

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
HARDIN SOLAR II, LLC FOR A
BOUNDARY AMENDMENT TO ITS
CERTIFICATE ISSUED IN CASE NO. 18-
1360-EL-BGN.

CASE NO. 20-1321-EL-BGA

ENTRY

Entered in the Journal on October 30, 2020

{¶ 1} Pursuant to R.C. 4906.04, no person shall construct a major utility facility without first having obtained a certificate from the Ohio Power Siting Board (Board). In seeking a certificate, applicants must comply with the filing requirements outlined in R.C. 4906.04, as well as Ohio Adm.Code Chapters 4906-2 and 4906-4.

{¶ 2} On May 16, 2019, in *In re Hardin Solar Energy II, LLC*, Case No. 18-1360-EL-BGN (the *Certificate Case*) the Board issued an Opinion, Order, and Certificate granting the application of Hardin Solar II, LLC (Hardin Solar II) for the construction, operation, and maintenance of a solar-powered electric generation facility of up to 170 megawatts (MW) located in Marion, Roundhead, and McDonald townships in Hardin County, Ohio.

{¶ 3} On July 31, 2020, Hardin Solar II (the Applicant) filed an application in the above-captioned case (the *Amendment Case*), seeking an amendment to the certificate issued in the *Certificate Case*. In the *Amendment Case*, the Applicant proposes a modification to the boundary for the Hardin Solar II facility. The Applicant asserts that while the original facility footprint would be modified, the volume of land originally certificated would remain the same. In the *Amendment Case*, the Applicant has committed to comply with all conditions of the certificate issued in the *Certificate Case*.

{¶ 4} R.C. 4906.07(B) provides that the Board shall hold a hearing on an application for an amendment of a certificate, if the proposed change would result in a material increase in any environmental impact of the facility, or a substantial change in the location of all or a portion of the facility. Ohio Adm.Code 4906-3-11(B)(1)(a) provides that the administrative

law judge (ALJ) shall schedule a hearing in an amendment case, if the proposed change would result in any significant adverse environmental impact of the certified facility or a substantial change in the location of all or a portion of such certified facility.

{¶ 5} Staff filed an investigative report (Staff Report) for the *Amendment Case* on October 22, 2020. In its report, Staff states that it has reviewed the application and notes that the Applicant has proposed a modification to the boundary for the Hardin Solar II facility. (Staff Report at 1). The Staff Report does not identify any change proposed in the *Amendment Case* application that would, in Staff's view, result in any significant adverse environmental impact of the facility certified in the *Certificate Case*.

{¶ 6} The Staff Report indicates that, on July 13, 2020, in the *Amendment Case*, the Applicant held a public information meeting that included in-person and virtual participation options. The Applicant mailed meeting notices to landowners and local officials. Meeting attendees were provided an opportunity to provide feedback and ask questions. On August 3, 2020, the Applicant filed proof of service of the *Amendment Case* application, as required under Ohio Adm.Code 4906-3-11. To date, the Board has not received any public comment on the proceeding in the *Amendment Case*.

{¶ 7} On August 26, 2020, the Applicant filed proof of newspaper publication of notice, attesting that notice of the *Amendment Case* application appeared in *The Kenton Times* on August 5, 2020 and in the *Ada Herald* on August 6, 2020; each, a newspaper of general circulation in Hardin County, Ohio.

{¶ 8} As stated previously, R.C. 4906.07(B) sets forth two separate and distinct reasons that would require the Board to hold a hearing on a certificate amendment application: the first being that the proposed amendment would result in a material increase in any environmental impact of the facility. The ALJ finds that none of the proposed changes in the *Amendment Case* application would result in a material increase in any environmental impact of the facility. Therefore, R.C. 4906.07 does not require a hearing with

regard to the environmental impact of the amended facility which is the subject of the *Amendment Case*.

{¶ 9} The second reason necessitating a hearing is if there is a substantial change in the location of all or a portion of the facility. The ALJ finds that the proposed modification to the boundary for the Hardin Solar II facility meets this criterion. Accordingly, a hearing should be held to consider the application in the *Amendment Case*, under the provision which requires a hearing if there is a substantial change in the location of all or a portion of the certified facility.

{¶ 10} 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 Ohio Department of Health (ODH) to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of ODH 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 ODH is making COVID-19 information, including information on preventative measures, available via the internet at coronavirus.ohio.gov/.

{¶ 11} Pursuant to R.C. 3701.13, the ODH has supervision of “all matters relating to the preservation of the life and health of the people” and the “ultimate authority in matters of quarantine and isolation.” On March 12, 20, 2020, the Director of ODH issued an Order indicating that “all persons are urged to maintain social distancing (approximately six feet away from other people) whenever possible.”

