

BEFORE THE OHIO POWER SITING BOARD

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In the Matter of the :
Application of Big Plain :
Solar, LLC, for a :
Certificate of :
Environmental :
Compatibility and Public : Case No. 19-1823-EL-BGN
Need to Construct a :
Solar-Powered Electric :
Generation Facility in :
Madison County, Ohio. :

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PROCEEDINGS

before Ms. Patricia Schabo and Mr. Matthew Sandor,
Administrative Law Judges, at the Ohio Power Siting
Board, via Webex, called at 10:08 a.m. on Tuesday,
January 26, 2021.

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APPEARANCES:

Vorys, Sater, Seymour and Pease, LLP
By Mr. Michael Settineri
and Ms. Anna Sanyal
52 East Gay Street
Columbus, Ohio 43215

On behalf of the Applicant.

Ohio Farm Bureau Federation
By Ms. Amy Milam
280 North High Street
Columbus, Ohio 43215

On behalf of the Ohio Farm Bureau
Federation.

Dave Yost, Ohio Attorney General
By Ms. Jodi Bair,
Assistant Attorney General
Public Utilities
30 East Broad Street, 16th Floor
Columbus, Ohio 43215

On behalf of the Staff of the PUCO.

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Tuesday Morning Session,
January 26, 2021.

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ALJ SANDOR: Let's go on the record.

The Ohio Power Siting Board has set for
hearing at this time and place Case No.
19-1823-EL-BGN which is captioned in the Matter of
the Application of Big Plain Solar, LLC, for a
Certificate of Environmental Compatibility and Public
Need to Construct a Solar-Powered Electric Generation
Facility in Madison County, Ohio.

Good morning, everyone. My name is
Matthew Sandor, and with me is Patricia Schabo. We
are the Administrative Law Judges assigned by the
Board to hear this case.

I first note that this evidentiary
hearing is taking place pursuant to parameters set
forth in entries issued on October 14, 2020, and
January 11, 2021. We've reconvened this morning
after opening the hearing on January 19, 2021, and
continuing the same until today.

With that said, let's take appearances of
counsel on behalf of the parties. First, on behalf
of the Company.

MR. SETTINERI: Thank you, your Honor.

1 On behalf of Big Plain Solar, LLC, Michael Settineri
2 and Anna Sanyal with the law firm of Vorys, Sater,
3 Seymour and Pease, 52 East Gay Street, Columbus, Ohio
4 43215.

5 ALJ SANDOR: Next, counsel on behalf of
6 the Intervenor Ohio Farm Bureau Federation.

7 MS. MILAM: Good morning, your Honor.
8 Amy Milam on behalf of the Ohio Farm Bureau
9 Federation, 280 North High Street, Columbus, Ohio
10 43215.

11 ALJ SANDOR: And counsel on behalf of
12 Board Staff.

13 MS. BAIR: Thank you, your Honor. Jodi
14 Bair, Assistant Attorney General, on behalf of the
15 Board Staff, Dave Yost, Attorney General, 30 East
16 Broad Street, Columbus, Ohio 43215.

17 ALJ SANDOR: Thank you.

18 Due to the COVID-19 emergency that
19 remains in effect pursuant to Executive Order
20 2020-01D issued by the Governor of the state of Ohio,
21 this hearing is being held via Webex which enables
22 parties to participate by video conference while also
23 affording the public access to the hearing by
24 telephone or video over the internet.

25 Before we call the first witness, I would

1 like to address some preliminary matters. First, if
 2 counsel or witnesses experience technical
 3 difficulties during the hearing, please immediately
 4 let the Administrative Law Judges know by phone or
 5 e-mail. You can also contact our event host by
 6 calling (614) 466-6843 or via the Webex chat
 7 function. Please be aware that chats are recorded
 8 and should not be considered private. Chats are also
 9 not part of the official record of this case. For
 10 those of you watching or listening as an attendee,
 11 while you may observe the hearing, your microphones
 12 will be muted.

13 Let's talk about how this hearing will be
 14 conducted. In many respects this virtual hearing
 15 will proceed much in the same way as an in person
 16 hearing before the Board. However, due to the remote
 17 nature of the hearing, here are some general ground
 18 rules and reminders for the hearing. First, to avoid
 19 unnecessary background noise, I would ask that
 20 counsel keep their microphones on mute unless they
 21 are speaking or to be prepared to speak quickly as is
 22 the case with raising objections during the
 23 cross-examination of a witness. The microphones of
 24 witnesses will be kept on mute until it is their time
 25 to testify.

With respect to your video, counsel should leave their cameras on at all times except during breaks. You may turn your video off if you need to step away from the hearing when your co-counsel is taking the lead. Just remember to turn your camera back on when you return. Witnesses will need to turn on their cameras and microphones when they begin their testimony.

Please be mindful of the court reporter. You should speak clearly and at a reasonable pace so that the court reporter can accurately transcribe the hearing. As a remainder, everyone should do their best to avoid speaking over each other by taking proactive steps like intentionally allowing for a pause at the end of questions to the witness and generally slowing down in order to allow for connectivity lags and objections from counsel.

During their testimony, witnesses will have access only to the filings in this case docket as well as other documents that have been identified as potential exhibits and previously exchanged among the parties and shared with the Bench. Witnesses should not access or seek other information in documents while testifying nor should they communicate through any means with anyone privately

1 during their testimony.

2 Exhibits admitted into the record which
3 have not previously been docketed with the Board
4 should be e-mailed by the next day to the court
5 reporter. The e-mail address is kspencer@aando.com.

6 Does counsel have any questions about the
7 ground rules?

8 Hearing none, are there any preliminary
9 matters that the parties wish to address at this
10 time?

11 Hearing none as well, so since there are
12 none --

13 MR. SETTINERI: Your Honor.

14 ALJ SANDOR: Oh, yes. Go ahead.

15 MR. SETTINERI: I'm sorry to interrupt.
16 If we can go off the record for a moment?

17 ALJ SANDOR: Yes. Let's go off the
18 record.

19 (Discussion off the record.)

