

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION
OF WILLOWBROOK SOLAR I, LLC TO
AMEND ITS CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY AND
PUBLIC NEED FOR THE WILLOWBROOK
SOLAR FARM.

CASE NO. 21-5-EL-BGA

ORDER ON CERTIFICATE

Entered in the Journal on July 15, 2021

I. SUMMARY

{¶ 1} The Ohio Power Siting Board grants the application filed by Willowbrook Solar I, LLC to amend its certificate to add 1.9 miles of new collection line routes to its electric generating facility in Highland and Brown counties, Ohio.

II. DISCUSSION

A. *Procedural History*

{¶ 2} On April 4, 2019, in Case No. 18-1024-EL-BGN, the Ohio Power Siting Board (Board) granted the application filed by Willowbrook Solar I, LLC (Willowbrook or Applicant) for a certificate to construct a 150 megawatt solar-powered electric generating facility in Highland and Brown counties, Ohio, subject to 28 conditions (Project). *In re the Application of Willowbrook Solar I, LLC for a Certificate of Environmental Compatibility and Public Need to Construct an Electric Generation Facility in Highland and Brown Counties, Ohio*, Case No. 18-1024-EL-BGN (*Certificate Case*), Opinion, Order, and Certificate (April 4, 2019). Accordingly, Willowbrook is certificated to construct, operate, and maintain a major utility facility under R.C. 4906.10.

{¶ 3} On January 13, 2021, in the above captioned case, Willowbrook filed an application (Amendment Application) to add 1.9 miles of new collection line routes to the Project. In its Amendment Application, Willowbrook explains that 1.5 miles of the new collection line routes will be located in the original project area approved in the *Certificate Case*.

{¶ 4} On January 25, 2021, Willowbrook filed its proof of service of the Amendment Application, pursuant to Ohio Adm.Code 4906-3-11(B).

{¶ 5} On April 22, 2021, Staff filed its report of investigation (Staff Report) evaluating the Amendment Application and recommends that Willowbrook be required to comply with additional conditions.

{¶ 6} By correspondence filed on May 7, 2021, Willowbrook agrees to the conditions recommended in the Staff Report.

B. *Applicable Law*

{¶ 7} All proceedings before the Board are conducted according to the provisions of R.C. Chapter 4906 and Ohio Adm.Code Chapters 4906-1 et seq.

{¶ 8} R.C. 4906.04 provides that the Board's authority applies to major utility facilities and requires any proposed facility to be certified by the Board before the start of construction. In accordance with R.C. Chapter 4906, the Board promulgated the rules set forth in Ohio Adm.Code Chapter 4906-3 regarding the procedural requirements for filing applications for major utility facilities and amendments to certificates.

{¶ 9} Pursuant to R.C. 4906.07, when considering an application for an amendment of a certificate, the Board "shall hold a hearing * * * if the proposed change in the facility would result in any material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of such facility * * *." R.C. 4906.06(B) and (C), as well as Ohio Adm.Code 4906-3-11 and 4906-3-09, require the applicant to provide notice of its application for amendment to interested parties and potentially affected members of the public.

{¶ 10} Willowbrook is a corporation and, therefore, a person under R.C. 4906.01(A). Pursuant to the Board's Order in the *Certificate Case*, Willowbrook is certificated to construct, operate, and maintain a major utility facility under R.C. 4906.04. As indicated above, the

Applicant provided the required notices in this proceeding, its proposed first amendment to its certificate.

C. Summary of Staff Report

{¶ 11} Initially, Staff provides information about the proposed certificate modifications. Staff explains that the modifications would include the addition of approximately 28 acres of private land, which is comprised of six parcels. The additional acres would make the total project area approximately 2,292 acres. Staff also confirms that of the 1.9 miles of proposed new collection line routes, 1.5 miles would be located in the original project area. Staff explains that the purpose of the new collection lines is to provide shorter and more direct connections between the northern parts of the project area and the substation and associated collection yard.

{¶ 12} According to the Staff Report, the proposed modifications would not significantly increase impacts to existing land uses. No additional agricultural districts would be impacted. Two residences would be located within 250 feet of the new collection lines, and no residences would be located within 100 feet.

