

**BEFORE  
THE OHIO POWER SITING BOARD**

In the Matter of the Application of Fox Squirrel     )  
Solar, LLC for a Boundary Amendment to its     )   Case No: 21-1031-EL-BGA  
Certificate in Case No. 20-931-EL-BGN.             )

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**MOTION FOR WAIVER  
AND MEMORANDUM IN SUPPORT**

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Pursuant to Rule 4906-4-01(B) of the Ohio Administrative Code (“O.A.C.”), Fox Squirrel Solar, LLC (“Applicant”) respectfully moves the Ohio Power Siting Board (“Board”) for a waiver from a part of O.A.C. Chapter 4906-4. The Applicant is proposing to add land to the Initial Project Area that the Board approved for the Fox Squirrel Solar Project in Case No. 20-931-EL-BGN on July 15, 2021 (“Initial Certificate Case”).<sup>1</sup> This same day the Applicant is filing an application with Board requesting authority to amend and modify the boundary wherein the Facility will be located (“Application” or “Boundary Amendment”) in Madison County, Ohio. Although the application is being filed in accordance with O.A.C. Chapter 4906-4, the Applicant seeks a waiver from O.A.C. Rules 4906-4-08(D)(2) through (4) to allow for a reduced study area regarding the review of cultural resources, landmarks, and visual impacts. An explanation of the reasons supporting this motion is detailed in the attached Memorandum in Support.

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<sup>1</sup> See *In re Application of Fox Squirrel Solar, LLC*, Case No. 20-931-EL-BGN, Order (July 15, 2021).

Accordingly, the Applicant respectfully moves that the Board grant a waiver from O.A.C.  
Rules 4906-4-08(D)(2) through (4).

Respectfully submitted,

/s/ Christine M.T. Pirik

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## **MEMORANDUM IN SUPPORT OF MOTION FOR WAIVER**

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### **I. INTRODUCTION**

The Applicant is proposing to add land to the Initial Project Area that the Board approved for the Initial Certificate Case. The additional land (“Boundary Change Area”) for the Project is located in rural, unincorporated Madison County, Ohio, partially in Range Township and Oak Run Township in Madison County, Ohio. On October 8, 2021, the Applicant filed its application with the Board. The application provides all information necessary for the Board and its Staff to conduct a review and make the determinations necessary under Ohio Revised Code Section 4906.10. As more fully explained below, good cause exists to grant the waiver given the nature of the solar facility.

### **II. REQUESTED WAIVER**

O.A.C. Rules 4906-4-08(D)(2) through (4) require an application for any type of a generation facility to provide certain evaluations of the impact of the proposed facility within 10 miles of the project area. O.A.C. Rules 4906-4-08(D)(2) and (3) require the applicant to provide an evaluation of the impact of the proposed facility on the preservation and continued meaningfulness of the mapped landmarks and recreational areas within the 10-mile radius and to describe plans to avoid or mitigate any adverse impact. Finally, O.A.C. Rule 4906-4-08(D)(4) requires the applicant to evaluate the visual impact of the proposed facility within a 10-mile radius from the project area.

The Applicant submits that good cause exists for granting a waiver from those rules to allow for a focused study area for cultural resources, review of landmarks, and visual impacts. Specifically, because of the facility’s low profile, as well as screening afforded by vegetation and existing structures, visibility of the planned components is anticipated to be limited to the

immediate vicinity of the project, which is well under the 5-mile visual impact study area. Moreover, as reflected in Exhibit Q to the application filed in this case, the December 2020 Architectural Survey for the Boundary Change Area, the Area of Potential Effects (“APE”) for the project is only a 0.5-mile radius around the Boundary Change Area.

Based on the foregoing, the Applicant submits that good cause exists for a waiver from O.A.C. Rules 4906-4-08(D)(2) through (4) to allow for the focused study area, rather than a 10-mile study area. Notably, the Board has granted similar waivers to other solar projects in the past, including the Initial Certificate Case. *In re Application of Willowbrook Solar I, LLC*, Case No. 18-1024-EL-BGN, Entry (Oct. 4, 2018); *In re Application of Angelina Solar I, LLC*, Case No. 18-1579-EL-BGN, Entry (Jan. 17, 2019); *In re Application of Fox Squirrel Solar, LLC*, Case No. 20-931-EL-BGN.

### **III. CONCLUSION**

For the foregoing reasons, the Applicant requests that the Board grant its motion for waiver from O.A.C. Rules 4906-4-08(D)(2) through (4).

Respectfully submitted,

/s/ Christine M.T. Pirik

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## CERTIFICATE OF SERVICE

The Ohio Power Siting Board's e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to these cases. In addition, the undersigned certifies that a copy of the foregoing document is also being served upon the persons below this 8<sup>th</sup> day of October, 2021.

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Summary: Motion for Waiver and Memorandum In Support electronically filed by Christine M. T. Pirik on behalf of Fox Squirrel Solar, LLC