

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of Pleasant)
Prairie Solar Energy, LLC for a Certificate of)
Environmental Compatibility and Public Need) Case No: 20-1679-EL-BGN
to Construct a Solar-Powered Electric)
Generation Facility in Franklin County, Ohio.)

JOINT STIPULATION AND RECOMMENDATION

I. INTRODUCTION

Pleasant Prairie Solar Energy LLC (“Applicant”), the Ohio Power Siting Board (“OPSB” or “Board”) Staff (“OPSB Staff”), the Boards of Township Trustees for Pleasant and Prairie Townships (the “Townships”), the Board of Park Commissioners of the Columbus and Franklin County Metropolitan Park District (“Metro Parks”), and the Ohio Farm Bureau Federation (“OFBF”) (jointly referred to herein as “Signatory Parties”) submit this Joint Stipulation and Recommendation (“Stipulation”) for adoption by the Board. Ohio Adm.Code 4906-2-24(A) provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. No Prairie Solar, LLC (“NPS”) has agreed not to oppose the Stipulation (“Non-Opposing Party”). The purpose of this document is to set forth the understanding and agreement of the parties as set forth herein. The Signatory Parties jointly recommend that the Ohio Power Siting Board (“Board”) approve and adopt this Stipulation as part of its Opinion, Order, and Certificate in this proceeding, resolving all matters pertinent to the certification and construction of the solar-powered electric generation facility in Pleasant and Prairie Townships, Franklin County, Ohio as proposed in this proceeding.

The Townships, Metro Parks, and the OFBF filed motions to intervene in this proceeding, which were granted by the Administrative Law Judges (“ALJs”) on June 28, 2021. NPS filed a motion to intervene in this proceeding, which was granted on August 5, 2021. The Report of

Investigation was issued by the OPSB Staff on July 1, 2021 (“Staff Report”). The local public hearing was held on July 19, 2020. The evidentiary hearing was called and continued on August 16, 2021.

This Stipulation is supported by adequate data and information; represents a just and reasonable resolution of issues in this proceeding; violates no regulatory principle or precedent; and is the product of lengthy, serious bargaining among knowledgeable and capable parties in a cooperative process to resolve all of the issues in this proceeding. This Stipulation represents the culmination of these discussions, and the Signatory Parties acknowledge that this agreement is amply supported by the record and, thus, entitled to careful consideration by the Board. Accordingly, the Applicant, the OPSB Staff, the Townships, and the OFBF recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for the facility. Metro Parks and NPS take no position on whether a certificate should be issued for the facility, but Metro Parks and NPS request the inclusion of the conditions below in any certificate that is issued. Metro Parks joins only Parts I and II of this Stipulation and shall not be considered to be a signatory with respect to Part III. NPS joins only Parts I and II of this Stipulation and shall not be considered to be a Signatory Party.

II. JOINT RECOMMENDATIONS

A. Recommended Conditions

The proposed facility is located in Franklin County, Ohio and its total generating capacity will not exceed 250 megawatts alternating current (“MW”). Construction of the facility is expected to begin as early as the first quarter of 2022.

The Signatory Parties and Non-Opposing Party recommend that any Certificate of Environmental Compatibility and Public Need issued in this proceeding to the Applicant be subject to the following conditions:

- (1) The Applicant shall install the facility, utilize equipment and construction practices, and implement mitigation measures as described in the application and as modified and/or clarified in supplemental filings, replies to data requests, and recommendations in the *Staff Report of Investigation*, except to the extent that any requirement in the foregoing documents conflicts with any requirement of this Certificate.
- (2) The Applicant shall conduct a preconstruction conference prior to the commencement of any construction activities. Staff, the Applicant, and representatives of the primary contractor and all subcontractors for the project shall attend the preconstruction conference. The conference shall include a presentation of the measures to be taken by the Applicant and contractors to ensure compliance with all conditions of the certificate, and discussion of the procedures for on-site investigations by Staff during construction. Prior to the conference, the Applicant shall provide a proposed conference agenda for Staff review and shall file a copy of the agenda on the case docket and serve a copy of the agenda on the Signatory Parties and Non-Opposing Party. One representative of each Signatory Party and Non-opposing Party may attend the preconstruction conference. The Applicant may conduct separate preconstruction conferences for each stage of construction.
- (3) Within 60 days after the commencement of commercial operation, the Applicant shall submit to Staff a copy of the as-built specifications for the entire facility. If the Applicant demonstrates that good cause prevents it from submitting a copy of the as-built specifications for the entire facility within 60 days after commencement of commercial operation, it may request an extension of time for the filing of such as-built specifications. The Applicant shall use reasonable efforts to provide as-built drawings in both hard copy and as geographically referenced electronic data.
- (4) Separate preconstruction conferences may be held for the different phases of civil construction and equipment installation. At least 30 days prior to each preconstruction conference, the Applicant shall submit to Staff, for review and acceptance, one set of detailed engineering drawings of the final project design for that phase of construction and mapping in the form of PDF, which the Applicant shall also file on the docket of this case, and geographically referenced data (such as shapefiles or KMZ files) based on final engineering drawings to confirm that the final design is in conformance with the certificate. Mapping shall include the limits of disturbance, permanent and temporary infrastructure locations, areas of vegetation removal and vegetative restoration as applicable, and specifically denote any adjustments made from the siting detailed in the application. The detailed

