

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
BIRCH SOLAR, LLC, FOR A CERTIFICATE
OF ENVIRONMENTAL COMPATIBILITY
AND PUBLIC NEED FOR THE
CONSTRUCTION OF A SOLAR-POWERED
ELECTRIC GENERATION FACILITY IN
ALLEN AND AUGLAIZE COUNTIES, OHIO.

CASE NO. 20-1605-EL-BGN

ENTRY

Entered in the Journal on April 30, 2021

{¶ 1} Birch Solar, LLC (Birch Solar 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 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.

{¶ 3} Pursuant to Ohio Adm.Code 4906-3-06, within 60 days of receipt of an application for a major utility facility, the Chairman of the Board must either accept the application as complete and compliant with the content requirements of R.C. 4906.06 and Ohio Adm.Code Chapters 4906-1 through 4906-7, or reject the application as incomplete.

{¶ 4} On November 3, 2020, Birch Solar filed a pre-application letter with the Board regarding its proposed 300 megawatt (MW) solar-powered electric generation facility in Allen and Auglaize counties, Ohio (Facility). In the letter, Birch Solar explained that construction of the proposed Facility is estimated to begin as early as the fourth quarter of 2021, resulting in commercial operations in the second quarter of 2023.

{¶ 5} On November 20, 2020, and November 23, 2020, Birch Solar held public information meetings to discuss the proposed project with interested persons and

landowners; the company filed its affidavit of publication with the Board on November 18, 2020.

{¶ 6} 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/.

{¶ 7} On February 12, 2021, Birch Solar filed its application with the Board for a certificate of environmental compatibility and public need to construct the proposed Facility. Pursuant to Ohio Adm.Code 4906-3-06, a determination of completeness of Birch Solar's application was due on April 13, 2021.

{¶ 8} On March 25, 2021, March 31, 2021, and April 5, 2021, Birch Solar filed supplements to its application.

{¶ 9} On April 13, 2021, Staff filed a motion to suspend the finding of completeness and a request for an expedited ruling. Staff stated that, as this time, it is unable to determine that the application is complete due to the supplementation to the application. Staff states that Birch Solar has responded to four Staff data requests since the application was filed. Further, Staff submitted a fifth data request on April 13, 2021, and Staff has requested a response to that request by April 28, 2021. Staff requests more time to review these responses. Staff represents that the Board has previously allowed more time for Staff to determine the completeness of an application in circumstances similar to those presented in this case.

{¶ 10} Considering the timing of Birch Solar’s three application supplements, and the ongoing communications as to Staff’s data requests in relation to the current completeness recommendation deadline, the administrative law judge (ALJ) finds Staff’s motion to be reasonable. Further, the ALJ notes that the extension is consistent with prior rulings in cases involving similar circumstances. See, *In re Atlanta Farms Solar Project, LLC*, Case No. 19-1880-EL-BGN, Entry (Apr. 20, 2020); *In re Big Plain Solar, LLC*, Case No. 19-1823-EL-BGN, Entry (Aug. 3, 2021). Accordingly, Staff’s request for an extension is granted. As Staff did not specify the length of its requested extension, the ALJ finds that a 45-day extension is reasonable in light of the progress of the information exchanges between Birch Solar and Staff. Accordingly, Staff is afforded until June 14, 2021, to make its recommendation of completeness as to Birch Solar’s application.

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That Staff’s motion for extension of completeness review and request for expedited ruling be granted, extending the deadline for Staff to make its recommendation regarding the completeness of Birch Solar’s application until June 14, 2021. It is, further,

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

THE OHIO POWER SITING BOARD

/s/Michael L. Williams

By: Michael L. Williams
Administrative Law Judge

MJA/hac

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Case No(s). 20-1605-EL-BGN

Summary: Administrative Law Judge Entry ordering that Staff's motion for extension of completeness review and request for expedited ruling be granted, extending the deadline for Staff to make its recommendation regarding the completeness of Birch Solar's application until June 14, 2021 electronically filed by Heather A Chilcote on behalf of Michael L. Williams, Administrative Law Judge, Ohio Power Siting Board