20 ALJ SCHABO: Karen, let's go back on the
21 record.

22 We went off the record momentarily
23 because we are having some technical issues. We are
24 going to take a 15-minute break, come back on at
25 about 10:30, 10:32, and see if we don't have those

1 issues resolved. Thank you, everyone.

2 (Recess taken.)

3 ALJ SANDOR: Let's go on the record.

4 So we are back from the break, and it
5 appears we've fixed the Company's -- Company
6 counsel's connectivity problems as of now. So I'm
7 going to start a line or two back. Are there any
8 preliminary matters that the parties wish to address
9 at this time?

10 MR. SETTINERI: Thank you, your Honor.
11 Briefly I wanted to note that the Company has
12 submitted exhibits to the court reporter and to the
13 Bench. We've submitted a confidential exhibit as
14 well that was filed under seal that would be marked
15 as Company Exhibit 1C.

16 I wanted to note for the record that
17 today we would also be marking an additional exhibit
18 called Company Exhibit 1B. That initially -- that
19 document consists of panel specification sheets.
20 That was the initial subject of a motion for
21 protective order and was filed under seal.

22 The Bench who ordered -- denied that
23 motion in part and had ordered the release of that
24 Exhibit B from the application to the docket.
25 Therefore, to make for a clean record, we are going

1 to mark Company Exhibit 1, that is the application in
 2 this proceeding, but then we also will mark then
 3 separately as Company Exhibit 1B, that will be
 4 Exhibit B to the application, and then we will
 5 subsequently submit that confidential doc -- or I
 6 should say now not confidential document to the court
 7 reporter so that can be placed on the docket, but I
 8 just wanted to make sure everyone understands that is
 9 a part of the application, but for the record we will
 10 have it marked as Company Exhibit 1B.

11 ALJ SANDOR: Okay. So with that
 12 clarification, if you want to proceed with your case
 13 and then when we mark the exhibits, we already have
 14 that clarification when we go forward.

15 MR. SETTINERI: Thank you, your Honor.
 16 At this time the Company will call Michael Richard to
 17 the stand, please.

18 ALJ SANDOR: Can the host please promote
 19 Mr. Richard to the panelist's role.

20 MR. SCHMIDT: Mr. Richard, you have been
 21 promoted. If you can enable your audio and video.

22 ALJ SANDOR: Good morning. Can you hear
 23 me?

24 MR. RICHARD: Yes. Good morning.

25 ALJ SANDOR: All right. Please raise

1 your right hand.

2 (Witness sworn.)

3 ALJ SANDOR: Thank you.

4 MR. SETTINERI: Thank you, your Honor.

5 The first thing I would like to do is mark a number
6 of exhibits. That will take a few minutes.

7 ALJ SANDOR: Okay. Let's do that.

8 MR. SETTINERI: Okay. Starting with,
9 first, I would like to mark as Company Exhibit 1 the
10 application filed in this proceeding.

11 ALJ SANDOR: So marked.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 MR. SETTINERI: Next, I will mark as
14 Company Exhibit 1B that is the Exhibit B to the
15 application that has been released from under seal.

16 ALJ SANDOR: So marked.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 MR. SETTINERI: Next, I will mark as
19 Company Exhibit 1C that is the confidential portions
20 of the application and part of Exhibit G that were
21 submitted under seal that remain under seal.

22 ALJ SANDOR: So marked.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 MR. SETTINERI: Next, Company Exhibit 2,
25 I would like to mark as Company Exhibit 2 a

1 supplement to the application which was an updated
2 Exhibit H.

3 ALJ SANDOR: So marked.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 MR. SETTINERI: Next, I would like to
6 mark as Company Exhibit 3 another supplement to the
7 application which consisted of an updated geotech
8 test boring report.

9 ALJ SANDOR: So marked.

10 (EXHIBIT MARKED FOR IDENTIFICATION.)

11 MR. SETTINERI: Next, I would like to
12 mark as Company Exhibit 4 a notice of footprint
13 modification filed in this proceeding.

14 ALJ SANDOR: So marked.

15 (EXHIBIT MARKED FOR IDENTIFICATION.)

16 MR. SETTINERI: Next is Company Exhibit 5
17 I would like to mark. These are various responses by
18 the Company to Staff data requests.

19 ALJ SANDOR: So marked.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 MR. SETTINERI: Next, I would like to
22 mark as Company Exhibit 6 these are proofs of service
23 of the accepted complete application to public
24 officials filed in this proceeding.

25 ALJ SANDOR: So marked.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 MR. SETTINERI: Next, I would like to
3 mark as Company Exhibit 7 that is a compilation of
4 various proofs of public notice including landowner
5 mailings and newspaper publications that were filed
6 in this docket.

7 For the court reporter I would note that
8 this should be filed separately in the docket because
9 it is a compilation.

10 ALJ SANDOR: So marked.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 MR. SETTINERI: Next is Company
13 Exhibit 8, would like to mark letters of support from
14 the Madison County Commissioners and Superintendent
15 of the Madison Plains School District.

16 ALJ SANDOR: All right. So marked.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 MR. SETTINERI: Next, Company Exhibit 9,
19 we would -- that would be the direct testimony of
20 Michael Richard.

21 ALJ SANDOR: So marked.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 MR. SETTINERI: And, lastly, we would
24 mark as Joint Exhibit 1 the Joint Stipulation that
25 was filed in this proceeding.

1 ALJ SANDOR: So marked.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 MR. SETTINERI: Thank you, your Honor.

4 - - -

5 MICHAEL RICHARD

6 being first duly sworn, as prescribed by law, was
7 examined and testified as follows:

8 DIRECT EXAMINATION

9 By Mr. Settineri:

10 Q. Good morning, Mr. Richard.

11 A. Good morning.

12 ALJ SCHABO: Mr. Settineri, could I
13 interrupt real quickly?

14 MR. SETTINERI: Uh-huh.

15 ALJ SCHABO: You marked as Company
16 Exhibit 5 you said it was a number of responses to
17 Staff data requests.

18 MR. SETTINERI: Yes.

19 ALJ SCHABO: Is that the document that
20 was filed on the docket on 12-21, or is it just
21 portions of the doc --

22 MR. SETTINERI: Yes. So Company
23 Exhibit 5 is a compilation of all of the responses to
24 Staff's data requests.

25 ALJ SCHABO: Okay.

1 MR. SETTINERI: Again for the court
2 reporter, I neglected to mention that this entire
3 document should go on as a separate exhibit on the
4 record when she files the transcript.

