

## 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 June 25, 2021

{¶ 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 4906-4-08(D)(2) through (4) require that an applicant provide information regarding the cultural resources within ten miles of the project area, including information and an evaluation of the impact of the proposed project on landmarks, and recreation and scenic areas, a plan to avoid and mitigate any adverse impacts on landmarks, as well as, an evaluation of the visual impact of the proposed project within a ten-mile radius of the project area.

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

{¶ 5} 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 Ohio 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 COVID19 emergency no longer exists. The Ohio Department of Health is making COVID-19 information, including information on preventative measures, available via the internet at [coronavirus.ohio.gov/](https://coronavirus.ohio.gov/).

{¶ 6} Pursuant to R.C. 3701.13, the Ohio 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 Ohio 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.”

{¶ 7} 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 Center for Disease Control (CDC). These new guidelines became effective in the state of Ohio on June 2, 2021.

{¶ 8} On March 26, 2021, as supplemented on May 6, 2021, Union Ridge filed its application for a certificate to construct an approximately 108-megawatt solar-powered electric generation facility in Harrison Township, Licking County, Ohio (Project).

{¶ 9} On March 26, 2021, Union Ridge also filed a motion for waiver. In its motion for waiver, in regard to registered landmarks, Union Ridge requests a reduction in the study area, from a ten-mile radius to a two-mile radius and, as to scenic and recreation areas, Union Ridge requests a reduction in the study area from a ten-mile radius to a five-mile radius. Union Ridge states the proposed Project’s effects on landmarks outside of the

immediate project area were studied and considered within a five-mile radius of the Project. Union Ridge contends that good cause exists for granting its request because of the Project's low profile and the screening afforded by vegetation and existing structures. Therefore, Union Ridge reasons the visibility of the planned components of the facility is anticipated to be limited to the immediate vicinity of the Project. The Applicant notes that the Visual Resource Assessment, included as part of the application at Exhibit S, supports the lack of impact to landmarks. Union Ridge also notes that due to the nature of the technology and the setting specific to this Project, no effects are anticipated on landmarks or scenic and recreation areas beyond the immediate project area. Finally, Union Ridge notes that the Board has approved similar requests for waiver in solar project cases. See *In re Ross County Solar, LLC*, Case No. 20-1380-EL-BGN, Entry (Jan. 20, 2021); *In re Yellowbud Solar, LLC*, Case No. 20-0972-EL-BGN, Entry (July 9, 2020).

{¶ 10} No memorandum contra Union Ridge's request for waiver was filed.

{¶ 11} On April 7, 2021, Staff filed a response to the motion for waiver. Staff states that the studies submitted by Union Ridge are sufficient for Staff to begin its investigation. Staff further notes, as Union Ridge observed, the Board has granted similar waivers in other solar project cases. Accordingly, Staff states that it does not object to the request for waiver and the rule may be waived in this case. However, Staff states that it reserves the right to require the results from the Applicant in the area covered by the requested waiver if Staff determines such information to be necessary in the course of its investigation.

{¶ 12} Ohio Adm.Code 4906-4-01(B) provides that the Board may waive any provisions in Ohio Adm.Code Chapter 4906-4 upon an application or a motion filed by a party, other than a requirement mandated by statute.

{¶ 13} In consideration of the Applicant's motion for waiver, the results of the Visual Assessment Study Area, and the Staff's determination that the study area requested by the Applicant is sufficient, the administrative law judge (ALJ) finds that good cause exists to grant Union Ridge's motion for waiver of Ohio Adm.Code 4906-4-08(D)(2) through (D)(4).

The ALJ notes that according to the Visual Resource Assessment Study the potential visibility of the proposed project is extremely limited between one and a half miles and four miles and that there is no potential for visibility beyond four miles; on that basis, it was determined that a five mile study area of the visual impacts would be sufficient (Application, Ex. S at 4-5). Accordingly, Applicant's motion for waiver should be granted. Further, the ALJ finds that should Staff determine that information regarding areas covered by the requested waiver is necessary for Staff's investigation of the application, the Applicant is expected to comply with any resulting requests for information from Staff.

