

BEFORE THE OHIO POWER SITING BOARD

**In the Matter of the Application of Angelina)
Solar I, LLC, for a Certificate of)
Environmental Compatibility and Public)
Need to Construct a Solar Electric Generation)
Facility in Preble County, Ohio)**

Case No. 18-1579-EL-BGN

**MOTION FOR LEAVE TO INTERVENE OF THE
EATON COMMUNITY SCHOOL DISTRICT**

Pursuant to Ohio Administrative Code Section 4906-2-12, the Eaton Community School District (“Eaton CSD”) hereby moves to intervene in Case Number 18-1578-EL-BGN as a full party of record.

The attached memorandum in support sets forth Eaton CSD’s real and substantial interest in this matter that is not represented by existing parties. Eaton CSD’s intervention will contribute to a just and expeditious resolution of the issues involved in the proceeding, will not unduly delay the proceeding, and will not unjustly prejudice an existing party.

Respectfully submitted,

/s/Thaddeus M. Boggs
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**MEMORANDUM IN SUPPORT
OF MOTION FOR LEAVE TO INTERVENE OF THE
EATON COMMUNITY SCHOOL DISTRICT**

Eaton Community School District (“Eaton CSD”) moves to intervene in the above-referenced case as a full party of record, pursuant to Section 4906-2-12 of the Ohio Administrative Code. Section 4906-2-12 provides that the Board or administrative law judge may grant leave to intervene upon a showing of good cause, considering the following factors:

1. The nature and extent of the potential intervenor’s interest;
2. The extent to which the potential intervenor’s interest is represented by existing parties;
3. The potential intervenor’s potential contribution to a just and expeditious resolution of the issues involved in the proceeding; and
4. Whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice an existing party.

The Eaton CSD Board of Education resolution authorizing this motion to intervene is attached and identified for reference as Exhibit A. Eaton CSD’s intervention would satisfy these considerations, and its motion for leave to intervene should be granted.

A. Eaton CSD has a real and substantial interest in this matter that is not represented by existing parties.

Eaton Community School District is a K–12 public school district located in Preble County, Ohio, serving the City of Eaton and surrounding areas within Dixon and Israel Townships. The location of the approximately 934-acre facility proposed in this application is within the boundaries of the Eaton CSD.

Eaton CSD derives a significant percentage of its revenues from taxes levied on real property located within its district boundaries. Additionally, Eaton CSD levies an income tax within its district boundaries. The applicant states that the project is anticipated to be a qualified energy project (“QEP”) under Section 5727.75 of the Ohio Revised Code, eligible for exemption from real property taxes for the duration of its operation. The applicant has also stated that it will pay service payments in lieu of taxes throughout the exemption period.

Without question, the decision to approve or deny the application will have significant financial impacts on Eaton CSD. Eaton CSD, at this time, has not adopted a position of support or opposition to the application, and Eaton CSD is actively evaluating scenarios to determine which will be net-positives for Eaton CSD. The financial impacts of the facility, whether determined to be positive or negative, will be particularly acute for Eaton CSD due to the substantial acreage involved in proportion to Eaton CSD’s total acreage. By comparison, while the County levies real property taxes, those are levied upon properties throughout the entire county, and so the relative impact on the County is less. The County also has additional opportunity for service payments in lieu of taxes from the facility if it is determined to be a QEP for tax exemption. *See* R.C. §5727.75(E). Eaton CSD’s interests would not adequately be represented by the County’s participation in the proceeding.

Additionally, the application notes that a significant number of people will be involved in the construction of the project. If these individuals relocate their families to Eaton CSD and have school-aged children, their children may attend Eaton CSD schools. Eaton CSD has a real and substantial interest in participating in this proceeding to ascertain the demands that the facility will place on district resources and to advocate for Eaton CSD's interests, which are not represented by other parties.

Finally, Eaton CSD's long-term sustainability depends upon a community that is attractive to residents and potential residents as a place to raise and educate their children. Factors may include property values in areas near the requested facility, which in turn are impacted by viewsheds, stormwater and groundwater impacts, and the availability of safe, affordable, and reliable supplies of electric service.

These factors directly affect the real and substantial interests of Eaton CSD, and bear directly upon the question of whether the requested facility will "serve the public interest, convenience, and necessity," one of the siting factors to be considered by the Board or administrative law judge per Section 4906.10 of the Ohio Revised Code.

B. Eaton CSD's participation would contribute to a just and expeditious resolution of the issues in the proceeding.

Eaton CSD is uniquely positioned to bring the perspective of the local school district to the Board's proceedings in this matter. School district finance in Ohio is a complicated system with numerous variables—taxable values of real property, incomes within the district, the effect of facilities on a school district's state-funding calculation, etc. Eaton CSD has the expertise to bring these considerations before the Board or administrative law judge so that the District's real and substantial interests are not overlooked.

If granted leave to intervene pursuant to this timely motion, Eaton CSD will work diligently and promptly to participate in these proceedings and work with other parties to create a useful record for the Board and administrative law judge's evaluation of this application.

C. Eaton CSD's participation will not unduly prejudice any existing party.

Eaton CSD approaches this application with an open mind and has not taken a position in support of, or in opposition to, this application. By requesting intervention, Eaton CSD simply hopes to have its real and substantial interests represented in the proceeding. Eaton CSD reserves the right to take a position either in support of, or opposition to, the application at a later date. But if it does take a position, that position will be the result of Eaton CSD's contribution to development of the relevant issues and so will not unjustly prejudice any existing party.

