

**BEFORE
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) Case No: 21-36-EL-BGN
to Construct a Solar-Powered Electric)
Generation Facility in Marion County, Ohio.)

JOINT STIPULATION AND RECOMMENDATION

I. INTRODUCTION

Marion County Solar Project, LLC (“Applicant”), the the Ohio Power Siting Board (“Board”) Staff (“Staff”) and the Ohio Farm Bureau Federation (“OFBF”) (jointly referred to herein as “Signatory Parties”) submit this Joint Stipulation and Recommendation (“Stipulation”) for adoption by the Board. Ohio Adm.Code 4906-2-24(A) provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of the parties who have signed below, and to jointly recommend that the Board approve and adopt this Stipulation as part of its Opinion, Order, and Certificate in this proceeding, resolving all matters pertinent to the certification and construction of the solar-powered electric generation facility and a battery energy storage system in Marion Township, Marion County, Ohio as proposed in this proceeding.

The Ohio Farm Bureau Federation (“OFBF”) filed a motion to intervene in this proceeding, which was granted by the Administrative Law Judges (“ALJs”) on September 10, 2021. The Report of Investigation was issued by the Staff on September 13, 2021 (“Staff Report”). The local public hearing was held on September 28, 2021. The evidentiary hearing will commence on October 28, 2021.

This Stipulation is supported by adequate data and information; represents a just and reasonable resolution of issues in this proceeding; violates no regulatory principle or precedent; and is the product of lengthy, serious bargaining among knowledgeable and capable parties in a cooperative process to resolve all of the issues in this proceeding. This Stipulation represents the culmination of these discussions, and the Signatory Parties acknowledge that this agreement is amply supported by the record and, thus, entitled to careful consideration by the Board. Accordingly, the Signatory Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for the facility.

II. JOINT RECOMMENDATIONS OF THE SIGNATORY PARTIES

A. Recommended Conditions

The proposed facility is located in Marion County, Ohio and its total generating capacity will not exceed 100 megawatts alternating current (“MW”) and the battery energy storage system is capable of discharging up to 20.3 MW into the grid. Construction of the facility is expected to begin as early as the fourth quarter of 2022.

The Signatory Parties recommend that the Board issue the Certificate of Environmental Compatibility and Public Need requested by the Applicant subject to the following conditions:

- (1) The Applicant shall install the facility, utilize equipment and construction practices, and implement mitigation measures as described in the application and as modified and/or clarified in supplemental filings, replies to data requests, and recommendations in the *Staff Report of Investigation*.
- (2) The Applicant shall conduct a preconstruction conference prior to the commencement of any construction activities. Staff, the Applicant, and representatives of the primary contractor and all subcontractors for the project shall attend the preconstruction conference. The conference shall include a presentation of the measures to be taken by the Applicant and contractors to ensure compliance with all conditions of the certificate, and discussion of the procedures for on-site investigations by Staff during construction. Prior to the

conference, the Applicant shall provide a proposed conference agenda for Staff review and shall file a copy of the agenda on the case docket. The Applicant may conduct separate preconstruction conferences for each stage of construction.

- (3) Within 60 days after the commencement of commercial operation, the Applicant shall submit to Staff a copy of the as-built specifications for the entire facility. If the Applicant demonstrates that good cause prevents it from submitting a copy of the as-built specifications for the entire facility within 60 days after commencement of commercial operation, it may request an extension of time for the filing of such as-built specifications. The Applicant shall use reasonable efforts to provide as-built drawings in both hard copy and as geographically referenced electronic data.
- (4) Separate preconstruction conferences may be held for the different phases of civil construction and equipment installation. At least 30 days prior to each preconstruction conference, the Applicant shall submit to Staff, for review and acceptance, one set of detailed engineering drawings of the final project design for that phase of construction and mapping in the form of PDF, which the Applicant shall also file on the docket of this case, and geographically referenced data (such as shapefiles or KMZ files) based on final engineering drawings to confirm that the final design is in conformance with the certificate. Mapping shall include the limits of disturbance, permanent and temporary infrastructure locations, areas of vegetation removal and vegetative restoration as applicable, and specifically denote any adjustments made from the siting detailed in the application. The detailed engineering drawings of the final project design for each phase of construction shall account for geological features and include the identity of the registered professional engineer(s), structural engineer(s), or engineering firm(s), licensed to practice engineering in the state of Ohio who reviewed and approved the designs. All applicable geotechnical study results shall be included in the submission of the final project design to Staff.
- (5) At least 30 days prior to the preconstruction conference, the Applicant shall provide Staff, for review and acceptance, the final geotechnical engineering report. This shall include a summary statement addressing the geologic and soil suitability.
- (6) Should karst features be identified during additional geotechnical exploration or during construction, the Applicant shall avoid construction in these areas when possible.
- (7) The Applicant shall adhere to a minimum solar equipment setback of 50 feet from any existing potable water supply wells.

