

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
MARION COUNTY SOLAR PROJECT, LLC,
FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED FOR
THE CONSTRUCTION OF A SOLAR-
POWERED ELECTRIC GENERATION
FACILITY IN MARION COUNTY, OHIO.

CASE NO. 21-36-EL-BGN

ENTRY

Entered in the Journal on July 27, 2021

{¶ 1} Marion County Solar Project, LLC (Marion County Solar, Applicant, Company) 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 from the Ohio Power Siting Board (Board). In seeking a certificate, applicants must comply with the filing requirements outlined in R.C. 4906.06, as well as Ohio Adm.Code Chapters 4906-2 through 4906-4.

{¶ 3} Ohio Adm.Code 4906-3-03(B) requires an applicant, no more than 90 days prior to submitting a standard application, to conduct at least one informational meeting that is open to the public and is “held in the area in which the project is to be located.”

{¶ 4} On February 4, 2021, Applicant filed a preapplication notification letter with the Board, consistent with Ohio Adm.Code 4906-3-03(A), regarding its proposed construction of a 100-megawatt (MW) solar-powered electric generation facility in Marion County, Ohio (Project). In the letter, Applicant explained that construction on the Project is anticipated to begin as early as the fourth quarter of 2022, resulting in commercial operations in the fourth quarter of 2023. Applicant further stated in the letter that it scheduled a public information meeting for February 17, 2021.

{¶ 5} Contemporaneously with its preapplication notification letter, the Company also filed a notice of compliance with the service requirement set forth in Ohio Adm.Code 4906-3-03(B)(2), that notice of the public information meeting be sent to each property owner

and affected tenant. On February 5, 2021, Applicant filed proof of publication regarding its planned public information meeting. On February 17, 2021, Marion County Solar held a virtual public information meeting.

{¶ 6} On March 5, 2021, Marion County Solar filed an application with the Board for a certificate of environmental compatibility and public need to construct the Project. On April 20, 2021, April 27, 2021, and July 16, 2021, Marion County Solar's application was supplemented by the Company's responses to data requests made by the Board's staff (Staff).

{¶ 7} 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.

{¶ 8} By letter dated May 4, 2021, the Board notified Marion County Solar that the application, as supplemented, 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 letter instructed 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 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: results of the technical report detailing findings of cultural resources surveys completed to date and in the spring of 2021 including implementation of the programmatic agreement, dated March 25, 2021, between the Company and the Ohio Historic Preservation Office.

{¶ 9} On May 6, 2021, Marion County Solar filed proof of service of its accepted and complete application as required by Ohio Adm.Code 4906-3-07.

{¶ 10} On May 14, 2021, Marion County Solar filed proof that it submitted its application fee.

{¶ 11} 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. These new guidelines became effective in the state of Ohio on June 2, 2021.

{¶ 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} The ALJ finds that the effective date of the application shall be July 27, 2021.

{¶ 14} A local public hearing will be held Tuesday, September 28, 2021, at 6:00 p.m. at the Evers Arena, 220 E. Fairground St., Marion Ohio 43302. The adjudicatory hearing will commence on Thursday, October 28, 2021, at 10:00 a.m. 11th Floor, Hearing Room 11-D, at the offices of the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793. For the adjudicatory hearing, the parties should register at the lobby desk and then proceed to the 11th floor in order to participate in the hearing. Consistent with Center for Disease Control 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. As pandemic restrictions are evolving, instructions regarding further safety requirements or accommodations for the hearing room will be forthcoming, either posted in the PUCO/Ohio Power Siting website or communicated to the parties

{¶ 15} Petitions to intervene in this proceeding will be accepted by the Board up to 30 days following the service of the notice required by Ohio Adm.Code 4906-3-09 or by August 31, 2021, whichever is later.

{¶ 16} In accordance with Ohio Adm.Code 4906-3-09, Marion County Solar should issue public notices of the application and hearings. Pursuant to the same rule, in addition to other required information, that notice shall include a statement that the public hearing in this case shall consist of two parts:

- (a) A local public hearing, pursuant to R.C. 4906.08(C), where the Board shall accept oral testimony from any person,, commencing on Tuesday, September 28, 2021, at 6:00 p.m. at the Evers Arena, 220 E. Fairground St., Marion Ohio 43302.
- (b) An adjudicatory hearing to commence on Thursday, October 28, 2021, at 10:00 a.m. 11th Floor, Hearing Room 11-D, at the offices of the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793.
- (c) 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.”

{¶ 17} Further, regarding the initial public notice required under Ohio Adm.Code 4906-3-09, the initial notice 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 31, 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.

{¶ 18} 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 September 13, 2021.
- (b) On or before October 8, 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 adjudicatory hearing.
- (c) All expert and factual testimony to be offered by Applicant shall be filed by October 13, 2021.
- (d) All expert and factual testimony to be offered by intervenors and Staff shall be filed by October 20, 2021.
- (e) Any stipulation entered into by the parties shall be filed October 26, 2021.

{¶ 19} 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(s).

{¶ 20} It is, therefore,

{¶ 21} ORDERED, That the hearings in this matter be scheduled in accordance with Paragraph 14. It is, further,

{¶ 22} ORDERED, That notice of the application and the hearings be published by Marion County Solar in accordance with Paragraphs 16 and 17. It is, further,

{¶ 23} ORDERED, That Staff file its Staff Report pursuant to Paragraph 18. It is, further,

{¶ 24} ORDERED, That the parties observe the filing deadlines set forth in Paragraph 18. It is, further,

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

THE OHIO POWER SITING BOARD

/s/ Daniel E. Fullin

By: Daniel E. Fullin
Administrative Law Judge

GAP/kck

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in

Case No(s). 21-0036-EL-BGN

Summary: Administrative Law Judge Entry ordering that the hearings in this matter be scheduled in accordance with Paragraph 14; that notice of the application and the hearings be published by Marion County Solar in accordance with Paragraphs 16 and 17; that Staff file its Staff Report pursuant to Paragraph 18 and that the parties observe the filing deadlines set forth in Paragraph 18.

electronically filed by Kelli C. King on behalf of Daniel E. Fullin, Administrative Law Judge, Ohio Power Siting Board