{¶ 12} In order to facilitate the Board’s timely consideration of the application in the *Amendment Case*, a public hearing of the matter will commence on December 7, 2020, at 10:00 a.m. Due to the continued state of emergency, and given the passage of Am. Sub. H.B. 197, the hearing will be held using remote access technology (Webex) that facilitates

participation by telephone and/or live video on the internet. Interested persons who wish to provide public testimony regarding the project must pre-register with the Public Utilities Commission of Ohio (Commission) before 12:00 p.m., on December 4, 2020, at https://opsb.ohio.gov/wps/portal/gov/opsb/events/hardin_solar_II-public-hearing or by calling the Commission at 1-800-686-7826. Testimony to be provided by individuals who are members of the public, but who are neither Staff nor parties to the case, will be limited to five minutes in duration.

{¶ 13} Interested individuals who wish to attend the public hearing remotely and not offer testimony can do so by calling +1-408-418-9388 and entering access code 173 984 4574 or by joining the Webex event at <http://bit.ly/20-1321-AH> using the password "OPSB." Additional information is available on the Board's website at <https://opsb.ohio.gov/wps/portal/gov/opsb/cases/20-1321-el-bga> or by contacting the Commission's Consumer Call Center at 1-800-866-7826.

{¶ 14} Individuals interested in providing public testimony will be required to provide their full name, home address, telephone number, and electronic mail address, if available; state that they wish to register for the public hearing in Case No. 20-1321-EL-BGA; specify whether they plan to join the remote access event by internet or by telephone; and indicate whether they intend to offer testimony. All individuals who plan to provide testimony using video access to the Webex event, rather than providing testimony using telephone-only connection to the event, must have a computer or smart device with a microphone and speakers, an electronic mail address, and reliable internet service.

{¶ 15} For purposes of the hearing, the Board will begin hearing testimony at 10:00 a.m. on Monday, December 7, 2020. Individuals who have registered to testify will be asked to speak beginning shortly after 10:00 a.m., so that all those who have registered to testify should be prepared to speak at that time. For individuals who are speaking by telephone, the Board's staff will contact those individuals by telephone when it is time for their testimony and connect them to the hearing. If access or other issues are experienced during

the hearing, individuals should immediately use the chat function within Webex or contact the Board's legal department at 1-614-466-6843 for assistance.

{¶ 16} If Individuals wish to supplement their testimony with an exhibit for the Board's consideration, a copy of the document, along with a reference to Case No. 20-1321-EL-BGA, must be provided to the Board by December 6, 2020, if possible, but by no later than December 14, 2020, by electronic mail to contactOPSB@puco.ohio.gov or by mail to Ohio Power Siting Board, 180 East Broad Street, Columbus, Ohio 43215.

{¶ 17} Public comments can be provided in writing on the Board's website at <https://opsb.ohio.gov/wps/portal/gov/opsb/help-center/contact-us>, by electronic mail to contactOPSB@puco.ohio.gov, or by mail to Ohio Power Siting Board, 180 East Broad Street, Columbus, Ohio 43215. Written comments should reference the case number for this matter, i.e., Case No. 20-1321-EL-BGA.

{¶ 18} Access information for the hearing will be provided to counsel for the parties at their electronic mail address of record.

{¶ 19} Ohio Adm.Code 4906-2-09(B) provides that the ALJ shall regulate the course of the hearing, including requiring that expert or factual testimony to be offered in Board proceedings be reduced to writing and filed with the Board, according to a schedule established by the ALJ. Accordingly, the ALJ finds that the following procedural schedule should be implemented:

- (a) The Staff Report has already been filed in this case, on October 22, 2020.
- (b) The deadline for the filing of all direct expert testimony will be November 30, 2020.
- (c) The public hearing, to be conducted using remote access technology (Webex) that facilitates participation by telephone and/or live video on the internet, shall commence at 10:00 a.m. on December 7, 2020.

{¶ 20} It is, therefore,

{¶ 21} ORDERED, That a public hearing in this matter, to be conducted using remote access technology (Webex) that facilitates participation by telephone and/or live video on the internet, be scheduled in accordance with Paragraph 12. It is, further,

{¶ 22} ORDERED, That witness registration occur pursuant to Paragraphs 12, 14, and 15. It is, further,

{¶ 23} ORDERED, That the procedural schedule to be followed in this case be established in accordance with Paragraph 19. It is, further

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

THE OHIO POWER SITING BOARD

/s/Daniel E. Fullin

By: Daniel E. Fullin
Administrative Law Judge

GAP/hac

This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 20-1321-EL-BGA

Summary: Administrative Law Judge Entry ordering that a public hearing in this matter, to be conducted using remote access technology (Webex) that facilitates participation by telephone and/or live video on the internet, be scheduled to commence on December 7, 2020, at 10:00 a.m.; ordering that witness registration occur pursuant to Paragraphs 12, 14, and 15; and, ordering that the procedural schedule to be followed in this case be established in accordance with Paragraph 19 electronically filed by Heather A Chilcote on behalf of Dan Fullin, Administrative Law Judge, The Ohio Power Siting Board