- (8) The Applicant shall adhere to a minimum solar equipment setback of 10 feet from any existing non-potable water wells.
- (9) At least 30 days prior to the preconstruction conference, the Applicant shall submit its emergency response plan on the case docket for Staff for review and acceptance. That plan shall include a provision(s) to keep the appropriate representatives of the City of Marion, Aqua Ohio - Marion, and Enterprise Baptist Church informed of the status of any spills, significant panel damage, and associated repair/remediation schedule.
- (10) The certificate shall become invalid if the Applicant has not commenced a continuous course of construction of the proposed facility within five years of the date of journalization of the certificate unless the Board grants a waiver or extension of time.
- (11) As the information becomes known, the Applicant shall file on the public docket the date on which construction will begin, the date on which construction was completed, and the date on which the facility begins commercial operation.
- (12) 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, to Staff within seven days of issuance or receipt by the Applicant and shall file such permits or authorizations on the public docket. The Applicant shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference.
- (13) 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.
- (14) At least 30 days prior to the start of construction, the Applicant shall file a copy of the final complaint resolution plan on the public docket. At least seven days prior to the start of construction and at least seven days prior to the start of facility operations, the Applicant shall notify via mail affected property owners and tenants including those individuals who were provided notice of the public informational meeting, residences located within one mile of the project area, parties to this case, county commissioners, township trustees, emergency responders, airports, schools, and libraries, as well as anyone who

has requested updates regarding the project. These notices shall provide information about the project including contact information and a copy of the complaint resolution plan. The start of construction notice shall include written confirmation that the Applicant has complied with all preconstruction-related conditions of the certificate, as well as a timeline for construction and restoration activities. The start of facility operations notice shall include written confirmation that the Applicant has complied with all construction-related conditions of the certificate as well as a timeline for the start of operations. The Applicant shall file a copy of these notices on the public docket. During the construction and operation of the facility, the Applicant shall submit to Staff a complaint summary report by the fifteenth day of April, July, October, and January of each year during construction and through the first five years of operation. The report shall include a list of all complaints received through the Applicant's complaint resolution process, a description of the actions taken toward the resolution of each complaint, and a status update if the complaint has yet to be resolved. The Applicant shall file a copy of these complaint summaries on the public docket.

- (15) The facility shall be operated in such a way as to assure that no more than 100 megawatts would be injected into the Bulk Power System at any time.
- (16) The Applicant shall not commence any construction of the facility until it has executed an Interconnection Service Agreement and Interconnection Construction Service Agreement with PJM Interconnection, which includes construction, operation, and maintenance of system upgrades necessary to integrate the proposed generating facility into the regional transmission system reliably and safely. The Applicant shall docket in the case record a letter stating that the Agreement has been signed or a copy of the executed Interconnection Service Agreement and Interconnection Construction Service Agreement.
- (17) Prior to construction, the Applicant shall finalize the architectural cultural resources investigations for the project. If the resulting survey work discloses a find of architectural significance, or a site that could be eligible for inclusion on the National Register of Historic Places, then the Applicant shall prepare a modification, or mitigation plan detailing how such site(s) will be avoided or impacts minimized. Any such mitigation effort, if needed, shall be developed in coordination with the Ohio Historic Preservation Office (“OHPO”) and submitted to Staff for review and acceptance.
- (18) Prior to commencement of construction, the Applicant shall submit to Staff for approval a solar panel perimeter fence type that is both small-wildlife permeable and aesthetically fitting for a rural location. Following Staff approval, the Applicant shall file details of this solar panel perimeter fence on the public docket. This condition shall not apply to substation fencing.

