

FILE

**BEFORE THE  
OHIO POWER SITING BOARD**

In the Matter of the Application of Hardin Solar )  
Energy LLC for a Certificate of Environmental )  
Compatibility and Public Need to Construct a Solar- )  
Powered Electric Generation Facility in Hardin )  
County, Ohio. )

Case No: 17-773-EL-BGN

In the Matter of the Application of Hardin Solar )  
Energy II LLC for a Certificate of Environmental )  
Compatibility and Public Need to Construct a Solar- )  
Powered Electric Generation Facility in Hardin )  
County, Ohio. )

Case No: 18-1360-EL-BGN

PUCO

2019 OCT -1 AM 10:51

RECEIVED-DOCKETING DIV

**JOINT APPLICATION OF HARDIN SOLAR I AND HARDIN SOLAR II  
TO TRANSFER A PORTION OF THE HARDIN SOLAR II  
CERTIFICATE/PROJECT AREA TO  
HARDIN SOLAR I**

PUCO

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RECEIVED-DOCKETING DIV

**I. BACKGROUND**

Hardin Solar Energy LLC ("Hardin Solar I"), a wholly-owned indirect subsidiary of Invenergy LLC ("Invenergy"), was certified to construct the Hardin Solar Energy Center, a 150 megawatt ("MW") solar-powered electric generation facility to be located in Hardin County, Ohio, pursuant to the certificate issued by the Ohio Power Siting Board ("Board") on February 15, 2018, subject to 23 conditions (Case No. 17-773-EL-BGN) ("Hardin Solar I Certificate").

Hardin Solar Energy II LLC ("Hardin Solar II"), also a wholly-owned indirect subsidiary of Invenergy, was certified by the Board to construct a second phase of the Hardin Solar Energy Center, a 170 MW solar-powered electric generation facility, which will also be located in Hardin County, Ohio, on May 16, 2019 (Case No. 18-1360-EL-BGN) ("Hardin Solar II Case").

On April 23, 2019, in accordance with Ohio Revised Code ("R.C.") 4906.03 and 4906.04, Hardin Solar I and Hardin Solar II ("Joint Applicants") filed a request to transfer the Hardin Solar

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Technician DR Date Processed 10/1/19

I certificate to Hardin Solar II and for approval to merge the certificates. In support of their request, Joint Applicants stated that merging the certificates would enable the first and second phases of the Hardin Solar Energy Center to be constructed in the most effective and efficient manner possible.

On May 16, 2019, the Board granted the Joint Applicants' request to transfer and merge the certificate of Hardin Solar I to Hardin Solar II. The Board emphasized that Hardin Solar II shall abide by all conditions granted in the certificate for Hardin Solar I.

The approved transfer and merger was necessary for Invenergy to determine the most efficient and effective manner to proceed with construction of the initial 150 MW Phase I portion of the Hardin Solar Energy Center. Previous to receiving a certificate for the Hardin Solar II project, extensive geotechnical testing of the Hardin Solar I project revealed that subsurface conditions in specific areas were prohibitively expensive to construct upon at that time. Therefore, to meet the demands of offtake customers and build an economically viable 150 MW initial phase, Invenergy secured the Board's approval to merge the Hardin Solar I and Hardin Solar II permits. This allowed Invenergy to merge the project areas for Hardin Solar I and II (for a combined total generating capacity of up to 320 MW), and supplement the best available Phase I land with land originally permitted as Hardin Solar II, in order to construct the initial 150 MW facility.

As anticipated, the Board's May 16, 2019 approval of the transfer and merger of the two certificates enabled the Joint Applicants to proceed with Phase I of the Hardin Solar Energy Center. The project area for Phase I has been determined and, in accordance with the certificate conditions, the preconstruction conference for Phase I has already been held and construction commenced on September 17, 2019.

## **II. TRANSFER REQUEST**

At this time, pursuant to R.C. 4906.03 and 4906.04, the Joint Applicants seek approval to transfer a portion of the certificate/project area that was merged under the Board's May 16, 2019 order to Hardin Solar I.

Invenergy plans to construct the 320 MWs of approved capacity in two phases, in order to meet customer demands and build the most economically viable projects. As a result, each phase is planned to have separate procurement and construction contracts, separate offtake agreements, and arrange must separate construction and term financing.

