

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION
OF JULIET ENERGY PROJECT, LLC FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED.

CASE NO. 20-1760-EL-BGN

ENTRY

Entered in the Journal on July 7, 2021

{¶ 1} Juliet Energy Project, LLC (Juliet or Applicant) is a person as defined in R.C. 4906.01.

{¶ 2} R.C. 4906.04 provides that no person shall construct a major utility facility in the state without obtaining a certificate for the facility from the Ohio Power Siting Board (Board).

{¶ 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 were required to implement procedures consistent with recommendations from the Ohio Department of Health (ODH) to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens were urged to heed the advice of ODH regarding this public health emergency in order to protect their health and safety.

{¶ 4} Pursuant to R.C. 3701.13, the ODH has supervision of “all matters relating to the preservation of the life and health of the people” and the “ultimate authority in matters of quarantine and isolation.” On March 12, 2020, the Director of the ODH issued an Order indicating that “all persons are urged to maintain social distancing (approximately six feet away from other people) whenever possible.”

{¶ 5} On December 4, 2020, Juliet filed a motion seeking a limited waiver of Ohio Adm.Code 4906-3-03(B) and requested expedited treatment of such waiver. Juliet is proposing to construct an up to 101-megawatt, solar-powered electric generating facility in Wood County, Ohio (Project). Juliet sought waiver of Ohio Adm.Code 4906-3-03(B) to allow

for the required public informational meeting to be conducted virtually and telephonically instead of in-person in the area in which the Project will be located.

{¶ 6} On December 15, 2020, the administrative law judge (ALJ) issued an Entry granting Juliet's motion for a limited waiver of the requirements of Ohio Adm.Code 4906-3-03(B).

{¶ 7} On December 23, 2020, Juliet filed a pre-application notification letter with the Board regarding the Project. The public informational meeting was held as scheduled on January 20, 2021.

{¶ 8} On March 12, 2021, Juliet filed an application with the Board for a certificate of environmental compatibility and public need to construct the Project. Pursuant to Ohio Adm.Code 4906-3-06, within 60 days of receipt of an application for a major utility facility, the Board Chair 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.

{¶ 9} On May 11, 2021, the Board notified Juliet that its application was found to be sufficiently compliant with the requirements of Ohio Adm.Code Chapters 4906-01, et seq., 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 instructed Juliet 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 the Applicant to submit its application fee pursuant to R.C. 4906.06(F) and Ohio Adm.Code 4906-3-12.

{¶ 10} On May 17, 2021, the Director of the ODH issued an Order indicating that "except in certain limited circumstances, fully vaccinated persons may safely do most activities without a facial covering and without socially distancing." This Order was intended to align the state of Ohio's health orders with new guidance from the Centers for

Disease Control and Prevention. These new guidelines became effective in the state of Ohio on June 2, 2021.

{¶ 11} On May 28, 2021, Juliet filed proof of service of its accepted and complete application on local officials and the main public library as required by Ohio Adm.Code 4906-3-07(A). Further, Juliet states that it has posted a copy of its accepted complete application online.

{¶ 12} On June 1, 2021, Juliet also filed, pursuant to Ohio Adm.Code 4906-3-07(A)(5), proof of submission of its application fee.

{¶ 13} 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. R.C. 4906.07(A) directs that the public hearing be held not less than 60 nor more than 90 days after the effective date.

{¶ 14} The effective date of the application shall be July 7, 2021. Petitions to intervene in this proceeding will be accepted by the Board up to 30 days following service of the notice required by Ohio Adm.Code 4906-3-09 or by August 20, 2021, whichever is later.

{¶ 15} The local public hearing in this matter shall be held on September 8, 2021, at 6:00 p.m., at the Simpson Banquet Room, 1291 Conneaut Avenue, Bowling Green, Ohio 43402. Consistent with CDC Guidelines and the May 17, 2021 ODH Order, individuals who are not fully vaccinated should continue to wear a face covering and socially distance. For those individuals interested in testifying at the in-person local public hearing, a sign-in sheet will be available at the facility and witnesses will be taken in the order in which they register to testify. If individuals wish to supplement their testimony with an exhibit for the Board's consideration, a copy of the document should be provided to the ALJ during the local public hearing. Testimony to be provided will be limited to five minutes in duration.