engineering drawings of the final project design for each phase of construction shall account for geological features and include the identity of the registered professional engineer(s), structural engineer(s), or engineering firm(s), licensed to practice engineering in the state of Ohio who reviewed and approved the designs. All applicable geotechnical study results shall be included in the submission of the final project design to Staff.

- (5) At least 30 days prior to the preconstruction conference, the Applicant shall provide Staff, for review and acceptance, the final geotechnical engineering report. This shall include a summary statement addressing both the geologic and soil suitability.
- (6) The certificate shall become invalid if the Applicant has not commenced a continuous course of construction of the proposed facility within five years of the date of journalization of the certificate unless the Board grants a waiver or extension of time.
- (7) As the information becomes known, the Applicant shall promptly file on the public docket the date on which construction will begin, the date on which construction was completed, and the date on which the facility begins commercial operation.
- (8) Prior to the commencement of construction activities in areas that require permits or authorizations by federal or state laws and regulations, the Applicant shall obtain and comply with such permits or authorizations. The Applicant shall provide copies of permits and authorizations, including all supporting documentation, to Staff within seven days of issuance or receipt by the Applicant and shall file such permits or authorizations on the public docket. The Applicant shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference.
- (9) The certificate authority provided in this case shall not exempt the facility from any other applicable and lawful local, state, or federal rules or regulations nor be used to affect the exercise of discretion of any other local, state, or federal permitting or licensing authority with regard to areas subject to their supervision or control.
- (10) At least 30 days prior to the start of construction, the Applicant shall file a copy of the final complaint resolution plan on the public docket. At least seven days prior to the start of construction and at least seven days prior to the start of facility operations, the Applicant shall notify via mail affected property owners and tenants including those individuals who were provided notice of the public informational meeting, residences located within one mile of the project area, parties to this case, county commissioners, township trustees, emergency responders, airports, schools, and libraries, as well as anyone who has requested updates regarding the project. These notices shall provide information about the project, including contact information and a copy of the complaint resolution plan. The start of construction notice shall include written confirmation that the Applicant has complied with all preconstruction-related conditions of the certificate, as well as a timeline for

construction and restoration activities. The start of facility operations notice shall include written confirmation that the Applicant has complied with all construction-related conditions of the certificate, as well as a timeline for the start of operations. The Applicant shall file a copy of these notices on the public docket. During the construction and operation of the facility, the Applicant shall submit to Staff a complaint summary report by the fifteenth day of April, July, October, and January of each year through the first five years of operation. The report shall include a list of all complaints received through the Applicant's complaint resolution process, a description of the actions taken toward the resolution of each complaint, and a status update if the complaint has yet to be resolved.