5 ALJ SCHABO: Okay. Thank you. Again, I
6 apologize for the interruption.

7 MR. SETTINERI: Oh, no. I should have
8 mentioned that. Thank you.

9 Q. (By Mr. Settineri) All right.
10 Mr. Richard, we've marked a number of exhibits, and I
11 would like to have you identify those for the record,
12 so we will walk through those now. If you could
13 identify Company Exhibit 1 for the record, please.

14 A. That is the application.

15 Q. And were you involved in the preparation
16 of the application?

17 A. Yes, I was.

18 Q. Okay. And could you also identify what I
19 marked as Company Exhibit 1B.

20 A. That is the panel specifications sheet.

21 Q. Okay. And that was part of the
22 application, correct?

23 A. That's correct.

24 Q. Okay. Could you identify then for the
25 record what's been marked as Company Exhibit 1C.

1 A. That was the confidential portion of the
2 application.

3 Q. And could you identify the -- for the
4 record Company Exhibit No. 2, please.

5 A. That was a supplement, an updated noise
6 report.

7 Q. Okay. And was that prepared at your
8 direction?

9 A. Yes, it was.

10 Q. Okay. And could you identify for the
11 record Company Exhibit 3, please.

12 A. That was the updated geotechnical test
13 borings.

14 Q. Okay. And were you involved in the
15 preparation of that report?

16 A. Yes, I was.

17 Q. Okay. And that was a supplement to the
18 application, correct?

19 A. Correct.

20 Q. Okay. Could you identify Company
21 Exhibit 4 for the record, please.

22 A. That was the notice of footprint
23 modification.

24 Q. And were you involved in the preparation
25 of that notice of footprint modification?

1 A. Yes, I was.

2 Q. All right. And if you could identify
3 Company Exhibit 5, please.

4 A. Those were responses to Staff's data
5 requests.

6 Q. Okay. And were you involved in the
7 preparation of those responses to the various Staff
8 data requests?

9 A. Yes, I was.

10 Q. Okay. And could you identify Company
11 Exhibit 6 for the record, please.

12 A. That was the proof of service accepted
13 complete application for the public.

14 Q. Okay. If you could identify Company
15 Exhibit 7 for the record, please.

16 A. That was proof of the public notices.

17 Q. Okay. And did those notices include both
18 landowner mailings as well as newspaper publications?

19 A. Yes, they did.

20 Q. And did the company direct to have those
21 mailings and notices done?

22 A. Yes.

23 Q. Okay. Could you identify Company
24 Exhibit 8 for the record, please.

25 A. Those were letters of support from the

1 Madison County Commissioners and the Superintendent
2 of Madison Plains Local School District.

3 Q. Okay. And did the Company receive copies
4 directly from the Madison County Commissioners and
5 the Superintendent of those letters?

6 A. Yes, we did.

7 Q. And were those sent by CC to the company?

8 A. Yes, they were.

9 Q. Okay. And if you could then identify
10 Company Exhibit 9 for the record, please.

11 A. That was the direct testimony of myself.

12 Q. Okay. And, lastly, if you could identify
13 Joint Exhibit 1 for the record, please.

14 A. That is the Joint Stipulation.

15 Q. Okay. And were you -- were you involved
16 in the negotiations of the Joint Stipulation?

17 A. Yes, I was.

18 Q. Okay. All right. I would like to turn
19 back to your direct testimony that's been marked as
20 Company Exhibit 9, please. Do you have that before
21 you?

22 A. Yes.

23 Q. Okay. Was that prepared -- let me back
24 up.

25 First of all, just for the record, please

1 state your name and business address, please.

2 A. My name is Michael Richard. Business
3 address is 350 West Washington Street, Tempe, Arizona
4 85281.

5 Q. Okay. And as to Company Exhibit 9, your
6 direct testimony, that was prepared by you or at your
7 direction?

8 A. Yes, it was.

9 Q. Okay. And do you have any changes or
10 revisions to that testimony at this time today?

11 A. I do. I have two corrections.

12 Q. Okay. If you could slowly and carefully
13 walk us through those revisions, especially for the
14 court reporter.

15 A. Okay. The first one is on page 9. This
16 is on line 9. We want to remove the sentence that
17 states "The inverters and transformers that are part
18 of a solar panel array will produce no noise during
19 nighttime hours and minimal noise during daylight
20 hours." That's to be removed.

21 And we also want to remove the beginning
22 of the next sentence on line 11, "Accounting for
23 these constraints" should be removed. And that
24 sentence will be replaced with "The final project
25 layout will be designed to minimize noise impacts to

1 nearby residences with modeled noise levels no more
2 than 5 dBA over the average daytime ambient LEQ per
3 Condition 16 of the Joint Stipulation."

4 And my second correction is on page 12 of
5 my testimony. This correction is on line 5 of page
6 12. The sentence needs to be revised to read "Eighty
7 archeological sites have been previously recorded in
8 the one-mile study area, and thirty-seven previously
9 recorded archeological sites are located within the
10 defined Project Area."

11 Q. And just to make sure the court reporter
12 was able to make those edits, to be clear for the
13 record, so on page 12, line 5, you are replacing
14 "Eighty-four" with "Eighty"; is that correct?

