

## OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION  
OF THE OHIO STATE UNIVERSITY FOR A  
CERTIFICATE OF ENVIRONMENTAL  
COMPATIBILITY AND PUBLIC NEED TO  
CONSTRUCT A COMBINED HEAT AND  
POWER FACILITY IN FRANKLIN COUNTY,  
OHIO.

CASE NO. 19-1641-EL-BGN

### ENTRY

Entered in the Journal on January 7, 2020

{¶ 1} The Ohio State University (Ohio State or University) 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 September 11, 2019, Ohio State filed a preapplication notification letter with the Board regarding its proposal to construct a combined heat and power (CHP) major utility facility on the University's campus in Clinton Township in Franklin County, Ohio. According to Ohio State, the CHP facility would serve as a primary source of heating and electricity to its Columbus campus.

{¶ 4} On November 6, 2019, Ohio State filed with the Board an application for a certificate of environmental compatibility and public need to construct the new CHP facility. Ohio State supplemented its application on November 27, 2019.

{¶ 5} Along with its application, Ohio State also filed a motion seeking a waiver of certain provisions of the Board's rules. Specifically, Ohio State seeks a waiver of Ohio Adm.Code 4906-4-08(A)(3)(c) to allow for a modification of the identification of noise sensitive locations within one mile of the facility, as well as Ohio Adm.Code 4906-4-08(D)(3) and (D)(4) to allow for a modification of the visual impact study to better account for the urban nature of the project.

{¶ 6} Ohio Adm.Code 4906-4-08(A)(3)(c) requires an applicant to indicate the location of any noise-sensitive areas within one mile of the facility, and the operational noise level at each habitable residence, school, church, and other noise-sensitive receptors, under both day- and night-time operations. The rule specifies that a sensitive receptor refers to any occupied building. Rather than identify potentially hundreds of sensitive receptors within one mile of the proposed CHP facility, Ohio State notes that it has provided the operational noise impacts for the nearest non-participating noise-sensitive receptor, which are negligible. In support of its waiver request, Ohio State points out that, unlike many electric generating facilities in industrial or rural areas, the CHP facility would be located in a dense urban area surrounding the campus and adjacent to other properties owned by the University and a public highway of the Ohio Department of Transportation. Given that the operational noise impacts nearly a quarter of a mile away are regarded as negligible, Ohio State asserts that there is no practical purpose in undertaking the burden and expense of conducting the same evaluation for the many other sensitive receptors at a greater distance from the CHP facility. Although Ohio State believes that it has provided sufficient information for Staff to conduct the noise analysis intended by the rule, the University commits to providing any additional information that Staff deems necessary for its completeness review or investigation.

{¶ 7} Ohio Adm.Code 4906-4-08(D)(3) requires an applicant to describe the identified recreation and scenic areas within ten miles of the project area in terms of their proximity to population centers, uniqueness, topography, vegetation, hydrology, and wildlife, as well as to provide an evaluation of the impact of the facility on such areas, along with a description of the applicant's plans to mitigate any adverse impact. Ohio Adm.Code 4906-4-08(D)(4) sets forth requirements for an evaluation of the visual impact of the proposed facility within at least a ten-mile radius from the project area. In requesting a waiver of both provisions, Ohio State again notes that the CHP facility would be located in a dense urban area among other buildings on its campus. In light of the expected visual obstructions of the facility by other nearby buildings, Ohio State believes that it is unlikely

that the project site will be visible at distances greater than two miles. Noting that it has provided a reduced visual impact study of two miles, Ohio State asserts that its waiver request is consistent with prior waivers of the rule. *In re Alamo Solar I, LLC*, Case No. 18-1578-EL-BGN, Entry (Apr. 3, 2019). Ohio State adds that the Ohio Historic Preservation Office has agreed to the size of its study area, as addressed in the application. Ohio State concludes that it has demonstrated good cause for granting its motion for waiver.

{¶ 8} No memoranda contra Ohio State's motion for waiver were filed in this proceeding.

{¶ 9} Ohio Adm.Code 4906-4-01(B) provides that the Board may, upon an application or a motion filed by a party, waive any requirement in Ohio Adm.Code Chapter 4906-4 other than a requirement mandated by statute.

{¶ 10} Pursuant to Ohio Adm.Code 4906-4-01(B), and based upon the circumstances presented in the motion for waiver, the administrative law judge (ALJ) finds that Ohio State has established good cause and that its unopposed motion for waiver should, therefore, be granted. The ALJ notes, however, that Staff is not precluded from requiring information subject to the waiver in order to complete its review of Ohio State's application.

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That Ohio State's motion for waiver be granted in accordance with Paragraph 10. It is, further,

{¶ 13} ORDERED, That a copy of this Entry be served upon all parties of record.

THE OHIO POWER SITING BOARD

/s/ Sarah J. Parrot

By: Sarah J. Parrot  
Administrative Law Judge

JRJ/mef

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

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**Case No(s). 19-1641-EL-BGN**

Summary: Administrative Law Judge Entry granting the motion for waiver in accordance with paragraph 10 electronically filed by Ms. Mary E Fischer on behalf of Sarah J. Parrot, Administrative Law Judge, Ohio Power Siting Board