- (11) At least 30 days prior to the first preconstruction conference, the Applicant shall submit its emergency response plan to Staff for review and acceptance and shall file it on the public docket. That plan shall include provision(s): regarding fire safety, evacuation, and emergency medical response; and to keep the affected source water protection area designees for the Hope Baptist Church and Ten Mile Inn, and representatives of the Townships informed of the status of any spills, significant panel damage, and schedules for the repair/clean-up, and/or decommissioning of significantly damaged panels. The emergency response plan will include items applicable to the Townships in regards to emergency response design elements of the project and response procedures. The Franklin County Board of County Commissioners has designated Franklin County an Alternative Energy Zone under Ohio Revised Code (“R.C.”) Section 5727.75, and the Applicant shall, as a Qualified Energy Project (“QEP”) under the payment in lieu of taxes (“PILOT”) program in R.C. Section 5727.75, coordinate the emergency response procedures with the applicable first responders, including those under the jurisdiction of the Townships.
- (12) The facility shall be operated in such a way as to assure that no more than 250 megawatts would be injected into the Bulk Power System at any time.
- (13) The Applicant shall not commence any construction of the facility until it has executed an Interconnection Service Agreement (“ISA”) or Interim ISA, and an Interconnection Construction Service Agreement with PJM Interconnection, which includes construction, operation, and maintenance of system upgrades necessary to integrate the proposed generating facility into the regional transmission system reliably and safely. In the event of the use of the Interim ISA, the Applicant will identify the circumstances and specifics thereof that warrant the use of the Interim ISA. The Applicant will also provide support as to why the conventional ISA would not be feasible for its situation. The Applicant shall file on the public docket a letter stating that the Agreement has been signed or a copy of the executed Interconnection Service Agreement and Interconnection Construction Service Agreement.
- (14) Prior to commencement of construction, the Applicant shall prepare a landscape and lighting plan in consultation with a landscape architect licensed by the Ohio

Landscape Architects Board that addresses the aesthetic and lighting impacts of the facility with an emphasis on any locations where an adjacent non-participating parcel contains a residence with a direct line of sight to the project area. The plan shall also address potential aesthetic impacts to nearby communities, the travelling public, and recreationalists by incorporating appropriate landscaping measures such as shrub plantings or enhanced pollinator plantings. The plan shall include measures such as fencing, vegetative screening or good neighbor agreements. Unless alternative mitigation is agreed upon with the owner of any such adjacent, non-participating parcel containing a residence with a direct line of sight to the fence of the facility, the plan shall provide for the planting of vegetative screening designed by the landscape architect to enhance the view from the residence and be in harmony with the existing vegetation and viewshed in the area. The final landscape and lighting plan shall include current obligations and/or future commitments made within the Application such as: the Supplemental Response to the Second and Third Data Requests, including the Level 3 screening minimum extents set forth in the map attached to this response; Application Exhibit J the Viewshed Analysis; and Application Exhibit E the Landscape, Vegetation Management, and Lighting Plan. The Applicant shall maintain vegetative screening for the life of the facility and shall replace any failed plantings as promptly as allowed by and in accordance with seasonal and landscape best practices to enable the new plants' survival. The Applicant shall maintain all fencing along the perimeter of the project in good repair for the term of the project and shall promptly repair any damage as needed to restore the fences' aesthetics and effective characteristics. All lights in the project solar array must narrowly focus light inward toward the solar equipment, be downlit and shielded, be motion-activated, and result in a maximum horizontal illuminance level of 1 foot-candle. All substation lights must narrowly focus light inward toward the solar equipment, be downlit and fully shielded, be motion-activated, and result in a maximum horizontal illuminance level of 1 foot-candle, except at times of necessary or emergency maintenance to the degree necessary to comply with applicable regulations such as Occupational Safety and Health Administration, National Electrical Code, and the National Electrical Safety Code. The Applicant shall provide the plan to Staff for review and confirmation that it complies with this condition and shall also file it on the public docket.

- a. This plan shall also address glare impacts through planting of vegetative screening along US 40.
- (15) Prior to commencement of construction, the Applicant shall submit to Staff for approval a solar panel perimeter fence type that is both small-wildlife permeable and aesthetically fitting for a rural location and meets all applicable electrical codes. As committed to in the Response to the Second Data Request, the fence shall have wooden posts and woven metal mesh. No barbed wire shall be incorporated into the fencing, except at the substation. To the extent modifications can be made to a code compliant fence, the Applicant shall install a fence that: has the lowest height

possible; has frequent openings in the bottom rows in the fence not more than 500 feet apart and that must be at least nine inches wide and seven inches high to allow the passage of mammalian predators and other wildlife species. Following Staff approval, the Applicant shall file details of this solar panel perimeter fence on the public docket. This condition shall not apply to substation fencing.