{¶ 13} Staff also notes that the Applicant is in the process of completing field studies in coordination with the Ohio Historic Preservation Office (OHPO). The Applicant found, and OHPO concurred, that the project would not impact any buildings eligible for the National Register of Historic Places.

{¶ 14} As to surface waters, Staff found that the newly proposed collection lines would result in five additional crossings of four previously uncrossed streams, including three intermittent streams and one ephemeral stream. Staff noted that there will be a maximum of three stream crossings, and no new wetland impacts are proposed. Staff states that adherence to the conditions of the original certificate would minimize impacts to surface water resources that could occur as a result of the proposed modifications.

{¶ 15} Staff also found that the proposed modifications would not result in increased impacts to listed wildlife species and that adherence to the conditions of the original certificate would minimize impacts to listed species.

{¶ 16} Upon its review, which included consideration of all statutory requirements, Staff states that the Amendment Application meets the necessary criteria for granting an amended certificate. Accordingly, Staff recommends that the Board approve the proposed amendment to the certificate, provided that the following three conditions are satisfied:

- (1) The Applicant shall continue to adhere to all conditions as certificated in Case No. 18-1024-EL-BGN.
- (2) The certificate authority provided in this case shall not exempt the facility from any other applicable and lawful local, state, or federal rules or regulations nor be used to affect the exercise of discretion of any other local, state, or federal permitting or licensing authority with regard to areas subject to their supervision or control.
- (3) Prior to the commencement of construction activities in areas that require permits or authorizations by federal or state laws and regulations, the Applicant shall obtain and comply with such permits or authorizations. The Applicant shall provide copies of permits and authorizations, including all supporting documentation, on the case docket prior to commencement of construction.

D. Board's Conclusion

{¶ 17} After considering the Amendment Application and the Staff Report, the Board finds that the proposed change in the facility presented in the Amendment Application does not result in any material increase in any environmental impact or a

substantial change in the location of all or a portion of the facility. Therefore, pursuant to R.C. 4906.07, the Board finds that a hearing on the application is not necessary under the circumstances presented in this case. Furthermore, the Board concludes that Willowbrook's certificate should be amended as described in the Amendment Application, subject to the three conditions set out in Paragraph 16 of this Order on Certificate.

E. Findings of Fact and Conclusions of Law

{¶ 18} Willowbrook is a corporation and a person under R.C. 4906.01(A).

{¶ 19} On January 13, 2021, Willowbrook filed an application seeking an amendment to the certificate issued in the *Certificate Case*.

{¶ 20} On April 22, 2021, Staff filed the Staff Report containing its evaluation of the amendment application.

{¶ 21} The proposed amendment to the certificated facility does not result in a substantial change in the location of the facility or any material increase in any environmental impact; therefore, in accordance with R.C. 4906.07, an evidentiary hearing is not necessary.

{¶ 22} Based on the record, and in accordance with R.C. Chapter 4906, the Amendment Application should be approved, subject to the conditions set forth in the Opinion, Order, and Certificate in the *Certificate Case*, as well as the additional conditions Staff recommended in this case.

III. ORDER

{¶ 23} It is, therefore,

{¶ 24} ORDERED, That, in accordance with the above findings, Willowbrook's Amendment Application be approved, subject to the conditions set forth in the Opinion, Order, and Certificate in the *Certificate Case*, as well as the additional conditions recommended by Staff in this case. It is, further,

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

BOARD MEMBERS:

Approving:

Jenifer French, Chair
Public Utilities Commission of Ohio

Lydia Mihalik, Director
Ohio Development Services Agency

Brittney Colvin, Designee for Mary Mertz, Director
Ohio Department of Natural Resources

W. Gene Phillips, Designee for Stephanie McCloud, Director
Ohio Department of Health

Drew Bergman, Designee for Laurie Stevenson, Director
Ohio Environmental Protection Agency

Sarah Huffman, Designee for Dorothy Pelanda, Director
Ohio Department of Agriculture

JWS/mef

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Case No(s). 21-0005-EL-BGA

Summary: Opinion & Order granting the application filed by Willowbrook Solar I, LLC to amend its certificate to add 1.9 miles of new collection line routes to its electric generating facility in Highland and Brown counties, Ohio. electronically filed by Ms. Mary E. Fischer on behalf of Ohio Power Siting Board