.gov or by mail to Ohio Power Siting Board, 180 East Broad Street, Columbus, Ohio 43215.

{¶ 26} Public comments can be provided in writing on the Board's website at <https://opsb.ohio.gov/wps/portal/gov/opsb/help-center/contact-us>, by electronic mail to contactOPSB@puco.ohio.gov, or by mail to Ohio Power Siting Board, 180 East Broad Street, Columbus, Ohio 43215. Written comments should reference the case number for this matter.

{¶ 27} Access information for the local public hearing will be provided to counsel for the parties at their electronic mail address of record.

{¶ 28} For individuals who have technical difficulties in participating in the local public hearing, an opportunity for public testimony will also be available, at the commencement of the evidentiary hearing, for good cause shown.

{¶ 29} 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 November 18, 2020.

- (b) On or before December 14, 2020, 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 Madison Fields shall be filed by December 7, 2020. All expert and factual testimony to be offered by the intervenors and Staff shall be filed by December 11, 2020.
- (d) Any stipulation entered into by the parties shall be filed by no later than 12:00 p.m. on December 15, 2020, along with the associated testimony supporting the stipulation.
- (e) 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.

{¶ 30} It is, therefore,

{¶ 31} ORDERED, That the hearings in this matter be scheduled as designated in Paragraph 15. It is, further,

{¶ 32} ORDERED, That notices of the application and hearings be issued by Madison Fields in accordance with Paragraphs 17, 18, and 21. It is, further,

{¶ 33} ORDERED, That the parties file their issues lists and testimony in accordance with Paragraph 29. It is, further,

{¶ 34} ORDERED, That Staff file its Staff Report in accordance with Paragraph 29. It is, further,

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

THE OHIO POWER SITING BOARD

/s/ Anna Sanyal

By: Anna Sanyal
Administrative Law Judge

JRJ/kck

This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 19-1881-EL-BGN

Summary: Administrative Law Judge Entry establishing new procedural schedule.
electronically filed by Kelli C. King on behalf of Anna Sanyal, Administrative Law Judge,
Public Utilities Commission of Ohio