

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION
OF PLEASANT PRAIRIE SOLAR ENERGY
LLC FOR A CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY AND
PUBLIC NEED.

CASE NO. 20-1679-EL-BGN

ENTRY

Entered in the Journal on June 28, 2021

{¶ 1} Pleasant Prairie Solar Energy LLC (Pleasant Prairie 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} 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 COVID-19 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/.

{¶ 4} 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.”

{¶ 5} On November 25, 2020, Applicant filed a preapplication notification letter with the Board, consistent with Ohio Adm.Code 4906-3-03(A), regarding its proposed construction of an up to 250 megawatt solar-powered electric generation facility located in Pleasant and Prairie townships, Franklin County, Ohio (Project). Applicant further stated in the letter that it had scheduled a virtual public information meeting for December 14, 2020.

{¶ 6} On December 9, 2020, Pleasant Prairie filed proof of publication regarding its planned public information meeting.

{¶ 7} On December 14, 2020, Pleasant Prairie held the planned public information meeting to discuss the proposed Project with interested persons and landowners.

{¶ 8} On February 19, 2021, as supplemented on April 7, 2021, and April 21, 2021, Applicant filed an application with the Board for a certificate of environmental compatibility and public need to construct the Project.

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

{¶ 10} By letter dated April 20, 2021, the Board notified Pleasant Prairie 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, Pleasant Prairie was directed 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 Pleasant Prairie to submit its application fee pursuant to R.C. 4906.06(F) and Ohio Adm.Code 4906-3-12.

{¶ 11} On April 21, 2021, Applicant filed a certificate of service of its accepted and complete application and, on May 4, 2021, filed proof that it had 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 an 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} By Entry dated May 11, 2021, the effective date of the application was established as May 11, 2021, the public hearing was scheduled for July 19, 2021, and the evidentiary hearing was scheduled to commence on August 16, 2021, with both hearings to be conducted virtually via Webex. Additionally, the May 11, 2021 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 June 25, 2021, whichever is later, and established a procedural schedule directing Staff to file its report of investigation on or before July 2, 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 evidentiary hearing by July 30, 2021; Pleasant Prairie to file all expert and factual testimony by August 2, 2021; Staff and intervenors to file all expert and factual testimony by August 9, 2021; and any stipulation entered into by the parties to be filed by noon on August 11, 2021, along with the associated testimony supporting the stipulation.

{¶ 14} 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.

{¶ 15} In light of the updated health-safety guidelines, the ALJ finds it appropriate to convert the public hearing and evidentiary hearing scheduled in this matter from Webex hearings to in-person hearings. Accordingly, the evidentiary hearing set to begin on August 16, 2021, at 10:00 a.m., will commence at the offices of the Public Utilities Commission of Ohio (Commission), Hearing Room 11-A, 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. 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. 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.

{¶ 16} The local public hearing will commence, as scheduled on July 19, 2021, at 6:00 p.m., at Battelle Darby Creek Metro Park Nature Center, 1415 Darby Creek Drive, Galloway, Ohio 43119. Individuals are not required to register on-line in order to testify at the local public hearing. Rather, 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.

{¶ 17} The remaining procedural deadlines set forth in the May 11, 2021 Entry will remain the same.

{¶ 18} The ALJ directs Pleasant Prairie to issue public notice indicating that the local public hearing will no longer occur via Webex but will now take place at the Battelle Darby

Creek Metro Park Nature Center, 1415 Darby Creek Drive, Galloway, Ohio 43119. The notice should also reflect that the evidentiary hearing will no longer occur via Webex but will now take place at the Commission offices in Hearing Room 11-A, 11th Floor, 180 East Broad Street, Columbus, Ohio 43215-3793.

{¶ 19} 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 now 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.”

{¶ 20} On various dates, timely petitions to intervene or notices of intervention were filed by the following entities: the Board of Park Commissioners of the Columbus and Franklin County Metropolitan Park District, Pleasant Township, Prairie Township, and the Ohio Farm Bureau. No memoranda contra the petitions to intervene or notices of

intervention were filed. The ALJ finds that all of the petitions to intervene and notices of intervention meet the criteria set forth in R.C. 4903.221 and Ohio Adm.Code 4906-2-12, and should, therefore, be granted for good cause shown.

{¶ 21} It is, therefore,

{¶ 22} ORDERED, That the local public hearing and the evidentiary hearing be converted to in-person hearings in accordance with this Entry. It is, further,

{¶ 23} ORDERED, That Pleasant Prairie provide notice of the hearings in accordance with this Entry. It is, further,

{¶ 24} ORDERED, That the petitions to intervene and notices of intervention filed by the entities listed in Paragraph 20 be granted. It is, further,

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

THE OHIO POWER SITING BOARD

/s/ Jay S. Agranoff

By: Jay S. Agranoff
Administrative Law Judge

JRJ/mef

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

6/28/2021 10:39:47 AM

in

Case No(s). 20-1679-EL-BGN

Summary: Administrative Law Judge Entry converting the local public hearing and evidentiary hearing to in-person and requiring applicant to publish notice of the same; granting the petitions and notices to intervene electronically filed by Ms. Mary E Fischer on behalf of Jay S. Agranoff, Administrative Law Judge, Ohio Power Siting Board