- (16) General construction and decommissioning activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m., or until dusk when sunset occurs after 7:00 p.m. Construction and decommissioning activities that can be heard on nonparticipating parcels shall not occur on Saturdays, Sundays, or federal holidays. Impact pile driving shall be limited to the hours between 9:00 a.m. and 7:00 p.m. Hoe ram operations, if required, shall be limited to the hours between 10:00 a.m. and 4:00 p.m., Monday through Friday. Horizontal directional drilling (“HDD”) operations if started during general construction activities hours may continue until the completion of the HDD activity. The Applicant shall notify property owners or affected tenants within the meaning of Ohio Adm.Code 4906-3-03(B)(2) of upcoming construction activities including potential for nighttime construction.
- (17) The Applicant shall operate a facility that limits sound levels emitted to nonparticipating receptors and nonparticipating landowner property to no higher than the closest Long-Term Monitoring Station’s area ambient Leq level plus five decibels (“dBA”) as referenced in Application Figure 4-1 and Application Exhibit N Table 4-3. If the facility is found to be above these limits, the Applicant shall install additional noise mitigation measures to maintain compliance with this provision.
- (18) At least 60 days prior to the preconstruction conference, the Applicant shall provide to Staff and the Bolton Field airport authority, and shall file on the public docket, an updated glare analysis that (a) evaluates glare along roads, nearby residences in and adjacent to the project area, approach flight paths at Bolton Field, and the airport traffic control tower at Bolton Field, (b) provides an executive summary of the results, (c) provides reasoning and/or corrects "azimuthal view" and/or "observer view angle" inputs to the GlareGauge (or other) model and (d) includes a recommendation to minimize and address all predicted glare impacts.
- (19) At least 30 days prior to the preconstruction conference, the Applicant shall submit written concurrence from the Bolton Field Airport Authority (“Airport”) or other authorized representative designated by the Airport in the form of either a resolution from the Airport’s board or signed letter/e-mail stating that the Airport is willing to accept any discovered impact from glare on its approach flight path(s) and airport traffic control tower.
- (20) In regard to drainage infrastructure not under the jurisdiction of the County via easement:

- (a) The Applicant shall avoid, where possible, or minimize to the extent practicable, any damage to functioning field tile drainage systems and soils resulting from the construction, operation, and/or maintenance of the facility in agricultural areas. Damaged field tile systems shall be promptly repaired to at least original conditions or modern equivalent at the Applicant's expense. However, a damaged field tile need not be repaired if the Applicant has both:
 - (i) obtained written consent from all potentially impacted participating and nonparticipating landowners that the tile need not be repaired; and
 - (ii) the field tile systems of all potentially impacted participating and nonparticipating landowners remain unaffected by the non-repair of the damaged field tile.
- (b) The Applicant shall have a state licensed civil engineer design the Project's drainage attributes under the appropriate standard of care in regard to civil design.
- (c) The Applicant shall provide the proposed civil construction drawings to the county engineer for review and comment prior to construction.

In regard to publicly maintained, protected, or managed drainage infrastructure under the authority of the county via easement, known as petition ditches or tiles, the Applicant shall coordinate with the county drainage engineer to ensure that this infrastructure that crosses over multiple landowners' properties is properly coordinated with facility infrastructure as detailed further in a road use and maintenance agreement ("RUMA").

- (21) The Applicant shall adhere to seasonal cutting dates of October 1 through March 31 for the removal of trees three inches or greater in diameter to avoid impacts to Indiana bats, northern long-eared bats, little brown bat, and the tricolored bat unless coordination with the Ohio Department of Natural Resources ("ODNR") and the U.S. Fish and Wildlife Service ("USFWS") allows a different course of action. If coordination with these agencies allows clearing between April 1 and September 30, the Applicant shall docket proof of completed coordination on the case docket prior to clearing trees.
- (22) To the extent the Applicant plans to apply Pesticides (including, but not limited to, defoliant, herbicides, or insecticides) are applied to the Project Area, the Applicant agrees that it will be a commercial applicator of pesticides as defined by R.C. 921.01 and 921.06 and Ohio Adm.Code 901:5-11-01(N)(5), and is therefore subject to relevant Ohio Revised Code and Administrative Code provisions regarding the commercial application of such compounds. The Applicant shall also register and participate in and comply with the FieldWatch's FieldCheck for Applicators program. Before applying any such compounds, the Applicant shall review the

FieldCheck registry for the location of sensitive crops and apiaries in order to minimize harmful effects from potential drift of such compounds.