{¶ 14} On May 25, 2021, the Board notified Union Ridge that its application was found to be sufficiently compliant with the requirements of Ohio Adm.Code Chapters 4906-01, et seq., 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 letter instructed Union Ridge 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, including but not limited to, the final concurrence from the Ohio Historic Preservation Office of the historical survey on the southwest portion of the project area.

{¶ 15} On May 28, 2021, Union Ridge filed proof of service of its accepted and complete application on local officials and the main public library as required by Ohio Adm.Code 4906-3-07(A). Further, Union Ridge states that it has posted a copy of its accepted complete application online.

{¶ 16} On May 28, 2021, Union Ridge also filed, pursuant to Ohio Adm.Code 4906-3-07(A)(5), proof of submission of its application fee.

{¶ 17} 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 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. R.C. 4906.07(A) directs that the public hearing be held not less than 60 nor more than 90 days after the effective date.

{¶ 18} The effective date of the application shall be June 25, 2021. The ALJ finds that the local public hearing in this matter shall be held on August 31, 2021, at 6:00 p.m., at Harrison Township Trustees Office, Road Garage, 6750 Outville Road, S.W., Pataskala, Ohio 43062. Consistent with CDC Guidelines and the May 17, 2021 Ohio Department of Health Order, individuals who are not fully vaccinated should continue to wear a face covering and socially distance. For those individuals interested in testifying at the in-person local public hearing, a sign-in sheet will be available at the facility and witnesses will be taken in the order in which they register to testify. If individuals wish to supplement their testimony with an exhibit for the Board's consideration, a copy of the document should be provided to the ALJ during the local public hearing. Testimony to be provided will be limited to five minutes in duration.

{¶ 19} The evidentiary hearing will commence on September 14, 2021, at 10:00 a.m., at the offices of the Public Utilities Commission of Ohio (Commission), Hearing Room 11-C, 11th Floor, 180 East Broad Street, Columbus, Ohio 43215-3793. The parties should register at the lobby desk and then proceed to the 11th floor in order to participate in the hearing. Like attendance at the local public hearing, individuals who are not fully vaccinated should continue to wear a face covering and socially distance. Any accommodations necessary to ensure availability of social distancing and plexiglass dividers should be made in advance of the hearing. As pandemic restrictions are evolving, additional instructions regarding further safety requirements or accommodations for the hearing room will either be posted on the Commission/Board website or communicated to the parties.

{¶ 20} Union Ridge should issue public notice of the application and scheduled hearings in accordance with Ohio Adm.Code 4906-3-09(A)(2). Consistent with Ohio Adm.Code 4906-3-09(A)(2), the notice should be a written notice to those persons that received the initial notice pursuant to Ohio Adm.Code 4906-3-09(A)(1) and should be published in newspapers of general circulation in those municipal corporations and counties in which the chief executive officer received service of a copy of the application pursuant to Ohio Adm.Code 4906-3-07 at least seven days before the public hearing. The notice should be published with letters not less than ten-point type, bear the heading “Notice of Proposed Major Utility Facility” in bold type not less than one-fourth inch high or 30-point type, and include the following information: the name and a brief description of the Project; a map showing the location and general layout of the proposed facility; a statement, including the assigned docket number, that an application for a certificate to construct, operate, and maintain said facility is pending before the Board; the date and time of the evidentiary and local public hearings; a statement that the evidentiary and local public hearings will be held in person and the location of each hearing; and a statement that the public will be given an opportunity to comment on the proposed facility. Additionally, the notice should include the following statement: “Consistent with CDC Guidelines and the May 17, 2021 Ohio Department of Health Order, unless otherwise specified by the facility, individuals who are not fully vaccinated should continue to wear a face covering and socially distance. Please contact the legal department at 614-466-6843 to ask any questions or request accommodations related to health protocols.” In addition, the notice shall include a statement that the public hearing in this case shall consist of two parts and will be conducted in-person:

- (a) A local public hearing, pursuant to R.C. 4906.08(C), where the Board shall accept written and oral testimony from members of the public who are not parties to the case on August 31, 2021, in a session beginning at 6:00 p.m., at Harrison Township Trustees Office, Road Garage, 6750 Outville Road, S.W., Pataskala, Ohio 43062.

