

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION
OF CLEARVIEW SOLAR I, LLC FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED.

CASE NO. 20-1362-EL-BGN

ENTRY

Entered in the Journal on June 17, 2021

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

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

{¶ 5} On September 17, 2020, Applicant filed a preapplication notification letter with the Board, consistent with Ohio Adm.Code 4906-3-03(A), regarding its proposed construction of a 144 megawatt solar-power electric generation facility in Champaign County, Ohio (Project). In the letter, Applicant explained that construction is anticipated to begin as early as fourth quarter 2022, resulting in commercial operations in fourth quarter 2023. Applicant further stated in the letter that it scheduled a virtual public information meeting for October 6, 2020, as well as a telephone-only public information meeting on October 8, 2020. Contemporaneous with its preapplication letter, Applicant also filed a notice of compliance with the service requirement set forth in Ohio Adm.Code 4906-3-03(B)(2).

{¶ 6} On October 2, 2020, Applicant filed proof of publication regarding its planned public information meetings.

{¶ 7} On October 6, 2020, and October 8, 2020, Applicant held the planned public information meetings to discuss the proposed Project with interested persons and landowners.

{¶ 8} On December 18, 2020, Applicant filed an application with the Board for a certificate of environmental compatibility and public need to construct the Project. Consistent with the requirements of Ohio Adm.Code 4906-3-06, a determination on the Applicant's application was due by February 16, 2021.

{¶ 9} Pursuant to Ohio Adm.Code 4906-3-06, within 60 days of receipt of an application for a major utility facility, the Chair 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.

{¶ 10} By letter dated February 16, 2021, the Board notified the Applicant that its application was compliant and provided sufficient information to permit Staff to commence its review and investigation. Pursuant to Ohio Adm.Code 4906-3-06 and 4906-3-07, the

Board's February 16, 2021 letter directed the Applicant to serve appropriate government officials and public agencies with copies of the complete, certified application and to file proof of service with the Board. The letter further instructed the Applicant to submit its application fee pursuant to R.C. 4906.06(F) and Ohio Adm.Code 4906-3-12. Staff also identified additional information that would be requested during the course of its investigation to ensure that Staff would be able to conduct its review of the application. This information included the following: final concurrence, memorandum of understanding, or programmatic agreement from the Ohio Historic Preservation Office on specific avoidance or mitigation measures for impacts from the Project on archaeological and historic/architectural sites.

{¶ 11} On March 1, 2021, the Applicant filed a certificate of service of its accepted and complete application and, on March 4, 2021, filed proof that it submitted its application fee to the Treasurer of the State of Ohio as required by Ohio Adm.Code 4906-3-07.

{¶ 12} Ohio Adm.Code 4906-3-08(A) states that, once the applicant has complied with Ohio Adm.Code 4906-3-07, the Board or the administrative law judge (ALJ) shall file an entry indicating the date on which the accepted, complete application is deemed filed. Additionally, once the effective date is established, the ALJ must promptly fix the dates for public hearings. Under R.C. 4906.07(A), the public hearing must be held not less than 60 nor more than 90 days after the effective date.

{¶ 13} On March 12, 2021, the Board of Commissioners of Champaign County, Ohio (Board of Commissioners) filed a notice of intervention pursuant to Ohio Adm.Code 4906-2-12, in which it states that: (a) it is the duly elected body authorized to act for Champaign County, Ohio and has taken the required action to intervene in the case, as certified in the resolution passed March 9, 2021, and attached to the notice; (b) the proposed Project is to be located within Champaign County, Ohio; and (c) that the Board of Commissioners intends to intervene in the case as the elected representative of the citizens of Champaign County, that its interests cannot be represented by another party, and that the Board of

Commissioners' participation is essential to a just and expeditious resolution of the issues involved in this proceeding. No memoranda contra the notice of intervention were filed. Upon review, the ALJ finds that the Board of Commissioners' notice of intervention meets the requirements of Ohio Adm.Code 4906-2-12, is reasonable, and that the Board of Commissioners will be considered an intervenor in this case.

{¶ 14} By Entry issued March 15, 2021, the ALJ established the effective date of the application as March 15, 2021, scheduled a public hearing for June 8, 2021, and the adjudicatory hearing for July 1, 2021, with both hearings to be conducted via Webex. Additionally, this Entry advised that the Board would accept petitions to intervene up to 30 days following the service of the notice required by Ohio Adm.Code 4906-3-09 or by April 29, 2021, whichever was later. The Entry also established a procedural schedule directing: Staff to file its report of investigation on or before May 24, 2021; parties to file a list of issues citing specific concerns about which they may be interested in pursuing cross-examination of witnesses at the adjudicatory hearing by June 4, 2021; Applicant to file all expert and factual testimony by June 18, 2021; Staff and intervenors to file all expert and factual testimony by June 25, 2021; and any stipulation entered into by the parties be filed by noon on June 30, 2021, along with the associated testimony supporting the stipulation.

{¶ 15} On March 30, 2021, Applicant filed proof of publication attesting that, in accordance with R.C. 4906.06(C), Applicant published notice of the procedural schedule and the accepted, complete application in the *Bellefontaine Examiner*, *Urbana Daily Citizen*, and *Sidney Daily News*, each newspapers of general circulation in the Project area. In addition, this filing stated that Applicant served the initial written notice required under Ohio Adm.Code 4906-3-09(A)(1).