- (23) The Applicant shall have a Staff-approved environmental specialist on site during construction activities that may affect sensitive areas. Sensitive areas which would be impacted during construction shall be identified on a map provided to Staff, and shall include, but are not limited to, wetlands and streams, and locations of Listed Species. “Listed Species” for purposes of this condition means all state and federal species listed in the ODNR Division of Wildlife (“DOW”) document titled “Ohio’s Listed Species: Wildlife that are Considered to be Endangered, Threatened, Species of Concern, Special Interest, Extirpated, or Extinct” and all state and federal endangered and threatened species. The environmental specialist shall be familiar with water quality protection issues and shall be able to identify Listed Species that may be encountered during project construction. The environmental specialist shall have authority to stop construction to assure that unforeseen environmental impacts do not progress and recommend procedures to resolve the impact. A map shall be provided to Staff showing sensitive areas which would be impacted during construction with information on when the environmental specialist would be present.
- (24) The Applicant shall contact Staff, the ODNR, and the USFWS within 24 hours if state or federal listed species are encountered during construction activities. Construction activities that could adversely impact the identified plants or animals shall be immediately halted until an appropriate course of action has been agreed upon by the Applicant, Staff, and the appropriate agencies. The Applicant shall also notify Staff and ODNR DOW in writing, either via hard copy or email, within 24 hours if any mortality, injury, or entrapment of a state or federal threatened and endangered listed species is discovered in the facility during operation. For wildlife not categorized as state or federal threatened or endangered, the Applicant shall also notify Staff and ODNR DOW in quarterly reports if any mortality, injury, or entrapment of wildlife is discovered in the facility during operation for the purpose of general data collection.
- (25) Construction in upland sandpiper preferred nesting habitat types shall be avoided during the species' nesting period of April 15 through July 31, unless coordination with the ODNR allows a different course of action. If present, mapping of these habitat areas shall be provided to the construction contractor along with instructions to avoid these areas during the restricted dates. If coordination with ODNR allows construction between April 15 and July 31, the Applicant shall docket proof of completed coordination on the case docket prior to construction activities.
- (26) Construction in northern harrier preferred nesting habitat types shall be avoided during the species' nesting period of May 15 through August 1, unless coordination by the Applicant with the ODNR allows a different course of action during that period. If coordination with ODNR allows clearing between May 15 and August 1, the Applicant shall file proof of such coordination on the docket. Absent

coordination with the ODNR that allows a different course of action, mapping of these habitat areas shall be provided to the construction contractor along with instructions to avoid these areas during the restricted dates.

- (27) If the Applicant encounters any new state or federal threatened and endangered listed plant or animal species or suitable habitat of these species prior to construction, the Applicant shall include the location in the final engineering drawings and associated mapping, as required in Condition 4. The Applicant shall avoid impacts to these species and explain how impacts would be avoided during construction.
- (28) The Applicant shall utilize the low-growing grass and forbs species and planting configurations the Applicant proposed in Exhibit E of the Application, as supplemented by the Third Supplement to the Application filed on September 30, 2021, and incorporate grasses, trees, and flowering plants native to the Darby Plains for permanent ground cover in the solar fields and all setback areas unless the landowner chooses to not utilize the undeveloped property that remains under lease after commercial operations. To the extent the Third Supplement to the Application conflicts with Exhibit E of the application, the Third Supplement takes precedent over Exhibit E. Mowing of the project site shall not occur between April 30th and July 15th after construction on the project is completed, except in specific locations where mowing is necessary to address unusually elevated risks of fire, to prevent plants from shading solar panels, or to prevent invasive or noxious weeds from seeding during that period.
- (29) Prior to commencement of construction activities that require transportation permits, the Applicant shall obtain all such permits. The Applicant shall coordinate with the appropriate authorities regarding any temporary road closures, road use agreements, driveway permits, lane closures, road access restrictions, and traffic control necessary for construction and operation of the proposed facility. Coordination shall include, but not be limited to, the county engineer, the Ohio Department of Transportation, local law enforcement, health and safety officials, and the Townships. The Applicant shall detail this coordination as part of a final transportation management plan submitted to Staff prior to the preconstruction conference for review and confirmation by Staff that it complies with this condition and then file the plan on the public docket. This final transportation management plan shall include a RUMA between the Applicant and the county. The RUMA shall include roads or infrastructure under the maintenance jurisdiction of the Townships as directed by the PILOT program referenced in Condition 11. Any damaged public roads, culverts and bridges shall be repaired promptly to their previous or better condition by the Applicant under the guidance of the appropriate regulatory authority. Any temporary improvements would be removed unless the appropriate regulatory authority requests that they remain in place.
- (30) At least 30 days prior to the preconstruction conference, the Applicant shall provide the status (i.e., avoidance, mitigation measures, or capping) of each water well