- (19) Prior to commencement of construction, the Applicant shall prepare a landscape and lighting plan in consultation with a landscape architect licensed by the Ohio Landscape Architects Board that addresses the aesthetic and lighting impacts of the facility with an emphasis on any locations where an adjacent non-participating parcel contains a residence with a direct line of sight to the project area. The plan shall include measures such as fencing, vegetative screening or good neighbor agreements. Unless alternative mitigation is agreed upon with the owner of any such adjacent, non-participating parcel containing a residence with a direct line of sight to the fence of the facility, the plan shall provide for the planting of vegetative screening designed by the landscape architect to enhance the view from the residence and be in harmony with the existing vegetation and viewshed in the area. The Applicant shall adjust its landscape and lighting plan to incorporate additional planting design features or measures to address aesthetic impacts to the traveling public, nearby communities, and recreationalists. The Applicant shall maintain vegetative screening for the life of the facility and the Applicant shall replace any failed plantings so that, after five years, at least 90 percent of the vegetation has survived. The Applicant shall maintain all fencing along the perimeter of the project in good repair for the term of the project and shall promptly repair any damage as needed. Lights shall be motion-activated and designed to narrowly focus light inward toward the facility, such as being downward-facing and/or fitted with side shields. The Applicant shall provide the plan to Staff for review and confirmation that it complies with this condition.
- (20) General construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m., or until dusk when sunset occurs after 7:00 p.m. Impact pile driving shall be limited to the hours between 9:00 a.m. and 6:00 p.m. Impact pile driving may occur between 7:00 a.m. and 9:00 a.m., and after 6:00 p.m. or until dusk when sunset occurs after 6:00 p.m., if the noise impact at non-participating receptors is not greater than daytime ambient Leq plus 10 dBA. If impact pile driving is required between 7:00 a.m. and 9:00 a.m., and after 6:00 p.m. or until dusk when sunset occurs after 6:00 p.m., the Applicant shall install a noise monitor in a representative location to catalog that this threshold is not being exceeded. Hoe ram operations, if required, shall be limited to the hours between 10:00 a.m. and 4:00 p.m., Monday through Friday. Construction activities that do not involve noise increases above ambient levels at sensitive receptors are permitted outside of daylight hours when necessary. The Applicant shall notify property owners or affected tenants within the meaning of Ohio Adm.Code 4906-3-03(B)(2) of upcoming construction activities including potential for nighttime construction.
- (21) If the inverters or substation transformer chosen for the project have a higher sound power output than the models used in the noise model, the Applicant

shall show that sound levels will not exceed the daytime ambient level plus five dBA at any non-participating sensitive receptor and will be submitted at least 30 days prior to construction. If noise data is not available from the inverter or transformer manufacturer, an operational noise test may be performed to comply with this condition. The test must be performed on a sunny day between 10:00 a.m. and 2:00 p.m. in the months of May-August, at a distance equal to the minimum distance from an inverter to a non-participating residence. If the test shows the operational noise level is greater than project area ambient Leq level plus five dBA additional noise mitigation will be required. This condition is complied with if the test shows the operational noise level is equal or less than project area ambient Leq level plus five dBA. The Applicant shall file a report on the public docket that shows either: 1) for the chosen inverter and substation transformer that sound levels will not exceed the daytime ambient level plus five dBA at any non-participating sensitive receptor, or 2) results of the operational noise test showing that sound levels will not exceed the daytime ambient level plus five dBA at any non-participating sensitive receptor.