15 A. Correct.

16 Q. And then "one-mile" in that same
17 sentence -- sorry, "two-mile" in that sentence
18 becomes "one-mile," correct?

19 A. Correct.

20 Q. And the next line, line 6, "forty-two"
21 becomes "thirty-seven."

22 A. That's right.

23 Q. Thank you. All right. Do you have any
24 other revisions or changes to your testimony,
25 Mr. Richard?

1 A. No, I do not.

2 Q. Okay. If I asked you the questions in
3 your testimony, would your answers be the same as
4 you've revised today?

5 A. Yes.

6 Q. Okay. I wanted to follow up with a
7 couple extra questions for you, Mr. Richard, as well.
8 Are there any conservation easements in the project
9 area?

10 A. No, there are not.

11 Q. Are there any agricultural easements in
12 the project area?

13 A. No.

14 MR. SETTINERI: All right. Thank you,
15 your Honors. Thank you, Mr. Richard. Your Honor,
16 the witness is available for cross-examination.

17 ALJ SANDOR: All right. Any questions
18 for Mr. Richard from the Farm Bureau?

19 MS. MILAM: No cross, your Honor.

20 ALJ SANDOR: Thank you. And from Board
21 Staff?

22 MS. BAIR: No questions, your Honor.

23 ALJ SANDOR: Thank you. You are excused.
24 Thank you very much.

25 THE WITNESS: Thank you.

1 ALJ SANDOR: Mr. Settineri.

2 MR. SETTINERI: Okay, your Honor. At
3 this time we would like to move in a number of
4 exhibits. At this time --

5 ALJ SANDOR: Go ahead.

6 MR. SETTINERI: Thank you. At this time
7 we would move into the -- into evidence Company
8 Exhibit 1, Company Exhibit 1B, Company Exhibit 1C,
9 Company Exhibit 2, Company Exhibit 3, Company
10 Exhibit 4, Company Exhibit 5, Company Exhibit 6,
11 Company Exhibit 7, Company Exhibit 8, Company
12 Exhibit 9, and Joint Exhibit 1 as those documents
13 have been marked.

14 ALJ SANDOR: All right. Any objections
15 to the admission of these exhibits from the Farm
16 Bureau?

17 MS. MILAM: No, your Honor.

18 ALJ SANDOR: Any objections from Board
19 Staff?

20 MS. BAIR: No objections.

21 ALJ SANDOR: Thank you. So Company
22 Exhibit 1, Company Exhibit 1B, Company Exhibit 1C,
23 Company Exhibit 2 through 9, and Joint Exhibit 1 are
24 admitted.

25 (EXHIBITS ADMITTED INTO EVIDENCE.)

1 MR. SETTINERI: Thank you, your Honor.

2 ALJ SANDOR: You may proceed with your
3 next witness.

4 MR. SETTINERI: Thank you, your Honor.
5 At this time the Company would call Mr. David Hessler
6 to the stand.

7 ALJ SANDOR: Can the host please promote
8 Mr. Hessler to a panelist's role.

9 MR. SCHMIDT: Mr. Hessler, you have been
10 promoted. If you can enable your audio and your
11 video.

12 THE WITNESS: Okay.

13 ALJ SANDOR: Okay. Please raise your
14 right hand.

15 (Witness sworn.)

16 ALJ SANDOR: Thank you.

17 - - -

18 DAVID HESSLER

19 being first duly sworn, as prescribed by law, was
20 examined and testified as follows:

21 DIRECT EXAMINATION

22 By Mr. Settineri:

23 Q. Good morning, Mr. Hessler.

24 A. Good morning.

25 Q. Could you please state your name and

1 business address for the record, please.

2 A. Yeah. My name is David Hessler, and my
3 address is 5096 North Silver Cloud Drive in St.
4 George, Utah 84770.

5 Q. Thank you.

6 MR. SETTINERI: Your Honor, at this time
7 we would like to mark as Company Exhibit 10 the
8 direct testimony of David Hessler.

9 ALJ SANDOR: It is so marked.

10 (EXHIBIT MARKED FOR IDENTIFICATION.)

11 MR. SETTINERI: Thank you.

12 Q. (By Mr. Settineri) Mr. Hessler, do you
13 have a copy of what's been marked as Company
14 Exhibit 10 before you, please?

15 A. I do.

16 Q. And could you identify that for the
17 record.

18 A. That's my direct testimony.

19 Q. Okay. That was prepared by you or at
20 your direction?

21 A. Yes, it was.

22 Q. Okay. And do you have any changes or
23 revisions to that testimony at this time?

24 A. No, I don't.

25 Q. Okay. And if I asked you the questions

1 in your testimony, would your answers be the same
2 today?

3 A. Yes, they would.

4 Q. Okay. Mr. Hessler, I had one
5 clarification question I would like to ask you. In
6 your testimony at page 4, line 17 to 19, there's --
7 starting at line 18 you say, "However, any sound
8 level below about 40 dBA, irrespective of the
9 background level, is generally regarded as largely
10 insignificant and rarely results in any kind of
11 complaint or disturbance." That information, does
12 that apply to both daytime and nighttime periods?

13 A. Yes. It's irrespective of time of day.
14 It's actually intended to apply at nighttime when
15 people are more sensitive to -- potentially sensitive
16 to noise. And the 40 dBA is a WHO threshold for
17 non-disturbance of sleep, that sort of thing. So
18 that applies at night but it would apply even more so
19 during the day. That would be a very low level for a
20 daytime sound level.

21 MR. SETTINERI: All right. Thank you.

22 Your Honor, no further questions for
23 Mr. Hessler and he is available for
24 cross-examination.

25 ALJ SANDOR: Any questions for

1 Mr. Hessler from Ms. Milam?

2 MS. MILAM: No, your Honor.

3 ALJ SANDOR: Any questions from Ms. Bair?

4 MS. BAIR: No, your Honor.

5 ALJ SANDOR: Thank you, sir. You are
6 excused.

7 THE WITNESS: All right.

8 MR. SETTINERI: Thank you, your Honor.

9 At this time we would like to move into the record
10 Company Exhibit 10, the direct testimony of David
11 Hessler.

12 ALJ SANDOR: Any objections from
13 Ms. Milam?

14 MS. MILAM: No objections.

15 ALJ SANDOR: Any objections from
16 Ms. Bair?

17 MS. BAIR: None.

18 ALJ SANDOR: Company Exhibit 10 is
19 admitted.

20 (EXHIBIT ADMITTED INTO EVIDENCE.)