within the project area. The Applicant shall indicate to Staff whether the nearest solar components to each uncapped well within the project area meets or exceeds any applicable minimum isolation distances outlined in Ohio Adm.Code 3701-28-7. For that water well (Well ID #962816) which is approximately 0 feet from solar equipment, the Applicant shall relocate the solar equipment at least 50 feet from that water well, demonstrate that the well is for nonpotable use and relocate solar equipment at least 10 feet from that well, or seal and abandon the water well. For monitoring wells (Well IDs #2033569 through 2033573) which are approximately 0 feet from solar equipment, the Applicant shall relocate the solar equipment at least 10 feet from those wells or seal and abandon the monitoring wells.

- (31) At least 30 days prior to the preconstruction conference, the Applicant shall submit an updated decommissioning plan, and total decommissioning cost estimate without regard to salvage value on the public docket that includes: (a) a provision that the decommissioning financial assurance mechanism include a performance bond where the company is the principal, the insurance company is the surety, and the Ohio Power Siting Board is the obligee; (b) a provision to monitor the site for at least one additional year after completion of decommissioning to ensure successful revegetation and rehabilitation; (c) a timeline of up to one year for removal of the majority of equipment as defined by 60% of the panel and racking equipment quantities, with all decommissioning to be finished within 18 months after the Facility ceases operations; (d) a provision where the performance bond is posted prior to the commencement of construction; and (e) a provision that the performance bond is for the total decommissioning cost and excludes salvage value. The Applicant shall implement and comply with the decommissioning plan as approved by Staff.
- (32) At least 30 days prior to the preconstruction conference, the Applicant shall demonstrate that its solar and substation equipment is outside the protection zone(s) for the Hope Baptist Church and Ten Mile Inn.
- (33) The Applicant shall prevent the establishment and propagation of noxious weeds identified in Ohio Adm.Code Chapter 901:5-37 in the project, including its setback areas, during construction, operation, and decommissioning via procedures and processes specified and required by the project's vegetation plan.
- (34) Unless an alternate configuration is agreed to by the Applicant and a landowner(s) that is near or adjacent to the project area, the setbacks of the project fenceline for the project shall be at least the greater of:
 - (a) 400 feet from residential dwelling building structures;
 - (b) 50 feet from public rights of way boundary lines; or
 - (c) 100 feet from adjacent nonparticipating boundary lines.

- (35) All plans, notices, and other documents submitted to OPSB Staff pursuant to the conditions of the Certificate shall be filed on the public docket within 48 hours of submittal to OPSB Staff.

B. Exhibits

Subject to the terms and conditions of this Stipulation, the Applicant, the OPSB Staff, the Townships, Metro Parks, the OFBF, and NPS agree, stipulate, and recommend that the following exhibits submitted to this docket be marked and admitted into the record of this proceeding:

1. Applicant Exhibit 1: Application filed on February 19, 2021.
2. Applicant Exhibit 2: Supplement to the Application filed on April 7, 2021.
3. Applicant Exhibit 3: Second Supplement to the Application filed on April 21, 2021.
4. Applicant Exhibit 4: Third Supplement to the Application filed on October 6, 2021.
5. Applicant Exhibit 5: Response to First Data Request filed on March 18, 2021.
6. Applicant Exhibit 6: Response to Second Data Request filed on April 16, 2021.
7. Applicant Exhibit 7: Response to Third Data Request filed on April 16, 2021.
8. Applicant Exhibit 8: Response to Fourth Data Request filed on April 20, 2021.
9. Applicant Exhibit 9: Supplemental Response Second and Third Data Requests filed on May 12, 2021
10. Applicant Exhibit 10: Second Supplemental Response to Third Data Requested filed on June 2, 2021
11. Applicant Exhibit 11: Response to Fifth Data Request filed on June 9, 2021.
12. Applicant Exhibit 12: Response to Sixth Data Request filed on June 9, 2021.
13. Applicant Exhibit 13: Third Supplemental Response to Third Data Request and Supplemental Response to Fifth Data Request filed on July 6, 2021

