

## THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF  
KINGWOOD SOLAR I LLC FOR A  
CERTIFICATE OF ENVIRONMENTAL  
COMPATIBILITY AND PUBLIC NEED.

CASE NO. 21-117-EL-BGN

### ENTRY

Entered in the Journal on March 23, 2022

{¶ 1} Kingwood Solar I LLC (Applicant or Kingwood) 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 April 16, 2021, Kingwood filed an application with the Board for a certificate of environmental compatibility and public need to construct a 175 megawatt solar powered electric generating facility in Greene County, Ohio.

{¶ 4} On various dates, timely petitions and notices for intervention in this proceeding were filed by the following entities: the Board of Trustees of Cedarville Township, Greene County, Ohio; the Board of Trustees of Xenia Township, Ohio; the Board of Trustees of Miami Township, Greene County, Ohio; In Progress, LLC; the Tecumseh Land Preservation Association, also known as the Tecumseh Land Trust; the Greene County Board of Commissions; the Ohio Farm Bureau Federation; and Citizens for Greene Acres, Inc. and 14 named landowners. Each of these parties were granted intervenor status in subsequent entries issued by the administrative law judge (ALJ).

{¶ 5} On October 29, 2021, Staff filed its report of investigation.

{¶ 6} The public hearing was held on November 15, 2021.

{¶ 7} The adjudicatory hearing scheduled to commence on December 13, 2021, was called and continued.

{¶ 8} The adjudicatory hearing reconvened on March 7, 2022 and continued through March 15, 2022. At the conclusion of testimony, there was an off-the-record discussion whereby counsel for Kingwood, among other things, requested the opportunity to file rebuttal testimony. No party objected to the request. Accordingly, the ALJ granted the request upon going back on the record and instructed that rebuttal testimony be filed by no later than April 14, 2022. Additionally, the parties agreed to reconvene for the purpose of taking rebuttal testimony on April 25, 2022, and April 26, 2022.

{¶ 9} By Entry issued March 17, 2022, the ALJ formalized that the hearing shall reconvene for rebuttal testimony on April 25, 2022, and shall continue through April 26, 2022, as necessary. This Entry further directed that parties file rebuttal testimony by no later than April 14, 2022.

{¶ 10} On March 22, 2022, Kingwood filed an interlocutory appeal for certification, or, in the alternative, request for correcting entry. In this filing, Kingwood states that the Entry, as written, appears to allow all parties to submit rebuttal testimony. Kingwood cites past Board precedent in which only the applicant was permitted to file rebuttal testimony. *See, e.g. In re Republic Wind, LLC*, Case No. 17-2295-EL-BGN, Transcript Vol. VII (Nov. 25, 2019) at 1554, 1555; *In re Alamo Solar I, LLC*, Case No. 18-1579-EL-BGN, Entry (Aug. 21, 2019) at ¶ 8; *In re Champaign Wind LLC*, Case No. 12-160-EL-BGN, Transcript Vol. XII (Dec. 6, 2012) at 3002; and *In re Buckeye Wind, LLC*, Case No. 08-666-EL-BGN, Transcript Vol. IX (Nov. 20, 2009) at 2253. Kingwood argues that it will suffer undue prejudice if all other parties are allowed to submit rebuttal testimony. Kingwood, therefore, requests that a clarifying entry be issued to confirm that only Applicant will be permitted to file rebuttal testimony. If a clarifying entry is not issued, Kingwood requests that its interlocutory appeal be certified to the Commission to “reverse” the Entry.

{¶ 11} At this time, the ALJ finds it appropriate to clarify that the March 17, 2022 Entry is meant to authorize those parties that are entitled to file rebuttal testimony to do so by April 14, 2022. As Kingwood is the party bearing the burden of supporting the

application filed in this case, it is, consistent with Board precedent, the appropriate party to file rebuttal testimony. Any request from Staff or intervenors for leave to file sur-rebuttal testimony should be made following the conclusion of Kingwood's rebuttal testimony.

{¶ 12} In light of this clarifying Entry, which was alternatively requested by Kingwood, the ALJ finds Kingwood's interlocutory appeal and request for certification to be moot.

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That the procedural deadlines and schedule outlined in the March 17, 2022 Entry remain in effect, according to the terms outlined therein and as clarified by this Entry. It is, further,

{¶ 15} ORDERED, That Kingwood's interlocutory appeal and request for certification is hereby considered moot, in accordance with Paragraph 12. It is, further,

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

THE OHIO POWER SITING BOARD

/s/David M. Hicks

By: David M. Hicks  
Administrative Law Judge

NJW/kck

**This foregoing document was electronically filed with the Public Utilities  
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**in**

**Case No(s). 21-0117-EL-BGN**

Summary: Administrative Law Judge Entry ordering that the procedural deadlines and schedule outlined in the March 17, 2022 Entry remain in effect, according to the terms outlined therein and as clarified by this Entry. It is, further, ORDERED, That Kingwood's interlocutory appeal and request for certification is hereby considered moot, in accordance with Paragraph 12. electronically filed by Kelli C. King on behalf of David Hicks, Administrative Law Judge, Ohio Power Siting Board