21 ALJ SANDOR: You may proceed with your
22 next witness.

23 MR. SETTINERI: Thank you, your Honor,
24 and I will turn it over to my colleague Ms. Sanyal,
25 please.

1 MS. SANYAL: Good morning, your Honor. I
2 would like to call Mr. Andrew Lines to the stand.

3 ALJ SANDOR: Can the host please promote
4 Mr. Lines to a panelist's role.

5 MR. SCHMIDT: Mr. Lines, you've been
6 promoted. If you can unmute your audio and enable
7 your video.

8 ALJ SANDOR: Please raise your right
9 hand.

10 (Witness sworn.)

11 - - -

12 ANDREW LINES
13 being first duly sworn, as prescribed by law, was
14 examined and testified as follows:

15 DIRECT EXAMINATION

16 By Ms. Sanyal:

17 Q. Good morning, Mr. Lines. Will you please
18 state your name and business address for the record.

19 A. Sure. Andrew Lines, L-I-N-E-S, 200 South
20 Wacker Driver, Suite 2600, Chicago, Illinois 60606.

21 Q. Thank you, Mr. Lines.

22 MS. SANYAL: And, your Honor, at this
23 time I would like to mark an exhibit. Company
24 Exhibit 11 is the direct testimony of Andrew Lines.

25 ALJ SANDOR: So marked.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 MS. SANYAL: Thank you.

3 Q. (By Ms. Sanyal) And, Mr. Lines, do you
4 have a copy of your Company Exhibit 11 in front of
5 you?

6 A. I do.

7 Q. And will you please identify the exhibit
8 for the record.

9 A. It is my direct testimony.

10 Q. And did you prepare -- was your testimony
11 prepared by you or under your direction?

12 A. It was.

13 Q. Okay. And any changes or revisions to
14 your testimony today?

15 A. No.

16 Q. Okay. And if I asked you the same
17 questions that are in Company Exhibit 11, would your
18 answers remain the same?

19 A. They would.

20 MS. SANYAL: Your Honor, the witness is
21 now available for cross-examination.

22 ALJ SANDOR: Any questions for the
23 witness from Ms. Milam?

24 MS. MILAM: No, your Honor.

25 ALJ SANDOR: Any questions from Ms. Bair?

1 MS. BAIR: No questions.

2 ALJ SANDOR: All right. You are excused.

3 Thank you.

4 MS. SANYAL: Your Honor, at this time I
5 would move to admit Exhibit 11 into the record.

6 ALJ SANDOR: Okay. Any objections from
7 Ms. Milam?

8 MS. MILAM: No objections, your Honor.

9 ALJ SANDOR: Any objections from
10 Ms. Bair?

11 MS. BAIR: No objections.

12 ALJ SANDOR: Okay. Company Exhibit 11 is
13 admitted.

14 (EXHIBIT ADMITTED INTO EVIDENCE.)

15 ALJ SANDOR: You may proceed with your
16 next witness.

17 MS. SANYAL: Thank you, your Honor. At
18 this time the Company would like to call Matthew
19 Robinson to the stand.

20 ALJ SANDOR: Can the host please promote
21 Mr. Robinson to a panelist's role.

22 MR. SCHMIDT: Mr. Robinson, you've been
23 promoted. If you can unmute your audio and enable
24 your video.

25 ALJ SANDOR: All right. Please raise

1 your right hand.

2 (Witness sworn.)

3 ALJ SANDOR: Thank you.

4 - - -

5 MATTHEW ROBINSON

6 being first duly sworn, as prescribed by law, was
7 examined and testified as follows:

8 DIRECT EXAMINATION

9 By Ms. Sanyal:

10 Q. Good morning, Mr. Robinson. Will you
11 please state your name and your business address for
12 the record.

13 A. My name is Matthew Robinson. I work for
14 Environmental Design & Research, Landscape
15 Architecture, Engineering & Environmental Services.
16 My business address is 217 Montgomery Street, Suite
17 1000, Syracuse New York 13202.

18 MS. SANYAL: And, your Honor, at this
19 time I would like to mark an exhibit. May I please
20 mark Company Exhibit 12 which is the direct testimony
21 of Matthew Robinson.

22 ALJ SANDOR: So marked.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 MS. SANYAL: Thank you, your Honor.

25 Q. (By Ms. Sanyal) Mr. Robinson, do you have

1 a copy of Company Exhibit 12 in front of you?

2 A. I do.

3 Q. Okay. And will you please identify for
4 the record what Company Exhibit 12 is.

5 A. It is my direct testimony.

6 Q. And did you prepare your testimony, or
7 was it prepared under your direction?

8 A. Yes, it was.

9 Q. Okay. And any changes to your testimony
10 today?

11 A. No.

12 Q. And if I asked you the same questions
13 that are in Company Exhibit 12, would your answers
14 remain the same?

15 A. They would, yes.

16 MS. SANYAL: Thank you. Your Honor, at
17 this time the witness is available for
18 cross-examination.

19 ALJ SANDOR: Any questions from
20 Ms. Milam?

21 MS. MILAM: None, your Honor.

22 ALJ SANDOR: Any questions from Ms. Bair?

23 MS. BAIR: Thank you. I have no
24 questions.

25 ALJ SANDOR: Thank you, Mr. Robinson.

1 You are excused.

2 THE WITNESS: Thank you.

3 MS. SANYAL: And, your Honor, may I move
4 to admit Company Exhibit 12 into the record.

5 ALJ SANDOR: Any objections from
6 Ms. Milam?

7 MS. MILAM: None.

8 ALJ SANDOR: Any objections from
9 Ms. Bair?

10 MS. BAIR: No.

11 ALJ SANDOR: All right. Company
12 Exhibit 12 is admitted.

13 (EXHIBIT ADMITTED INTO EVIDENCE.)