- (b) An evidentiary hearing to commence on September 14, 2021, at 10:00 a.m., 11th floor, Hearing Room C, at the offices of the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793. The purpose of the evidentiary hearing is for Union Ridge, Staff, and intervenors to provide evidence regarding the Project.

{¶ 21} Further, the initial newspaper notice required pursuant to Ohio Adm.Code 4906-3-09, shall include the following language:

Petitions to intervene in the adjudicatory hearing will be accepted by the Board up to 30 days following service of the notice required by R.C. 4906.06(C) and Ohio Adm.Code 4906-3-09, or August 9, 2021, whichever is later. However, the Board strongly encourages interested persons who wish to intervene in the adjudicatory hearing to file their petitions as soon as possible. Petitions should be addressed to Docketing Division, the Ohio Power Siting Board, 180 East Broad Street, Columbus, Ohio 43215-3793 and cite the above-listed case number.

{¶ 22} Ohio Adm.Code 4906-2-09(B) provides that the ALJ shall regulate the course of the hearing, including requiring that expert or factual testimony to be offered in Board proceedings be reduced to writing and filed with the Board according to a schedule established by the ALJ. Accordingly, the ALJ finds that the following procedural schedule should be implemented:

- (a) Pursuant to Ohio Adm.Code 4906-3-06(C), Staff shall file its report of investigation (Staff Report) on or before August 16, 2021.
- (b) On or before September 1, 2021, each party shall file a list of issues citing specific concerns about which they may be interested in pursuing cross-examination of witnesses at the evidentiary hearing.

- (c) All expert and factual testimony to be offered by Applicant shall be filed by September 2, 2021.
- (d) All expert and factual testimony to be offered by intervenors and Staff shall be filed by September 9, 2021.
- (e) Any stipulation entered into by the parties shall be filed by noon on September 13, 2021, along with the associated testimony supporting the stipulation.

{¶ 23} The ALJ encourages the parties to arrange for electronic service of testimony and other pleadings among themselves. If electronic service is agreed to, the parties are also directed to provide an electronic copy to the ALJ.

{¶ 24} It is, therefore,

{¶ 25} ORDERED, That Union Ridge's motion seeking waiver of Ohio Adm.Code 4906-4-08(D)(2) through (4) be granted pursuant to Paragraph 13. It is, further,

{¶ 26} ORDERED, That the effective date of the application be established, and the hearings scheduled as set forth in Paragraphs 18 and 19. It is, further,

{¶ 27} ORDERED, That notice of the application and the hearings be published by Union Ridge in accordance with Paragraphs 20 and 21. It is, further,

{¶ 28} ORDERED, That the parties observe the filing deadlines set forth in Paragraph 22. It is, further,



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

THE PUBLIC UTILITIES COMMISSION OF OHIO

*/s/Greta See*

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By: Greta See  
Attorney Examiner

MJA/hac

**This foregoing document was electronically filed with the Public Utilities**

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**in**

**Case No(s). 20-1757-EL-BGN**

Summary: Administrative Law Judge Entry ordering that Union Ridge's motion seeking waiver of Ohio Adm.Code 4906-4-08(D)(2) through (4) be granted pursuant to Paragraph 13; that the effective date of the application be established, and the hearings scheduled as set forth in Paragraphs 18 and 19; that notice of the application and the hearings be published by Union Ridge in accordance with Paragraphs 20 and 21; and, that That the parties observe the filing deadlines set forth in Paragraph 22 electronically filed by Heather A Chilcote on behalf of Greta See, Administrative Law Judge, Power Siting Board