{¶ 16} On April 27, 2021, the Ohio Farm Bureau Federation (OFBF) filed a motion to intervene pursuant to Ohio Adm.Code 4906-2-12. As a non-profit organization representing rural and agricultural interests at the state and local level, including Champaign County, OFBF asserts that it has a real and substantial interest in this matter that is not represented

by the existing parties. OFBF also states that its involvement will contribute to a just and expeditious resolution of the issues presented and will not unduly delay the proceedings or prejudice an existing party. No memoranda contra the motion to intervene were filed. Upon review, the ALJ finds that OFBF's motion to intervene meets the requirements of Ohio Adm.Code 4906-2-12, is reasonable, and should be granted.

{¶ 17} On May 17, 2021, the Director of the Ohio Department of Health issued an Order indicating that "except in certain limited circumstances, fully vaccinated persons may safely do most activities without a facial covering and without socially distancing." This Order was intended to align the state of Ohio's health orders with new guidance from the Centers for Disease Control and Prevention. These new guidelines became effective in the state of Ohio on June 2, 2021.

{¶ 18} On May 24, 2021, Staff filed its report of investigation.

{¶ 19} On June 2, 2021, Applicant filed proof of publication attesting that, in accordance with Ohio Adm.Code 4906-3-09(A)(2), Applicant published a second notice of the procedural schedule and the accepted, complete application in the *Bellefontaine Examiner*, the *Urbana Daily Citizen*, and the *Sidney Daily News*, each newspapers of general circulation in the Project area. In addition, this filing stated that Applicant served written notice required under Ohio Adm.Code 4906-3-09(A)(1).

{¶ 20} On June 4, 2021, Applicant filed its list of issues about which it may be interested in pursuing cross-examination of witnesses at the adjudicatory hearing.

{¶ 21} The public hearing was held via Webex on June 8, 2021. Fourteen witnesses provided testimony concerning the Project.

{¶ 22} In light of the updated health-safety guidelines and to afford the public an additional in-person opportunity to testify regarding the proposed Project, a second local public hearing will be held in-person near the area of the proposed Project. Consequently, pursuant to Ohio Adm.Code 4906-2-07, the remaining procedural schedule deadlines that

were established in the March 15, 2021 Entry are hereby suspended. The ALJ will establish a new procedural schedule, including a date for the second local public hearing, a new date for the adjudicatory hearing, and new dates for the filing of testimony and/or a stipulation, by subsequent entry. Among other things, the entry scheduling the local public hearing will provide general instructions to Applicant regarding providing public notice of such hearing.

{¶ 23} The ALJ recognizes that Applicant has already filed the proof of service and publication required under Ohio Adm.Code 4906-3-09(A)(1) and (2). Therefore, the adjudicatory hearing scheduled to commence on July 1, 2021, at 10:00 a.m. Eastern time, will be called and then continued to a date to be determined by subsequent entry. The July 1, 2021 adjudicatory hearing will still be conducted via Webex, which allows the parties to participate remotely through video technology and allows interested members of the public to attend either through Webex or by telephone. Access information for counsel to participate in the evidentiary hearing will be sent to his or her email address of record. Following the calling and continuing of this adjudicatory hearing, the parties will remain on Webex to discuss the procedural schedule going forward and any other outstanding procedural matters.

{¶ 24} Any person interested in attending the July 1, 2021 adjudicatory hearing as a non-party can access the hearing using the link <http://bit.ly/12-1362-EVH> and entering the password OPSB, or by dialing 1-408-418-9388 and entering 129 938 2676 as the event number. Just as in hearings held in person before the Board, non-parties attending the evidentiary hearing via telephone or Webex will be able to observe the proceedings but will not be able to actively participate.

{¶ 25} It is, therefore,

{¶ 26} ORDERED, That intervenor status be granted to the Board of Commissioners in accordance with Paragraph 13. It is, further,

{¶ 27} ORDERED, That OFBF's motion to intervene be granted as stated in Paragraph 16. It is, further,

{¶ 28} ORDERED, That the remaining procedural schedule deadlines established in the March 15, 2021 Entry be suspended, pursuant to Paragraph 22. It is, further,

{¶ 29} ORDERED, That the July 1, 2021 adjudicatory hearing still be called at 10:00 a.m. Eastern time, in accordance with Paragraph 23. It is, further,

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

THE OHIO POWER SITING BOARD

/s/ David M. Hicks

By: David M. Hicks
Administrative Law Judge

SJP/kck

This foregoing document was electronically filed with the Public Utilities

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Case No(s). 20-1362-EL-BGN

Summary: Administrative Law Judge Entry ordering that intervenor status be granted to the Board of Commissioners in accordance with Paragraph 13; granting OFBF's motion to intervene as stated in Paragraph 16; ordering that the remaining procedural schedule deadlines established in the March 15, 2021 Entry be suspended, pursuant to Paragraph 22 and ordering that the July 1, 2021 adjudicatory hearing still be called at 10:00 a.m. Eastern time, in accordance with Paragraph 23.
electronically filed by Kelli C. King on behalf of David M. Hicks, Administrative Law Judge, Ohio Power Siting Board