14 ALJ SANDOR: And I will hand over the
15 reigns to Judge Schabo.

16 ALJ SCHABO: Thank you.

17 Mr. Settineri, would you like to call
18 your next witness.

19 MR. SETTINERI: That will be Ms. Sanyal,
20 my colleague, will take the next witness. Thank you.

21 ALJ SCHABO: Sorry. I have my notes
22 wrong.

23 MR. SETTINERI: No worries.

24 MS. SANYAL: Your Honor, may I please
25 call Mark Bonifas to the stand.

1 MR. SCHMIDT: Mr. Bonifas, you've been
2 promoted. If you can enable your audio and video.

3 MR. BONIFAS: I did.

4 ALJ SCHABO: Good morning, Mr. Bonifas.
5 Would you raise your right for me.

6 (Witness sworn.)

7 ALJ SANDOR: Thank you.

8 - - -

9 MARK J. BONIFAS

10 being first duly sworn, as prescribed by law, was
11 examined and testified as follows:

12 DIRECT EXAMINATION

13 By Ms. Sanyal:

14 Q. Good morning, Mr. Bonifas.

15 A. Good morning.

16 Q. Will you please state your name and
17 business address for the record.

18 A. Mark Bonifas, 6397 Emerald Parkway, Suite
19 200, Dublin, Ohio 43065.

20 MS. SANYAL: Your Honor, may I now mark
21 as Company Exhibit 13 the direct testimony of Mark
22 Bonifas.

23 ALJ SCHABO: So marked.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 MS. SANYAL: Thank you.

1 Q. (By Ms. Sanyal) And, Mr. Bonifas, do you
2 have a copy of Company Exhibit 13 in front of you?

3 A. I do.

4 Q. And will you please identify Company
5 Exhibit 13 for the record.

6 A. That is my direct testimony.

7 Q. And did you prepare your testimony, or
8 was it prepared under your direction?

9 A. Yes, it was.

10 Q. Okay. Any changes to Company Exhibit 13
11 today?

12 A. None.

13 Q. And if I asked you the same questions
14 that are in your direct testimony, would your answers
15 remain the same?

16 A. They would be.

17 MS. SANYAL: Okay. Your Honor,
18 Mr. Bonifas is now available for cross-examination.

19 ALJ SCHABO: Are there any questions from
20 Ms. Milam?

21 MS. MILAM: No, your Honor.

22 ALJ SCHABO: And from Ms. Bair?

23 MS. BAIR: No.

24 ALJ SCHABO: Thank you. Mr. Bonifas,
25 thank you for being with us today. You may be

1 excused.

2 THE WITNESS: Thank you.

3 MS. SANYAL: And, your Honor, I would now
4 move to admit Company Exhibit 13.

5 ALJ SCHABO: Are there any objections?

6 MS. BAIR: None from Staff.

7 MS. MILAM: None.

8 ALJ SCHABO: All right. No objection,
9 Exhibit 13 will be admitted.

10 (EXHIBIT ADMITTED INTO EVIDENCE.)

11 MS. SANYAL: Thank you, your Honor. And
12 I will now turn it over to my colleague.

13 MR. SETTINERI: There we go. Thank you,
14 your Honor. At this time the Company will call
15 Mr. Tom Braman to the stand, please.

16 ALJ SCHABO: If the host could please
17 promote Mr. Braman.

18 MR. SCHMIDT: Mr. Braman, you've been
19 promoted. If you can enable your audio and video.

20 MR. BRAMAN: Good morning.

21 EXAMINER SCHABO: Good morning,
22 Mr. Braman. Would you raise your right hand for me,
23 please.

24 (Witness sworn.)

25 ALJ SCHABO: Thank you very much.

1 MR. SETTINERI: All right.

2 - - -

3 TOM BRAMAN

4 being first duly sworn, as prescribed by law, was
5 examined and testified as follows:

6 DIRECT EXAMINATION

7 By Mr. Settineri:

8 Q. Good morning, Mr. Braman.

9 A. Good morning.

10 Q. Could you please state your name and
11 business address for the record, please.

12 A. My name is Tom Braman. My business
13 address is 12701 Whitewater Drive, Suite 300,
14 Minnetonka, Minnesota 55343.

15 MR. SETTINERI: Okay. And, your Honor,
16 at this time we would like to mark an exhibit. It
17 would be Company Exhibit 14, the direct testimony of
18 Tom Braman.

19 ALJ SCHABO: So marked.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 MR. SETTINERI: All right.

22 Q. (By Mr. Settineri) Mr. Braman, do you
23 have a copy of what's been marked as Company
24 Exhibit 14 in front of you?

25 A. I do.

1 Q. And could you identify that for the
2 record, please.

3 A. It's my direct testimony.

4 Q. Okay. And was that prepared by you or at
5 your direction?

6 A. Yes, it was.

7 Q. Do you have any revisions or changes to
8 that testimony today?

9 A. No, I do not.

10 Q. All right. If I asked you the questions
11 that are written in your testimony today, would your
12 answers be the same?

13 A. They would be the same.

14 MR. SETTINERI: Okay. Thank you,
15 Mr. Braman.

16 Your Honors, the witness is available for
17 cross-examination.

18 ALJ SCHABO: Ms. Milam, do you have any
19 questions?

20 MS. MILAM: No, your Honor.

21 ALJ SCHABO: Ms. Bair?

22 MS. BAIR: No questions, your Honor.

23 ALJ SCHABO: Okay. Mr. Braman, thank you
24 for being with us this morning. You may be excused.

25 THE WITNESS: Thank you.

1 MR. SETTINERI: And, your Honor, at this
2 time we would like to move into the record Company
3 Exhibit 14, please, the direct testimony of Tom
4 Braman.

5 ALJ SCHABO: I will ask are there any
6 objections?

7 MS. BAIR: None from Staff.

8 MS. MILAM: None, your Honor.

9 ALJ SCHABO: All right. Company
10 Exhibit 14 is admitted.

11 (EXHIBIT ADMITTED INTO EVIDENCE.)

