

BEFORE THE OHIO POWER SITING BOARD

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In the Matter of the Application :
of Ross County Solar, LLC for : Case No.
Certificate of Environmental : 20-1380-EL-BGN
Compatibility and Public Need. :

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PROCEEDINGS

Before Jay Agranoff and Jesse Davis,
Administrative Law Judges, held via Webex, on
Wednesday, May 19, 2021, at 10:00 A.M.

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- - -

APPEARANCES:

Vorys, Sater, Seymour and Pease, LLP
By Mr. Michael J. Settineri

and

Ms. Anna Sanyal
52 East Gay Street
Columbus, Ohio 43216

On behalf of the Applicant.

Mr. Thomas Lindgren
Assistant Attorney General
30 East Broad Street, 26th Floor
Columbus, Ohio 43215

On behalf of the Staff of the
Ohio Power Siting Board.

Ms. Amy M. Milam
280 North High Street
Columbus, Ohio 43218

On behalf of the Ohio Farm Bureau
Federation.

Mr. Jeffrey C. Marks
Ross County Prosecutors Office
33 West Main Street, Suite 200
Chillicothe, Ohio 45601

On behalf of Buckskin Township and
the Paint Township Board of
Trustees.

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1 Wednesday Morning,
2 May 19, 2021.

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4 ALJ DAVIS: At this time the Ohio
5 Power Siting Board has set for hearing at this
6 time and place Case No. 20-1380-EL-BGN which is
7 captioned In the Matter of the Application of
8 Ross County Solar, LLC for Certificate of
9 Environmental Compatibility and Public Need.

10 Welcome aboard. My name is Jesse
11 Davis. With me is Jay Agranoff. We are
12 Administrative Law Judges in the Legal
13 Department of the Ohio Power Siting Board. We
14 have been assigned by the Board to this case,
15 which again is 20-1380-EL-BGN.

16 At this time we are going ahead and
17 take appearances of the parties. On behalf of
18 the Applicant.

19 MR. SETTINERI: Yes. Good morning,
20 your Honor. Thank you. On behalf of Ross
21 County Solar, LLC, Michael Settineri and Anna
22 Sanyal with the law firm of Vorys, Sater,
23 Seymour and Pease, 52 East Gay Street, Columbus,
24 Ohio 43215.

25 ALJ DAVIS: Thank you, counsel. On

1 behalf of the Ohio Farm Bureau Federation.

2 MS. MILAM: Good morning, your
3 Honor. Amy Milam, on behalf of Ohio Farm Bureau
4 Federation, 280 North High Street, Columbus,
5 Ohio 43215.

6 ALJ DAVIS: Thank you, counsel. On
7 behalf of Buckskin and Paint Townships.

8 MR. MARKS: Thank you, your Honor.
9 Jeffrey Marks on behalf Buckskin and Paint
10 Townships, 33 West Main Street, Suite 200,
11 Chillicothe, Ohio 45601.

12 ALJ DAVIS: Thank you very much.
13 And on behalf of Board Staff.

14 MR. LINDGREN: Thank you, your
15 Honor. On behalf of Board Staff, Ohio Attorney
16 General Dave Yost, by Thomas Lindgren and
17 Chelsey Fletcher, Assistant Attorneys General,
18 30 East Broad Street, 26th Floor, Columbus, Ohio
19 43215.

20 ALJ DAVIS: Thank you very much. I
21 believe that puts us through appearances. So I
22 would just point out that this adjudicatory
23 hearing is taking place pursuant to the
24 parameters set forth in the entry of May 12th,
25 2021, and due to the Covid-19 emergency that

1 remains in effect under Executive Order 2020-01D
2 issued by the Governor of Ohio today's hearing
3 will be held through Webex.

4 So with that said, I believe we can
5 proceed. Do you have anything to add, Judge
6 Agranoff?

7 ALJ AGRANOFF: Not at this time.

8 ALJ DAVIS: Thank you. So, Mr.
9 Settineri, would you be starting us off on
10 behalf of the Applicant in terms of an update on
11 where things sit today?

12 MR. SETTINERI: I would be glad to,
13 your Honor. Thank you.

14 We filed yesterday on the Docket a
15 stipulation entered into by almost all
16 the parties. That stipulation was signed by
17 the Applicant, Staff, Ohio Farm Bureau and
18 Buckskin Township.

19 Also we do have a stipulation filed
20 and we are planning to file stipulation
21 testimony this Friday. And then I think
22 the next step beyond that would obviously with
23 input from Mr. Marks is when we would reconvene
24 for hearing on this matter.

25 But I will stop there with my update

1 and maybe, Mr. Marks, if you want to provide
2 additional information that would be helpful.

3 MR. MARKS: Thank you, Michael. I
4 had an opportunity, but obviously like this I am
5 in kind of a unique position of being newer to
6 these proceedings than everyone else as well
7 representing both townships. Now I am in a
8 position where one township has agreed to the
9 joint stipulation and the other township opposes
10 the joint stipulation and wants to proceed with
11 cross-examination on some of the witnesses.

12 I have had an opportunity to speak
13 to a couple individuals about potential conflict
14 of interest that this brings about. I think
15 that there is a conflict now that I do have.
16 And I don't know if the Administrative Judges
17 would consider this to be a waivable conflict
18 where perhaps -- it's my anticipation that
19 Buckskin will more likely than not remain silent
20 throughout these proceedings.

