

THE OHIO POWER SITING BOARD

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

CASE NO. 18-1578-EL-BGN

ENTRY

Entered in the Journal on September 14, 2020

{¶ 1} Alamo Solar I, LLC (Alamo 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 October 22, 2018, Alamo, a subsidiary of Blue Planet Renewable Energy, LLC, filed a pre-application notification letter with the Board regarding its proposed 89.9 megawatt (MW) solar electric generating facility in Gasper and Washington townships, Preble County, Ohio. After filing an affidavit of publication demonstrating its compliance with the notice requirements of Ohio Adm.Code 4906-3-03, and holding a public information meeting on November 13, 2018, Alamo filed its application with the Board for a certificate of environmental compatibility and public need to construct and operate a solar-powered electric generation facility (the Project) of up to 69.9 MW in Preble County, Ohio on December 10, 2018, as supplemented on January 31, 2019.¹

{¶ 4} By letter dated February 8, 2019, the Board notified Applicant that its application was compliant with pertinent statutory and administrative code requirements and provided sufficient information to permit the Board to commence its review and investigation of the application. On March 20, 2019, Alamo filed its certificate of service of

¹ Alamo explains that the application seeks approval for 69.9 MW which is revised since the issuance of the pre-application notification letter.

its accepted and complete application and proof that it submitted its application fee to the Treasurer of the State of Ohio as required by Ohio Adm.Code 4906-3-07.

{¶ 5} Pursuant to the administrative law judge (ALJ) Entry of June 10, 2019, the evidentiary hearing in this matter was scheduled for a call and continue on June 26, 2019, with the evidentiary hearing to reconvene on July 17, 2019.

{¶ 6} On July 5, 2019, Alamo filed a Joint Stipulation and Recommendation (Stipulation) executed by Alamo; the Staff of the Ohio Power Siting Board; Ohio Farm Bureau Federation; Preble County Commissioners; the Preble County Engineer; Preble County Soil and Water Conservation District; the Gasper Township Board of Trustees; the Washington Township Board of Trustees; and the Preble County Planning Commission (collectively, Signatory Parties). The Eaton Community School District; Preble Shawnee Local School District; and the Concerned Citizens of Preble County, LLC, (CCPC), including consisting Eric and Kelly Altom, Mary Bullen, Camden Holdings, LLC, John and Joanna Clippinger, Joseph and Linda DeLuca, Jason and Tonya Heggs, Donn Kolb as trustee for the Donn E. Kolb Revocable Living Trust, Doris Jo Ann Kolb as the trustee for the Doris Jo Ann Kolb Revocable Living Trust, Kenneth and Elaine Kolb, James and Carla Lay, Clint and Jill Sorrell, John and Linda Wambo, John Frederick Winter, and Michael and Patti Young (collectively, CCPC members) did not join in the Stipulation.

{¶ 7} Beginning on July 17, 2019, the ALJs conducted the adjudicatory hearing where the Stipulation was presented for the Board's consideration. On September 13, 2019, Alamo, Staff, and CCPC filed initial post-hearing briefs. Reply briefs were submitted by the same parties on September 27, 2019. To date, the Board has not issued a final order regarding Alamo's application.

{¶ 8} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are required to implement procedures consistent with recommendations from the Department

of Health to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the Department of Health regarding this public health emergency in order to protect their health and safety. The Executive Order was effective immediately and will remain in effect until the COVID-19 emergency no longer exists. The Department of Health is making COVID-19 information, including information on preventative measures, available via the internet at coronavirus.ohio.gov/.

{¶ 9} On July 30, 2020, the Signatory Parties filed an Amended and Restated Joint Stipulation and Recommendation (Amended Stipulation). With the Amended Stipulation, these parties also filed a joint motion to reopen the hearing record and to schedule a prehearing conference. No memoranda contra were filed in response to the joint motion.

{¶ 10} Ohio Adm.Code 4906-2-31 provides that the Board or ALJ may, upon motion of any person for good cause shown, reopen a proceeding at any time prior to the issuance of a final order. The rule also states that a motion to reopen a proceeding shall specifically set forth the nature and purpose; and, if that purpose is to permit the presentation of additional evidence, the motion must specifically describe the nature and purpose of the requested reopening of the evidence and show why the evidence could not, with reasonable diligence, have been presented earlier in the proceeding.

{¶ 11} Citing to Ohio Adm.Code 4906-2-31, the Signatory Parties represent that good cause exists to reopen the record in this matter for consideration of the Amended Stipulation and anticipated testimony in support of the Amended Stipulation. The Signatory Parties explain that the Amended Stipulation is the product of a series of discussions and negotiations that took place after both the adjudicatory hearing and the post-hearing briefing concluded and includes both new and revised conditions that the Signatory Parties wish to present to the Board for consideration. These new conditions include adding the management of potential post-construction stormwater flows and certificate authority that has been recently incorporated by the Board into other certificates. The revised conditions address project setbacks, cultural resources, visual screening and lighting, complaint

resolution, drainage and drain tile, road maintenance, and decommissioning. Alamo argues that the new and revised conditions reflect the post-hearing negotiations of the parties, the ongoing development of the project, and additional commitments being made by Alamo.

{¶ 12} The Signatory Parties further explain that, if the motion is granted, Alamo will present the Amended Stipulation and testimony of six witnesses in support of the revisions and new conditions contained in the Amended Stipulation, none of which could have been presented earlier in the proceeding as the negotiations that resulted in the Amended Stipulation commenced after briefing was completed. The Signatory Parties also note that the Board has allowed the presentation of an amended stipulation with supporting testimony in prior proceedings. Finally, the Signatory Parties request a prehearing conference to discuss an appropriate procedural schedule.

{¶ 13} Upon review, the ALJ concludes that the Signatory Parties have demonstrated good cause to reopen the record in this proceeding for the purpose of considering the Amended Stipulation and any testimony in support of, or in opposition to, the same. Additionally, the ALJ finds that all interested parties to the proceeding should participate in a prehearing conference in order to determine a mutually agreeable and efficient procedural schedule. Accordingly, the joint motion to reopen the hearing record and for a prehearing conference should be granted.

{¶ 14} To that end, a prehearing conference will be conducted on September 18, 2020, at 10:00 a.m. EST. In light of the Executive Order and present pandemic circumstances, the prehearing conference will be conducted via remote-access technology. Instructions for participation in the prehearing conference will be emailed to the parties.

{¶ 15} It is, therefore,

{¶ 16} ORDERED, That the joint motion to reopen the hearing record and to schedule a prehearing conference be granted as stated in Paragraph 13. It is, further,

{¶ 17} ORDERED, That the parties participate, via remote-access technology, in a prehearing conference on September 18, 2020, as stated in Paragraph 14. It is, further,

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

THE OHIO POWER SITING BOARD

/s/Lauren L. Augostini

By: Lauren L. Augostini
Administrative Law Judge

JRJ/hac

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Summary: Administrative Law Judge Entry granting joint motion to reopen the hearing record and to schedule a prehearing conference and scheduling a prehearing conference on September 18, 2020 electronically filed by Heather A Chilcote on behalf of Lauren L. Augostini, Administrative Law Judge, Power Siting Board