14. Applicant Exhibit 14: Certificate of Service of the December 14, 2020 Public Information Meeting, notice on property owners and entities filed on November 25, 2020, in accordance with Ohio Adm.Code 4906-3-03.
15. Applicant Exhibit 15: Proof of Publication of the December 14, 2020 Public Information Meeting in the *Columbus Dispatch* filed on December 9, 2020, in accordance with Ohio Adm.Code 4906-3-03.
16. Applicant Exhibit 16: Certificate of Service of the accepted, complete application on local public officials and libraries filed on April 21, 2021, in accordance with Ohio Adm.Code 4906-3-07.
17. Applicant Exhibit 17: Proof of Service and Proof of Publication in the *Columbus Dispatch* of the procedural schedule, in accordance with the ALJ's May 11, 2021 Entry, filed on June 2, 2021.
18. Applicant Exhibit 18: Proof of Second Service and Proof of Second Publication in the *Columbus Dispatch* of the procedural schedule, in accordance with the ALJ's June 28, 2021 Entry, filed on July 16, 2021.
19. Joint Exhibit 1: The October 27, 2021, Stipulation signed on behalf of the Applicant, the OPSB Staff, the Townships, Metro Parks, the OFBF, and NPS.

C. Other Terms of the Stipulation

1. This Stipulation is expressly conditioned upon its adoption by the Board without material modification. Each Signatory Party has the right, in its sole discretion, to determine whether the Board's approval of this Stipulation constitutes a "material modification" thereof. If the Board rejects or materially modifies all of any part of this Stipulation, any Signatory Party shall have the right to apply for rehearing. If the Board does not adopt the Stipulation without material modification upon rehearing, or if the Board makes a material modification to any Order adopting the Stipulation pursuant to any reversal, vacation and/or remand by the Supreme Court of Ohio, then within 30 days of the Board's Entry on Rehearing or Order on Remand any Signatory Party may withdraw from the Stipulation by filing a notice with the Board ("Notice of Withdraw"). No Signatory Party shall file a Notice of Withdraw without first negotiating in good faith with the other Signatory Parties to achieve an outcome that substantially satisfies the intent of the Stipulation. If a new agreement achieves such an outcome, the Signatory Parties will file the new agreement for the Board's review and approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are unsuccessful, and a Signatory Party files a Notice of Withdrawal, then the Board will convene an evidentiary hearing to afford the Signatory Party the opportunity to contest the

Stipulation by presenting evidence through witnesses, to cross examine witnesses, to present rebuttal testimony, and to brief all issues that the Board shall decide based upon the record and briefs. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are successful, then some or all of the Signatory Parties shall submit the amended Stipulation to the Board for approval after hearing if necessary.

2. The Signatory Parties agree and recognize that this Stipulation has been entered into only for the purpose of this proceeding. Each party agrees not to assert against another party in any proceeding before the Board or any court, other than in a proceeding to enforce the terms of this Stipulation, that party's participation in this Stipulation as support for any particular position on any issue. Each party further agrees that this Stipulation carries no factual or legal precedent on any issue. The parties request that the Board recognize that its use of this Stipulation in any proceeding other than this proceeding is contrary to the intentions of the parties in entering into this Stipulation.

III. RECOMMENDED FINDINGS

The Signatory Parties agree that the record in this case, provided the Board approves the conditions in this Stipulation, contains sufficient probative evidence for the Board to find and determine, as findings of fact and conclusions of law, that:

A. Recommended Findings of Fact

1. The Applicant is an affiliate of Invenergy Solar Project Development LLC, and is licensed to do business in the state of Ohio.
2. The facility qualifies as a major utility facility as defined in R.C. 4906.01(B)(1).
3. On November 25, 2020, the preapplication notification letter was filed informing the Board of the public information meeting in this proceeding. Notice of the public information meeting was served on county and township officials and agencies, property owners, local first responders, the local school district, and the local libraries, and published in the *Columbus Dispatch*. The public information meeting was held, as scheduled, on December 14, 2020.
4. The Applicant formally submitted its application for a Certificate of Environmental Compatibility and Public Need on February 19, 2021.

