

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
UNION RIDGE SOLAR, LLC FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED TO
CONSTRUCT A SOLAR-POWERED
ELECTRIC GENERATION FACILITY IN
LICKING COUNTY, OHIO.

CASE NO. 20-1757-EL-BGN

ENTRY

Entered in the Journal on December 16, 2020

{¶ 1} Union Ridge Solar, LLC (Union Ridge 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 first obtaining a certificate for the facility from the Ohio Power Siting Board (Board).

{¶ 3} Ohio Adm.Code 4906-3-03(B), requires, in part, that an applicant, no more than 90 days prior to filing a standard certificate application with the Board, to conduct at least one public information meeting (PIM) in the area in which the project is to be located.

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

{¶ 5} Pursuant to R.C. 3701.13, the DOH 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, 2020, the Director of the DOH issued an Order indicating that “all persons are urged to maintain social distancing (approximately six feet away from other people) whenever possible.”

{¶ 6} On December 3, 2020, as amended on December 4, 2020, Union Ridge filed a motion for waiver and a request for expedited ruling requesting an alternative method for the PIM required pursuant to Ohio Adm.Code 4906-3-03(B), for a yet to be proposed solar generation facility in Licking County, Ohio (Project). Union Ridge contends that good cause exists for granting its request to conduct the PIM by alternate means, as opposed to an in-person meeting, as the public has been advised to maintain social distancing and avoid large public gatherings. In lieu of the usual PIM, Union Ridge proposes to meet the requirements of Ohio Adm.Code 4906-3-03(B) through web-based and telephonic PIMs on or about January 28, 2021, beginning at 6:00 p.m. The presentation will set forth details about the Project including: location, size and supporting rationale; layout with a preliminary scaled map of the Project showing both the Project area and proximity to adjoining properties; expected timeline; the types of studies and due diligence conducted by the Applicant; responses to questions submitted by the public prior to the virtual PIM; contact information for Union Ridge including the website, email, mailing and phone; and the Board’s review and certification process. As outlined in its motion, Union Ridge states participants will be able to view the PIM materials in real-time, on the Project website in advance of the PIM, and hard copies will be available upon request. Members of the public will be able to join the PIM by calling in using a toll-free number and access code provided in the letters sent to the public and in the newspaper notice. Union Ridge will send notices about the PIM to adjacent property owners and tenants, as required by Ohio Adm.Code 4906-3-3(B)(2). Union Ridge proposes to meet the requirements of Ohio Adm.Code 4906-3-03(B)(4), to solicit written comments from attendees of the PIM, via a web form to be available for at least three business days following the PIM. Comments and questions may also be

submitted during the PIM through the chat function, by phone or email. The Applicant commits to maintain a public website, with an overview of the Project and accompanying maps, contact information for company representatives, the Board process, frequently asked questions, and the application once the application has been filed with the Board.

{¶ 7} No memorandum contra Union Ridge's request for waiver of the PIM was filed.

{¶ 8} On December 10, 2020, Staff filed a response to Union Ridge's motion for waiver, in which it acknowledged the unique nature of COVID-19 for the state and the nation and the changed environment that has resulted from the response to the virus. Staff concluded that, due to the circumstances, not only does Staff not object to Union Ridge's requested waiver of Ohio Adm.Code 4906-3-03(B) but encourages the use of virtual PIMs exclusively to satisfy the requirements of Ohio Adm.Code 4906-3-03(B). Further, Staff states that it does not object to the Applicant's request for ruling on an expedited basis.

{¶ 9} Ohio Adm.Code 4906-3-01(B) provides that the Board may waive any provisions in Ohio Adm.Code Chapter 4906-3 upon an application or a motion filed by a party, other than a requirement mandated by statute.

{¶ 10} The administrative law judge (ALJ) notes, due to the ongoing COVID-19 pandemic and its effects on the gathering of large groups of people, the prerequisite PIM in the area in which the Project is located is prohibited pursuant to orders issued by the Director of the DOH to protect public health. The ALJ notes that DOH orders include an order issued on March 22, 2020, which has been amended several times since, directing Ohio residents to stay at home. Since the original DOH order, DOH has issued an additional "Director's Stay Safe Ohio Order" (Stay Safe Ohio Order), as well as providing continuing public safety guidance as part of the state's "Responsible Restart Ohio" plan. The Stay Safe Ohio Order and continuing Responsible Restart Ohio guidance generally prohibit gatherings of 10 or more people. Accordingly, in light of the unique circumstances of this case and the state of emergency, the ALJ finds that Union Ridge's request to waive the

requirement that the PIM be held in-person, in the area where the Project is to be located is reasonable and should be granted. However, while granting this limited waiver request, the ALJ further notes that the Board is not endorsing or objecting to the actual manner in which Union Ridge proposes the PIM to be held, as detailed in the motion and memorandum in support. The ALJ encourages Union Ridge to ensure that all those who may wish to participate in the virtual PIM have the opportunity to do so, just as they would under normal circumstances. This must include the creation of a process by which members of the public may request reasonable accommodations to obtain access to the PIM. The details of this process, and all requests for accommodation received, should be forwarded to Staff upon receipt. Such shared information shall include any proposed resolutions from Union Ridge.

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That Union Ridge's motion seeking waiver of Ohio Adm.Code 4906-3-03(B) be granted to the extent Union Ridge is requesting waiver of the Board's requirement that a PIM be held in-person, in the area in which the Project is to be located. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Greta See

By: Greta See
Attorney Examiner

NJW/hac

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Summary: Administrative Law Judge Entry granting Union Ridge's motion seeking waiver of Ohio Adm.Code 4906-3-03(B) to the extent Union Ridge is requesting waiver of the Board's requirement that a PIM be held in-person, in the area in which the Project is to be located electronically filed by Heather A Chilcote on behalf of Greta See, Administrative Law Judge, Power Siting Board