{¶ 16} The evidentiary hearing will commence on September 22, 2021, at 10:00 a.m., at the offices of the Public Utilities Commission of Ohio (Commission), Hearing Room 11-C, 11th Floor, 180 East Broad Street, Columbus, Ohio 43215-3793. The parties should register at the lobby desk and then proceed to the 11th floor to participate in the hearing. Like attendance at the local public hearing, individuals who are not fully vaccinated should continue to wear a face covering and socially distance. Any accommodations necessary to ensure availability of social distancing and plexiglass dividers should be made in advance of the hearing. As pandemic restrictions are evolving, additional instructions regarding further safety requirements or accommodations for the hearing room will either be posted on the Commission/Board website or communicated to the parties.

{¶ 17} Juliet should issue public notice of the application and scheduled hearings in accordance with Ohio Adm.Code 4906-3-09. Pursuant to the same rule, in addition to other required information, the notice should include the following statement: “Consistent with CDC Guidelines and the May 17, 2021 Ohio Department of Health Order, unless otherwise specified by the facility, individuals who are not fully vaccinated should continue to wear a face covering and socially distance. Please contact the legal department at 614-466-6843 to ask any questions or request accommodations related to health protocols.” In addition, the notice shall include a statement that the public hearing in this case shall consist of two parts and will be conducted in-person:

- (a) A local public hearing, pursuant to R.C. 4906.08(C), where the Board shall accept written and oral testimony from members of the public who are not parties to the case on September 8, 2021, in a session beginning at 6:00 p.m., at the Simpson Banquet Room, 1291 Conneaut Avenue, Bowling Green, Ohio 43402.
- (b) An evidentiary hearing to commence on September 22, 2021, at 10:00 a.m., 11th floor, Hearing Room C, at the offices of the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-

3793. The purpose of the evidentiary hearing is for Juliet, Staff, and intervenors to provide evidence regarding the Project.

{¶ 18} Further, the initial newspaper notice required pursuant to Ohio Adm.Code 4906-3-09, shall include the following language:

Petitions to intervene in the adjudicatory hearing will be accepted by the Board up to 30 days following service of the notice required by R.C. 4906.06(C) and Ohio Adm.Code 4906-3-09, or August 20, 2021, whichever is later. 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.

{¶ 19} Ohio Adm.Code 4906-2-09(B) provides that the ALJ shall regulate the course of the hearing, including requiring that expert or factual testimony to be offered in Board proceedings be reduced to writing and filed with the Board according to a schedule established by the ALJ. Accordingly, the ALJ finds that the following procedural schedule should be implemented:

- (a) Pursuant to Ohio Adm.Code 4906-3-06(C), Staff shall file its report of investigation (Staff Report) on or before August 24, 2021.
- (b) On or before September 10, 2021, each party shall file a list of issues 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 Applicant shall be filed by September 13, 2021.

- (d) All expert and factual testimony to be offered by intervenors and Staff shall be filed by September 17, 2021.
- (e) Any stipulation entered into by the parties shall be filed by noon on September 21, 2021, along with the associated testimony supporting the stipulation.

{¶ 20} The ALJ encourages the parties to arrange for electronic service of testimony and other pleadings among themselves. If electronic service is agreed to, the parties are also directed to provide an electronic copy to the ALJ.

{¶ 21} It is, therefore,

{¶ 22} ORDERED, That the effective date of the application be established, and the hearings scheduled as set forth in Paragraphs 14, 15, and 16. It is, further,

{¶ 23} ORDERED, That notice of the application and the hearings be published by Juliet in accordance with Paragraphs 17 and 18. It is, further,

{¶ 24} ORDERED, That the parties observe the filing deadlines set forth in Paragraph 19. It is, further,

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

THE OHIO POWER SITING BOARD

/s/ Matthew J. Sandor

By: Matthew J. Sandor
Administrative Law Judge

NJW/kck

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

7/7/2021 2:32:37 PM

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Case No(s). 20-1760-EL-BGN

Summary: Administrative Law Judge Entry ordering that the effective date of the application be established, and the hearings scheduled as set forth in Paragraphs 14, 15, and 16; ordering that notice of the application and the hearings be published by Juliet in accordance with Paragraphs 17 and 18 and ordering that the parties observe the filing deadlines set forth in Paragraph 19.

electronically filed by Kelli C. King on behalf of Matthew Sandor, Administrative Law Judge, Ohio Power Siting Board