CONCLUSION

Because the Eaton Community School District has a real and substantial interest in this proceeding that is not represented by an existing party, and because Eaton CSD's participation in the proceeding will contribute to the just and expeditious resolution of the proceeding without causing undue delay or unjust prejudice to any existing party, Eaton CSD respectfully requests that its motion for leave to intervene be GRANTED.

Respectfully submitted,

/s/Thaddeus M. Boggs

W. Joseph Scholler (0072764), Counsel of Record

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Attorneys for

Eaton Community School District

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Motion for Leave to Intervene, and Memorandum in Support of that Motion, were served on this 21st day of March, 2019, by regular U.S. Mail, to the persons listed below:

Michael Settineri
MacDonald W. Taylor
Vorys, Sater, Seymour & Pease LLP
52 E. Gay Street
P.O. Box 1008
Columbus, Ohio 43216

/s/ Thaddeus M. Boggs
Thaddeus M. Boggs (0089231)

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The Board of Education of the Eaton Community School District, County of Preble, Ohio, met in regular session at 6 o'clock p.m. on the 11 day of March, 2019, at Hollingsworth East Elementary with the following members present:

<u>Mrs. Lisa Noble</u>	<u>Mr. Darrell Durham</u>
<u>Mr. Terry Parks</u>	<u>Mr. Brian Pool</u>
<u>Mr. Eric Beeghly</u>	<u></u>

Mr. Parks moved the adoption of the following resolution:

A RESOLUTION AUTHORIZING THE FILING OF A MOTION TO INTERVENE, ON BEHALF OF THE SCHOOL DISTRICT, IN THE OHIO POWER SITING BOARD CASES CONCERNING APPLICATIONS FOR LOCATION OF SOLAR ELECTRIC GENERATION FACILITIES WITHIN THE DISTRICT'S BOUNDARIES

WHEREAS, the Eaton Community School District, County of Preble, Ohio (hereinafter called the "District") is responsible for providing safe, effective learning environments and a challenging curriculum to prepare its students for success; and

WHEREAS, real property taxes constitute a significant portion of the District's revenues necessary to support its educational mission; and

WHEREAS, the District has a real and substantial interest in preserving the real property tax base so that it can continue to provide outstanding service to its students, parents, and the community; and

WHEREAS, Open Road Renewables, LLC, has filed two applications with the Ohio Power Siting Board (OPSB) seeking authority to construct two solar electric generation facilities within the District's boundaries, totaling approximately 1,800 acres (OPSB Case Nos. 18-1579-EL-BGN and 18-1578-EL-BGN); and

WHEREAS, under Ohio Revised Code, qualifying facilities, including solar electric generation facilities, can qualify for real property tax exemption and payments in lieu of taxes to certain local taxing units; and

WHEREAS, among the criteria for approval of such facilities considered by the OPSB is whether the facility will serve the public interest, convenience, and necessity; and

WHEREAS, parties having an interest in an application before the OPSB may move to intervene in the proceedings; and

WHEREAS, at this time, the Board of Education believes it is in the District's interest to intervene in the OPSB proceedings considering the applications submitted on behalf of Open Road

Renewables within the District's boundaries, so that the District will have the opportunity to participate in the process and learn more about the facilities' potential impacts;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Education, that after careful consideration and evaluation of the information before it:

Section 1. The Board of Education hereby finds that it has a real and substantial interest in the siting of the solar electric generation facilities applied for by Open Road Renewables within the District's boundaries, and in the consequent potential for real property tax exemption and payments in lieu of taxes from those facilities.

Section 2. The Board of Education hereby directs the Superintendent and Treasurer to take such actions as are necessary to cause a motion to intervene to be filed with the OPSB on the District's behalf, and to cause further filings and appearances to be made before the OPSB as are necessary to represent the District's interests in the OPSB's consideration of the applications.

Section 3. This Board of Education hereby finds and determines that all formal actions relative to the adoption of this resolution were taken in an open meeting of this Board of Education, and that all deliberations of this Board of Education, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22, O.R.C.

Section 4. This resolution shall be in full force and effect from and immediately after its adoption and shall supersede any prior resolution or act of this Board of Education, which may be inconsistent or duplicative with the provisions of this resolution.

Mr. Pool seconded the motion and the roll being called upon the question of the adoption of the resolution, the vote resulted as follows:

AYE: Mr. Beeghly, Mr. Durham, Mr. Parks, Mr. Pool,
Mrs. Noble

NAY: _____


ADOPTED this 11 day of March, 2019.



Treasurer, Board of Education

CERTIFICATE

The undersigned hereby certifies that the foregoing is a true and correct copy of a resolution adopted at a meeting held on the 11 day of March, 2019, together with a true and correct extract from the minutes of said meeting to the extent pertinent to consideration and adoption of said resolution.



Treasurer, Board of Education

As prepared by: Frost Brown Todd LLC

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Case No(s). 18-1579-EL-BGN

Summary: Motion Motion for Leave to Intervene electronically filed by Mr. Thaddeus M Boggs on behalf of Eaton Community School District