5. On April 20, 2021, the Staff filed a letter stating that it had received sufficient information to begin its review of the Application as supplemented.
6. On May 4, 2021, the Applicant filed notice that the Application fee had been submitted.
7. On April 21, 2021, the Applicant filed a certificate of service indicating that a copy of the Application was served on local public officials and libraries.
8. By entries issued on May 11 and June 28, 2021, the ALJ established the procedural schedule and scheduled the local public and evidentiary hearings for July 19 and August 16, 2021, respectively.
9. NPS was granted intervention on August 5, 2021.
10. The Metro Parks, the Townships, and the OFBF were granted intervention on June 28, 2021.
11. On June 2 and July 16, 2021, the Applicant filed proof that the first and second notices of the procedural schedule were served and published in the *Columbus Dispatch*.
12. The Staff Report was filed on July 1, 2021.
13. The public hearing was held on July 19, 2021.
14. On October 27, 2021, the Applicant, the OPSB Staff, the Townships, Metro Parks, the OFBF, and NPS filed the Stipulation.
15. The adjudicatory hearing was called and continued on August 16, 2021.
16. The basis of need, as specified under R.C. 4906.10(A)(1), is not applicable to this generating facility project.
17. Adequate data on the project has been provided to determine the nature of the probable environmental impact, as required by R.C. 4906.10(A)(2).
18. Adequate data on the project has been provided to determine that the facility described in the application represents the minimum adverse environmental impact, considering the available technology and nature and economies of the various alternatives, and other pertinent considerations, as required by R.C. 4906.10(A)(3).

19. Adequate data on the project has been provided to determine that, because the project is an electric generation facility, the proposed electric generating facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving the state of Ohio and interconnected utility systems, and that the facility will serve the interests of electric system economy and reliability, and the requirements of R.C. 4906.10(A)(4) are met.
20. Adequate data on the project has been provided to determine that, to the extent that any of them are applicable, the solar-powered generation facility will comply with the requirements in the R.C. regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous waters, and air navigation, and all regulations thereunder, as required by R.C. 4906.10(A)(5).
21. Adequate data on the project has been provided to determine that the facility will serve the public interest, convenience, and necessity, as required by R.C. 4906.10(A)(6).
22. Adequate data on the project has been provided to determine what the facility's impact will be on the viability as agricultural land of any land in an existing agricultural district established under R.C. Chapter 929 that is located within the site of the proposed facility, as required by R.C. 4906.10(A)(7).
23. Adequate data on the project has been provided to determine that the facility as proposed incorporates maximum feasible water conservation practices considering available technology and the nature and economics of the various alternatives, as required by R.C. 4906.10(A)(8).
24. The record evidence in this matter provides sufficient factual data to enable the Board to make an informed decision.

B. Recommended Conclusions of Law

1. The Applicant is a "person" under R.C. 4906.01(A).
2. The proposed facility is a major utility facility as defined in R.C. 4906.01(B)(1).
3. The application complies with the requirements of Ohio Adm.Code Chapter 4906-3.
4. The requirement for the need for the facility under R.C. 4906.10(A)(1) is inapplicable.

5. The record establishes the nature of the probable environmental impact from construction, operation, and maintenance of the facility under R.C. 4906.10(A)(2).
6. The record establishes that the facility, if conditioned in the certificate as recommended by the Signatory Parties, represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations under R.C. 4906.10(A)(3).
7. The record establishes that the facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving the state of Ohio and interconnected utility systems, and will serve the interests of electric system economy and reliability, as required by R.C. 4906.10(A)(4).
8. The record establishes, as required by R.C. 4906.10(A)(5), that, to the extent that any of them are applicable, construction of the proposed facility will comply with the requirements in the R.C. regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous waters, and air navigation, and all rules and standards adopted under the relevant Chapters of the R.C.
9. The record establishes that the facility, if conditioned in the certificate as recommended by the Signatory Parties, will serve the public interest, convenience, and necessity under R.C. 4906.10(A)(6).
10. The facility's impact on the viability as agricultural land of any land in an existing agricultural district has been determined under R.C. 4906.10(A)(7).
11. The record establishes that the facility would incorporate maximum feasible water conservation practices under R.C. 4906.10(A)(8).
12. Based on the record, the Signatory Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for construction, operation, and maintenance of the facility, which includes the conditions in the Staff Report, as presented and modified by this Stipulation.

The undersigned hereby stipulate and agree and they represent that they are authorized to enter into this Joint Stipulation and Recommendation.

Respectfully submitted on behalf of,

THE STAFF OF THE OHIO POWER SITING BOARD

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The undersigned Non-Opposing Party hereby agrees not to challenge this Stipulation as of the 27th day of October, 2021.

NO PRAIRIE SOLAR, LLC

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by Christine M.T. Pirik on behalf of PLEASANT PRAIRIE SOLAR ENERGY LLC