12 MR. SETTINERI: Thank you, your Honor.
13 At this time I will turn the remaining witnesses back
14 to Ms. Sanyal.

15 ALJ SCHABO: Ms. Sanyal, would you like
16 to call your next witness.

17 MS. SANYAL: I would, your Honor. May
18 I -- the Company calls Ricky Sinha to the stand.

19 MR. SCHMIDT: Mr. Sinha, you've been
20 promoted. If you can enable your audio and video.

21 MS. SINHA: Yes. I'm here.

22 ALJ SCHABO: Mr. Sinha, if you could
23 raise your right hand for me.

24 (Witness sworn.)

25 ALJ SCHABO: Thank you.

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RICKY SINHA

being first duly sworn, as prescribed by law, was
examined and testified as follows:

DIRECT EXAMINATION

By Ms. Sanyal:

Q. Good morning, Mr. Sinha. Will you please
state your name and your business address for the
record.

A. Yes. My name Ricky Sinha. The business
address is 350 West Washington Street in Tempe,
Arizona 85281.

MS. SANYAL: And at this time, your
Honor, I would like to mark Company Exhibit 15 which
is the direct testimony of Ricky Sinha.

ALJ SCHABO: So marked.

MS. SANYAL: Thank you, your Honor.

Q. (By Ms. Sanyal) Mr. Sinha, do you have a
copy of Company Exhibit 15 in front of you?

A. Yes, I do.

Q. And will you please identify for the
record what Company Exhibit 15 is.

A. It's my direct testimony.

Q. And did you prepare your direct
testimony, or was it prepared under your direction?

A. Yes.

1 Q. And then any changes to your direct
2 testimony today?

3 A. No changes.

4 Q. And if I asked you the questions that are
5 in your direct testimony, would you have any -- would
6 your answers remain the same?

7 A. Yes, they would.

8 MS. SANYAL: Okay. Thank you. And, your
9 Honor, at this time Mr. Sinha is available for
10 cross-examination.

11 ALJ SCHABO: Any questions from
12 Ms. Milam?

13 MS. MILAM: None, your Honor.

14 ALJ SCHABO: Ms. Bair?

15 MS. BAIR: I have no questions.

16 ALJ SCHABO: Thank you. Thank you for
17 being with us this morning, Mr. Sinha. You may be
18 excused.

19 THE WITNESS: Thank you.

20 MS. SANYAL: Your Honor, at this time I
21 would like to move Company Exhibit 15 into the
22 record.

23 ALJ SCHABO: Are there any objections?

24 MS. BAIR: No objections.

25 MS. MILAM: None.

1 ALJ SCHABO: All right. Company
2 Exhibit 15 will be admitted to the record without
3 objection.

4 (EXHIBIT ADMITTED INTO EVIDENCE.)

5 MS. SANYAL: Thank you, your Honor. The
6 Company would like to call Matt Marquis to the stand.

7 MR. SCHMIDT: Mr. Marquis, you've been
8 promoted. If you can enable your audio and video.

9 MR. MARQUIS: Hello.

10 ALJ SCHABO: There you are. If you could
11 raise your right hand.

12 (Witness sworn.)

13 ALJ SCHABO: Thank you very much.

14 - - -

15 MATT MARQUIS

16 being first duly sworn, as prescribed by law, was
17 examined and testified as follows:

18 DIRECT EXAMINATION

19 By Ms. Sanyal:

20 Q. Good morning, Mr. Marquis.

21 A. Good morning.

22 Q. Will you please state your name and
23 business address for the record.

24 A. My name is Matthew Marquis, last name
25 spelled M-A-R-Q-U-I-S, and I work for Hull &

1 Associates LLC, business address 6397 Emerald
2 Parkway, Suite 200, Dublin, Ohio 43016.

3 MS. SANYAL: Your Honor, at this time I
4 would like to mark as Company Exhibit 16 the direct
5 testimony of Matt Marquis.

6 ALJ SCHABO: So marked.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 MS. SANYAL: Thank you.

9 Q. (By Ms. Sanyal) And, Mr. Marquis, do you
10 have a copy of Company Exhibit 16 in front of you?

11 A. I do.

12 Q. And will you please identify Company
13 Exhibit 16 for the record.

14 A. It's my direct testimony.

15 Q. And did you prepare your testimony, or
16 was it prepared under your direction?

17 A. Yes.

18 Q. And do you have any changes or revisions
19 to Company Exhibit 16 today?

20 A. I do not.

21 Q. And if I asked you the questions in
22 Company Exhibit 16, would your answers remain the
23 same?

24 A. Yes.

25 MS. SANYAL: Thank you, Mr. Marquis.

1 Your Honor, Mr. Marquis is now available
2 for cross-examination.

3 ALJ SCHABO: Are there any questions for
4 this witness?

5 MS. BAIR: I have none, thank you.

6 MS. MILAM: No.

7 ALJ SCHABO: Ms. Milam also indicated no
8 questions so thank you for being with us this
9 morning, Mr. Marquis. You are excused.

10 THE WITNESS: Thank you.

11 MS. SANYAL: And, your Honor, at this
12 time I would like to move Company Exhibit 16 into the
13 record.

14 ALJ SCHABO: Are there any objections?
15 Hearing and seeing none, Company
16 Exhibit 16 is admitted to the record.

17 (EXHIBIT ADMITTED INTO EVIDENCE.)

18 MS. SANYAL: Thank you, your Honor.

19 ALJ SCHABO: Thank you. Ms. Sanyal, Mr.
20 Settineri, do you have anything further for us this
21 morning?

22 MR. SETTINERI: No, your Honors. Thank
23 you very much. At this time that concludes the
24 Company's presentation.

25 ALJ SCHABO: Thank you.

1 Ms. Bair, will Staff be calling a witness
2 today?

3 MS. BAIR: Yes, thank you, your Honor.
4 Staff would like to call Andrew Conway to the stand,
5 please.

6 MR. SCHMIDT: Mr. Conway, you've been
7 promoted. If you can enable your audio and video.

8 MR. CONWAY: Can you see me?

9 ALJ SCHABO: Good morning, Mr. Conway.

10 MR. CONWAY: I'm sorry. Good morning.

11 ALJ SCHABO: If you would raise your
12 right hand for me.

13 (Witness sworn.)