21 However, Paint as I indicated does
22 want to proceed with cross-examination, and I
23 would be able to obtain waivers from them if
24 that is something that the Judges -- if you
25 think that might be a little over the line, I

1 guess.

2 It would be I guess my preference in
3 keeping these proceedings moving forward to
4 advise Buckskin if they wish to retain counsel
5 to proceed further to have them do that rather
6 than have somebody start over from scratch with
7 Paint Township. Because I think that would
8 delay the proceedings a little bit further, but
9 any input I could get I would appreciate.

10 That's kind of where I stand right
11 now with these two townships.

12 MR. SETTINERI: Your Honor, if I
13 may, does it make sense to go off the record
14 briefly?

15 ALJ AGRANOFF: Yes, I think it
16 probably would at this point.

17 MR. SETTINERI: Thank you.

18 (DISCUSSION OFF THE RECORD)

19 ALJ AGRANOFF: Let's go back on the
20 record. Either Mr. Settineri or Mr. Marks, if
21 you would like to discuss what our next plan of
22 attack will be relative to this case.

23 MR. SETTINERI: Sure, your Honor.
24 And my understanding, Mr. Marks, that given
25 the conflict issue that you will be consulting

1 with your clients and to give you time to do
2 that, your Honor, at this time I would move to
3 extend the current time line for testimony
4 filing in this case for a stipulation from May
5 21st to May 26th, which would be a Wednesday.

6 I would also ask, your Honor, that
7 if we can have a status conference held on the
8 Monday, May 24th, that will allow an update on
9 what the plan will be for both Buckskin and
10 Paint Township representation. And following
11 that status conference then hopefully we will be
12 able to issue an order setting a continuation
13 date for this hearing.

14 And for all the parties I would note
15 that June 2nd and June 3rd may be possible
16 dates. I would ask everyone to check their
17 calendars, and by next Monday we can convene and
18 talk about possibly those dates.

19 And I will stop there, make sure,
20 Mr. Marks, I have covered everything
21 appropriately.

22 MR. MARKS: You have, sir. And I
23 would join in those requests, your Honor, in
24 order to resolve this, you know, now that there
25 does appear to be a conflict based upon

1 the decisions of the townships to sit down with
2 them and allow me an opportunity to move forward
3 and keep this case moving after disclosing to
4 them everything that I need to.

5 ALJ AGRANOFF: Anybody else have
6 anything they would like to share with respect
7 to the conversations that we were just having?

8 If not, two points of clarification
9 that I would like to add relative to the details
10 that were being discussed.

11 The testimony filing date that was
12 going to be extended, that would be applicable
13 for both intervenor as well as Staff testimony.

14 And the other point being that the
15 status conference that will be moving on the
16 24th, Monday the 24th of May, that would be
17 telephonic and it will not be on the record, but
18 it will just be a status update between counsel
19 and the Bench to see whether or not we can
20 finalize the hearing date for this particular
21 proceeding.

22 Is there anything else?

23 MR. SETTINERI: No, your Honor.

24 MR. MARKS: No, your Honor.

25 ALJ AGRANOFF: If not then on the

1 24th, does at 10:00 o'clock work?

2 MR. MARKS: It does for me, your
3 Honor.

4 ALJ AGRANOFF: Okay. We will send
5 around a Teams meeting invite for the purposes
6 of scheduling that.

7 MR. SETTINERI: And your Honor, will
8 you be issuing an order, or are we just going to
9 go on the record, based on the record
10 conversation today regarding the change in
11 deadline?

12 ALJ AGRANOFF: We will discuss that
13 internally and decide how we want to proceed.

14 MR. SETTINERI: Just so I am clear,
15 this May 21st, the Applicant will file its
16 stipulation testimony, and then the 26th would
17 be Staff and intervenor testimony; correct?

18 ALJ AGRANOFF: Correct.

19 MR. SETTINERI: That is what I
20 thought I heard you say. I just wanted to make
21 sure it was clear. I was fine either way that
22 we move all testimony to the 26th, or, and I am
23 also fine with us filing our testimony on the
24 21st as well

25 ALJ AGRANOFF: Yes.

1 MR. SETTINERI: That's what I
2 thought I heard you say.

3 ALJ AGRANOFF: Let's proceed under
4 that framework.

5 MR. SETTINERI: Okay.

6 ALJ AGRANOFF: Okay. Anything
7 further?

8 MR. SETTINERI: Nope.

9 ALJ AGRANOFF: If not, we are
10 adjourned.

11 MR. SETTINERI: Thank you.

12 MR. MARKS: Thank you.

13 ALJ DAVIS: Thanks everyone.

14 (At 10:25 A.M. the hearing was
15 concluded)

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CERTIFICATE

I do hereby certify that the foregoing
is a true and correct transcript of the
proceedings taken by me in this matter on May
19, 2021, and carefully compared with my
original stenographic notes.

Michael O. Spencer,
Registered Professional
Reporter.

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in

Case No(s). 20-1380-EL-BGN

Summary: Transcript May 19th 2021

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In the Matter of the Application of Ross County Solar, LLC for Certificate of Environmental Compatibility and Public Need. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Spencer, Michael O. Mr.