At this time, Invenergy has started construction on an initial 150 MW Phase 1 for the Hardin Solar Energy Center, which is expected to be operational by the end of 2020. The remaining 170 MW Phase 2 will come online at least one year following the initial phase. Primarily due to the offset timelines, but also because of the reasons outlined above, the phases must be financed separately. Discussions with financing counterparties have illuminated that lenders will require distinct and separate certificates from the Board for the two phases. To this end, in order to close financing for the initial 150 MW phase at this time, the Joint Applicants are seeking to transfer the portion of the merged certificate/project area (upon which the initial 150 MWs will be built) from Hardin Solar II to Hardin Solar I and bifurcate the previously-merged certificate at the October 2019 OPSB Commission meeting.

The transfer/bifurcation will result in a clearly defined project area for the initial 150 MW Phase 1 facility that is fully within the permitted project area for the merge site (See Attachment A, which sets forth the Phase 1 project area). However, as noted in Attachment A, as originally contemplated and set forth in the applications for Hardin Solar I and II and approved in the certificate orders, when the first and second permits were issued, there will be a few small areas that will be covered by both permits because they will contain either shared facilities (such as

access roads and some of the interconnection equipment), will have adjacent underground collection lines, permanent stormwater treatment infrastructure, or will share a laydown yard. As set forth in the dockets, all certificate conditions for both Hardin Solar I and II have been or will be met prior to construction for both Phase 1 and Phase 2. The initial phase will be Hardin Solar I and the second phase will be Hardin Solar II.

Bifurcation is necessary in this situation given the unique circumstances in the aforementioned paragraphs. In addition, the Joint Applicants note that, while not currently contemplated, it is possible that the separate phases could ultimately have differing ownership structures. If that is the case, for enforcement of the certificate conditions down the road, it will be necessary for the Board to know specifically which phase and ultimate company is responsible for compliance for each specific portion(s) of the project area.

As required pursuant to R.C. 4906.04, and attested to in Attachment B to this application, Hardin Solar I and Hardin Solar II acknowledge and agree to abide by any and all terms, conditions, and modifications to both the Hardin Solar I certificate issued in Case No. 17-773-EL-BGN on February 15, 2018, and the Hardin Solar II certificate issued in Case No. 18-1360-EL-BGN on May 16, 2019.

In addition, Joint Applicants have also sent a letter to all public officials explaining the nature of the transfer. An example of the notice and a list of those entities that received the letter are contained in Attachments C and D, respectively, to this Joint Application.

### **III. CONCLUSION**

The Joint Applicants respectfully request that this Joint Application be heard at the next available Board meeting.

WHEREFORE, the Joint Applicants respectfully request that, pursuant to R.C. 4906.03 and 4906.04, the Board approve the transfer of a portion of the certificate/project area that was merged under the Board's May 16, 2019 order to Hardin Solar I.

Respectfully submitted,

/s/ Christine M.T. Pirik

Christine M.T. Pirik (0029759)

(Counsel of Record)

William V. Vorys (0093479)

Dickinson Wright PLLC

150 East Gay Street, Suite 2400

Columbus, Ohio 43215

Phone: (614) 591-5461

Email: [cpirik@dickinsonwright.com](mailto:cpirik@dickinsonwright.com)

[vvorys@dickinsonwright.com](mailto:vvorys@dickinsonwright.com)

***Attorneys for Hardin Solar Energy I and  
Hardin Solar Energy II***

## CERTIFICATE OF SERVICE

The Ohio Power Siting Board's e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to this case. In addition, the undersigned certifies that a copy of the foregoing document is also being served upon the persons below via electronic mail this 1st day of October, 2019.

/s/ Christine M.T. Pirik

Christine M.T. Pirik (0029759)

Counsel:

