

THE OHIO POWER SITING BOARD

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

CASE NO. 21-293-EL-BGN

ENTRY

Entered in the Journal on June 1, 2022

{¶ 1} Cepheus Energy Project, LLC (Cepheus 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 May 17, 2021, Cepheus filed a pre-application notification letter with the Board within which Cepheus proposes to construct an up to 68-megawatt, solar-powered electric generating facility in Defiance County, Ohio (Project).

{¶ 4} On July 30, 2021, as supplemented on August 2, 2021, September 10, 2021, September 17, 2021, and September 27, 2021, Cepheus 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.

{¶ 5} On September 28, 2021, the Board notified Cepheus 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 Cepheus 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.

{¶ 6} On October 5, 2021, Cepheus 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).

{¶ 7} On October 8, 2021, Cepheus filed, pursuant to Ohio Adm.Code 4906-3-07(A)(5), proof of submission of its application fee.

{¶ 8} 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 administrative law judge (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.

{¶ 9} By Entry issued October 19, 2021, the effective date of the application was established as October 15, 2021, the local public hearing scheduled for December 16, 2021, and the adjudicatory hearing scheduled to commence on January 11, 2022. Also, the October 19, 2021 Entry advised that the Board would accept petitions to intervene up to November 29, 2021, and established a procedural schedule directing Staff to file its report of investigation (Staff Report) on or before December 1, 2021; Cepheus to file all expert and factual testimony by December 30, 2021; Staff and intervenors to file all expert and factual testimony by January 6, 2022; parties to file a list of issues citing specific concerns about which they may be interested in pursuing cross-examination of witnesses at the adjudicatory hearing by December 28, 2021; and, parties to file any stipulation no later than 12:00 p.m. on January 10, 2022, along with associated testimony supporting the stipulation.

{¶ 10} On November 24, 2021, the Ohio Farm Bureau Federation (OFBF) filed a motion to intervene in this proceeding.

{¶ 11} On December 1, 2021, Staff filed the Staff Report, which recommends denial of a certificate of environmental compatibility and public need to construct the Project. Among other recommendations, Staff recommends that the Board find that the proposed Project would not serve the public interest, convenience, and necessity, as required by R.C. 4906.10(A)(6).

{¶ 12} On December 2, 2021, Cepheus and OFBF filed a joint motion to suspend the procedural schedule and a request for expedited treatment.

{¶ 13} By Entry issued December 9, 2021, the ALJ granted the joint motion, in part, and denied it, in part. The ALJ denied the joint motion with respect to suspending the local public hearing scheduled for December 16, 2021, and noted that doing so would be an inconvenience to those in the community who had planned to attend and present testimony. Further, the ALJ suspended the remaining procedural deadlines; however, instead of cancelling the January 11, 2022 adjudicatory hearing, the ALJ converted this hearing to a call-and-continue hearing after which the parties would remain on Webex to discuss future procedural scheduling.

{¶ 14} On December 16, 2021, the local public hearing was held as scheduled.

{¶ 15} The call-and-continue hearing was held via Webex, as scheduled, on January 11, 2022. The record in the case was opened, counsel for attending parties entered appearances, and then discussions were had concerning the setting of a new procedural schedule and hearing date. The hearing then adjourned to reconvene at a later date.

{¶ 16} By Entry issued January 19, 2022, the ALJ established a new procedural schedule.

{¶ 17} On March 25, 2022, Applicant and OFBF filed a joint motion to suspend the procedural schedule and a request for expedited treatment. In support of their motion, the joint movants argued that a short suspension of the procedural schedule would allow the Applicant time to coordinate with the community, leaders, officials, and organizations.

Therefore, the joint movants requested that the procedural schedule be suspended and that the April 11, 2022 adjudicatory hearing be converted to a status and scheduling conference.

{¶ 18} By Entry issued March 25, 2022, the ALJ granted Applicant and OFBF's joint motion to suspend the procedural schedule, directing that the April 11, 2022 adjudicatory hearing be converted to a status conference.

{¶ 19} On April 11, 2022, the status conference was conducted, as scheduled, via Webex, during which the parties came to an agreement regarding a new hearing date.

{¶ 20} By Entry issued April 12, 2022, and consistent with the discussion between the parties during the status conference, the adjudicatory hearing was scheduled to reconvene on June 6, 2022, at 10:00 a.m., at the offices of the Public Utilities Commission of Ohio, Hearing Room 11-A, 11th Floor, 180 East Broad Street, Columbus, Ohio 43215.

{¶ 21} At this time, the ALJ finds, sua sponte, that good cause exists to convert the adjudicatory hearing to a virtual hearing via Webex. Instructions for participation by the parties will be emailed to counsel at their email address of record prior to the event. Any person interested in observing the hearing as a nonparty when it reconvenes on June 6, 2022, can access the hearing using the link <https://bit.ly/21-293-ADJ3> and entering password OPSB, or by calling 1-408-418-9388, and entering access code/event number 2349 275 4448.

{¶ 22} It is, therefore,

{¶ 23} ORDERED, That the adjudicatory hearing in this matter reconvene as scheduled on June 6, 2022, at 10:00 a.m., via WebEx, as outlined in Paragraph 21. It is, further,

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

THE OHIO POWER SITING BOARD

/s/ Megan J. Addison

By: Megan J. Addison
Administrative Law Judge

NJW/mef

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

6/1/2022 2:37:43 PM

in

Case No(s). 21-0293-EL-BGN

Summary: Administrative Law Judge Entry ordering that the adjudicatory hearing in this matter reconvene as scheduled on June 6, 2022, at 10:00 a.m., via WebEx, as outlined in Paragraph 21 electronically filed by Ms. Mary E. Fischer on behalf of Megan J. Addison, Administrative Law Judge, Ohio Power Siting Board