14 ALJ SCHABO: Thank you.

15 Ms. Bair.

16 MS. BAIR: Thank you.

17 - - -

18 ANDREW CONWAY

19 being first duly sworn, as prescribed by law, was
20 examined and testified as follows:

21 DIRECT EXAMINATION

22 By Ms. Bair:

23 Q. Mr. Conway, could you state your full
24 name and provide your business address for the
25 record, please.

1 A. My name is Andrew Conway, and my business
2 address is 180 East Broad Street, Columbus, Ohio
3 43215.

4 Q. And by whom are you employed and what
5 capacity?

6 A. I'm employed by the Public Utilities
7 Commission of Ohio as an engineering specialist
8 within the Power Siting Department.

9 MS. BAIR: Your Honor, at this point I
10 would like to mark as Staff Exhibit 1 the Staff
11 Report of Investigation that was filed on
12 December 22, 2020, and also mark Staff Exhibit 2,
13 Mr. Conway's testimony that was docketed on
14 January 25, 2021.

15 ALJ SCHABO: So marked.

16 (EXHIBITS MARKED FOR IDENTIFICATION.)

17 MS. BAIR: Thank you, your Honor.

18 Q. (By Ms. Bair) Mr. Conway, do you have
19 before you what is marked as Staff Exhibit 1, the
20 Staff Report of Investigation?

21 A. Yes, I do.

22 Q. And what was your role in the creation of
23 this document?

24 A. I served as overall Staff lead which I
25 managed the investigation, and I contributed to

1 the -- I wrote certain sections of the Staff Report
2 and just overall managed the investigation.

3 Q. Thank you. And do you have also your
4 testimony that has been marked as Staff Exhibit 2
5 before you?

6 A. Yes, I do.

7 Q. And that is your testimony, correct?

8 A. Yes, it is.

9 Q. Was that prepared by you or under your
10 direction?

11 A. Yes.

12 Q. Do you have any changes, corrections,
13 additions, anything that you would like to make at
14 this time to your prefiled testimony?

15 A. Just one addition or correction.

16 Q. Okay.

17 A. On the page 2, question and answer 3,
18 line 10, it says "as" -- it reads "as an engineering
19 specialist in Power Siting Department." I would like
20 to add the word after in "the," so it should now
21 reads "as an engineering specialist in the Power
22 Siting Department."

23 Q. Thank you. Do you have any other changes
24 or additions?

25 A. No.

1 Q. If I were to ask you the questions
2 contained in Staff Exhibit 2, would your answers be
3 the same today?

4 A. Yes, they would.

5 MS. BAIR: Thank you, your Honor. Mr.
6 Conway is available for cross-examination.

7 ALJ SCHABO: Are there any questions for
8 Mr. Conway from OFBF?

9 MS. MILAM: No, your Honor.

10 ALJ SCHABO: From the Applicant?

11 MR. SETTINERI: No, your Honor, thank
12 you.

13 ALJ SCHABO: All right. From Judge
14 Sandor?

15 ALJ SANDOR: No.

16 ALJ SCHABO: No questions.

17 All right. Thank you for being with us
18 this morning, Mr. Conway. You may be excused.

19 THE WITNESS: Thank you.

20 MS. BAIR: Your Honor, I would like to
21 move Staff Exhibit 1, the Staff Report of
22 Investigation, and Staff Exhibit 2 into evidence.

23 ALJ SCHABO: Are there any objections?

24 MS. MILAM: No objection.

25 MS. BAIR: And, your Honor, at this time

1 before we close out the hearing, I would like -- if I
2 could just have like a 2- or 3-minute break, if
3 that's at all possible.

4 ALJ SCHABO: Absolutely. Let's start
5 with admitting into the record Staff Exhibit 1 and
6 Staff Exhibit 2. There were no objections so they
7 will be admitted.

8 (EXHIBITS ADMITTED INTO EVIDENCE.)

9 ALJ SCHABO: And it is now 11:10. We
10 will go off the record and come back on at 11:15.

11 MS. BAIR: Thank you.

12 ALJ SCHABO: Off the record.

13 (Recess taken.)

14 ALJ SCHABO: Could we go back on the
15 record, please.

16 All right. It is about 11:19. We just
17 had a brief chat off the record. We are going to
18 take another break until 11:45 so that we can analyze
19 whether or not we will need to be calling an
20 additional witness.

21 So with that, we are off the record until
22 11:45. Thank you.

23 (Recess taken.)

24 ALJ SCHABO: Karen, if we could go back
25 on the record.

1 It's just a little bit after noon. We
2 ended up taking a longer break than anticipated, but
3 we are back on the record.

4 So, Ms. Bair, I believe we are still with
5 you. Do you have any additional evidence or
6 testimony to present today?

7 MS. BAIR: No. Thank you, your Honor,
8 for giving us that time to check some things but we
9 have nothing to add at this point.

10 ALJ SCHABO: All right. Thank you very
11 much.

12 When we were off the record, I did ask if
13 there were any additional matters that needed to be
14 brought to the Bench's attention when we went on the
15 record. Counsel had indicated there were none. I
16 will -- I will offer that up again just so nobody
17 complains. Anything additional for the record?

18 Okay. Seeing and hearing none, I will
19 just thank everyone for being with us this morning.
20 Thank you for your patience.

21 Mr. Settineri and Ms. Sanyal, if you
22 would just remember to e-mail any exhibits to the
23 court reporter.

24 Other than that, we are adjourned.

25 (Thereupon, at 12:04 p.m., the hearing

was adjourned.)

- - -

CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Tuesday, January 26,
2021, and carefully compared with my original
stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-7030)

- - -

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Case No(s). 19-1823-EL-BGN

Summary: Transcript In the Matter of the Application of Big Plain Solar, LLC, for a Certificate of Environmental Compatibility and Public Need to Construct a Solar-Powered Electric Generation Facility in Madison County, Ohio. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.