john.jones@ohioattorneygeneral.gov

jodi.bair@ohioattorneygeneral.gov

cendsley@ofbf.org

lcurtis@ofbf.org

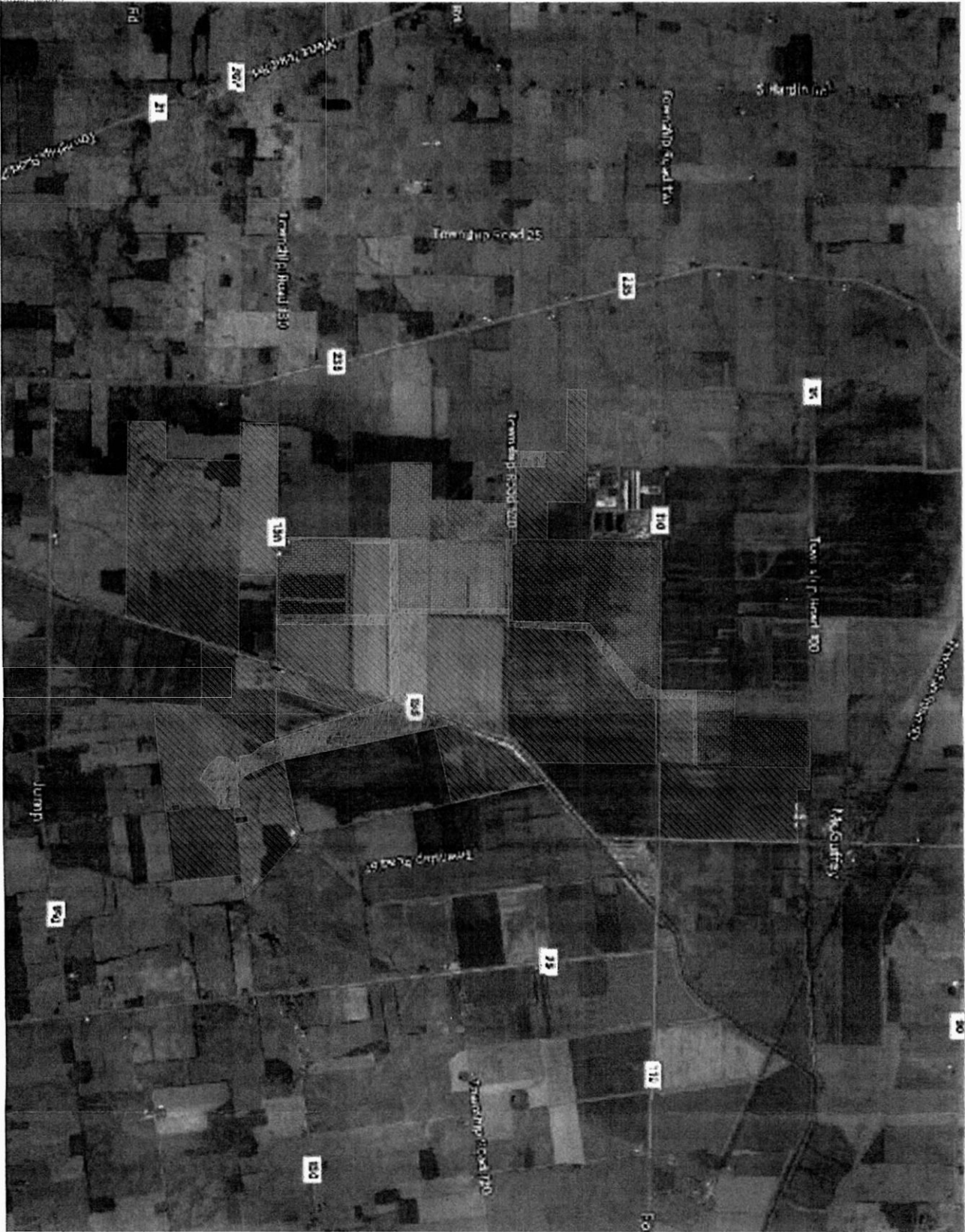
amilam@ofbf.org

Administrative Law Judges:

jeff.jones@puco.ohio.gov

megan.addison@puco.ohio.gov

COLUMBUS 39579-24 123512v6



# Invenery

ONE SOUTH WACKER DRIVE  
SUITE 1800  
CHICAGO, IL 60606  
MAIN: (312) 224-1400  
www.inveneryllc.com

## CONFIDENTIAL

**PROJECT:**  
Hardin Phase 1 and Hardin Phase 2

**LOCATION:**  
HARDIN COUNTY, OH

**LEGEND:**  
Phases 1 and 2 Bifurcation

Phase 1: 1,147.5 acres  
Phase 2: 3,200.0 acres  
Other Land Shared by Both  
Phases: 389.0 acres

**DRAWING NAME:**  
Hardin Solar  
Bifurcation

**DATE:**  
September 6, 2019

DRAWING No.	REVISION
1 of 1	00

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OHIO POWER SITING BOARD**

In the Matter of the Application of Hardin Solar )  
Energy LLC for a Certificate of Environmental )  
Compatibility and Public Need to Construct a Solar- ) Case No: 17-773-EL-BGN  
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County, Ohio. )

**AFFIDAVIT OF VICE PRESIDENT OF  
HARDIN SOLAR ENERGY LLC AND HARDIN SOLAR ENERGY II LLC**

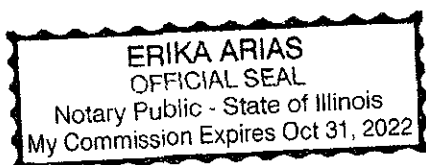
STATE OF ILLINOIS :  
:  
: ss  
COUNTY OF COOK :

I, Michael Kaplan, being duly sworn and cautioned, state that I am over 18 years of age and competent to testify to the matters stated in this affidavit and further state the following based on my personal knowledge:

1. I am the Vice-President of Development at Hardin Solar Energy LLC and Hardin Solar Energy II LLC, which are wholly-owned indirect subsidiaries of Invenergy LLC.
2. I have reviewed the Joint Application to transfer/bifurcate filed by Hardin Solar Energy LLC and Hardin Solar Energy II LLC.
3. It is the intent of Hardin Solar Energy LLC and Hardin Solar Energy II LLC to abide by any and all terms, conditions, and modifications to the certificates issued by the Ohio Power Siting Board to Hardin Solar Energy LLC and Hardin Solar Energy II LLC on February 15, 2018 and May 16, 2019, respectively.

Michael Kaplan  
Michael Kaplan, Vice President

Sworn to before and signed in my presence this 1 day of October 2019.



Erika Arias  
Notary Public





150 E. GAY STREET, 24<sup>TH</sup> FLOOR  
COLUMBUS, OH 43215-3192  
TELEPHONE: (614) 744-2570  
FACSIMILE: (844) 670-6009  
<http://www.dickinsonwright.com>

CHRISTINE M.T. PIRIK  
[CPirik@dickinsonwright.com](mailto:CPirik@dickinsonwright.com)

October 1, 2019

**VIA FIRST CLASS MAIL**

XXXX  
XXXX

**Re: Notice of Joint Application to Transfer a Portion of the Hardin Solar II  
Certificate/Project Area to Hardin Solar I  
OPSB Case Nos. 17-773-EL-BGN and 18-1360-EL-BGN**

Dear Public Official:

On February 15, 2018, and May 16, 2019, Hardin Solar Energy LLC (Hardin Solar I) (a 150 MW facility) and Hardin Solar Energy II LLC (Hardin Solar II) (a 170 MW facility) were granted a certificates by the Ohio Power Siting Board (OPSB) to construct the Hardin Solar Energy Center, a solar-powered electric generation facility to be located in Hardin County, Ohio (Case Nos. 17-773-EL-BGN and 18-1360-EL-BGN). On May 16, 2019, the OPSB granted the request by Hardin Solar I and Hardin Solar II to transfer and merge the certificates. Thus, enabling the companies the ability to construct Phase 1 and Phase 2 of the Hardin Solar Energy Center in the most effective and efficient manner possible.

At this time, now that the project area for Phase 1 has been determined, Hardin Solar I and Hardin Solar II are requesting that the OPSB approve the transfer and bifurcation of the two phases. Upon approval by the OPSB, Hardin Solar I and Hardin Solar II will continue to be responsible for abiding by all of the terms, conditions, and modifications in both certificates. A copy of the application is enclosed.

If you have any questions, please contact Gabe Klooster at (312) 638-8478.

Regards,

Christine M.T. Pirik  
*Attorney of Hardin Solar Energy LLC and  
Hardin Solar Energy II LLC*

CMTP:ap  
Enclosure  
COLUMBUS 39579-24 123549v2

# Attachment D

Owner	Name 2	Name 3	Name 4	Address	Address 2	City	State	Zip
Mary Lou Johnson Hardin County District Library				325 E. Columbus Street		Kenton	OH	43326
Ada Public School District Library				320 N. Main Street		Ada	OH	45810
Alger Public Library				100 W. Wagner Street		Alger	OH	45812
Randy Mann's, Mayor	City of Kenton			111 W. Franklin Street		Kenton	OH	43326
David Beazley	Office of Regional Planning	City of Kenton		111 W. Franklin Street		Kenton	OH	43326
Village of Alger	Village Administrators			PO Box 400		Alger	OH	45812
Village of McGuffey	McGuffey Village Offices			404 Courtright Street		McGuffey	OH	45859
Marion Township	Board of Trustees			8315 St. Rt. 195		Alger	OH	45812
Joel Althausen	City Council President	Office of City Council		111 W. Franklin Street		Kenton	OH	43326
Roger Crowe, President	Randall Rogers, Commissioner	Hardin County Commissioners		Hardin County Courthouse	One Courthouse Square, Suite 100	Kenton	OH	43326
McDonald Township	Board of Trustees	Tim L. Striker, Commissioner		7830 County Road 200		Belle Center	OH	43310
Roundhead Township	Board of Trustees			P.O. Box 133		Roundhead	OH	43346