- (22) The Applicant shall avoid, where possible, or minimize to the extent practicable, any damage to functioning field tile drainage systems and soils resulting from the construction, operation, and/or maintenance of the facility in agricultural areas. Damaged field tile systems shall be promptly repaired or rerouted to at least original conditions or modern equivalent at the Applicant's expense to ensure proper drainage. However, if the affected landowner agrees to not having the damaged field tile system repaired, they may do so only if the field tile systems of adjacent landowners remain unaffected by the non-repair of the landowner's field tile system and the damaged field tile system does not include a lateral or main draining to or from an adjacent parcel.
- (23) The Applicant shall ensure that nearby parcels are protected from unwanted drainage problems due to construction and operation of the project. The Applicant shall ensure this by either 1) documenting benchmark conditions of surface and subsurface drainage systems prior to construction, including the location of laterals, mains, grassed waterways, and county maintenance/repair ditches. The Applicant will make efforts to conduct a perimeter dig utilizing a tile search trench and consult with owners of all parcels adjacent to the property, the county soil and water conservation district, and the county to request drainage system information over those parcels. The Applicant shall consult with the county engineer for tile located in a county maintenance/repair ditch, or 2) locate and replace all project field tile drainage systems in the project area, or 3) in addition to prompt repair as required under Condition 22, agree to compensate parcels owners affected by damage to functioning field tile drainage systems and soils resulting from the construction, operation, and/or maintenance of the facility in agricultural areas for damage to crops or other agricultural activities.

- (24) The Applicant shall contact Staff, the Ohio Department of Natural Resources (“ODNR”), and the U.S. Fish and Wildlife Service (“USFWS”) within 24 hours if state or federal listed species are encountered during construction activities. Construction activities that could adversely impact the identified plants or animals shall be immediately halted until an appropriate course of action has been agreed upon by the Applicant, Staff and the appropriate agencies.
- (25) If the Applicant encounters any new listed plant or animal species or suitable habitat of these species prior to construction, the Applicant shall include the location in the final engineering drawings and associated mapping. The Applicant shall avoid impacts to these species and explain how impacts would be avoided during construction.
- (26) The Applicant shall construct the facility in a manner that incorporates post construction stormwater management under OHC00005 (Part III.G.2.e, pp. 19-27) in accordance with the Ohio Environmental Protection Agency's Guidance on Post-Construction Storm Water Controls for Solar Panel Arrays.
- (27) The Applicant shall adhere to seasonal cutting dates of October 1 through March 31 for the removal of trees three inches or greater in diameter to avoid impacts to listed bat species, unless coordination with ODNR and USFWS allows a different course of action. If coordination with these agencies allows clearing between April 1 and September 30, the Applicant shall docket proof of completed coordination on the case docket prior to clearing trees.
- (28) The Applicant shall conduct no in-water work in perennial streams from April 15 through June 30 to reduce impacts to indigenous aquatic species and their habitat, unless coordination efforts with the Ohio Department of Natural Resources allows a different course of action.
- (29) The Applicant shall take steps to prevent establishment and/or further propagation of noxious weeds identified in Ohio Adm.Code Chapter 901:5-37 during implementation of any pollinator-friendly plantings as well as during construction, operation, and decommissioning. This would be achieved through appropriate seed selection, and annual vegetative surveys. If noxious weeds are found to be present, the Applicant shall remove and treat them with herbicide as necessary.
- (30) Prior to commencement of construction activities that require transportation permits, the Applicant shall obtain all such permits. The Applicant shall coordinate with the appropriate authority regarding any temporary road closures, road use agreements, driveway permits, lane closures, road access restrictions, and traffic control necessary for construction and operation of the proposed facility. Coordination shall include, but not be limited to, the Marion County Engineer, the Ohio Department of Transportation (“ODOT”), local law enforcement, and health and safety officials. The Applicant shall detail this coordination as part of a final transportation

management plan submitted to Staff prior to the preconstruction conference for review and confirmation by Staff that it complies with this condition and then file the plan on the public docket. This final transportation management plan would include any county required road use maintenance agreements. Any damaged public roads, culverts and bridges would be repaired promptly to their previous or better condition by the Applicant under the guidance of the appropriate regulatory authority. Any temporary improvements would be removed unless the appropriate regulatory authority requests that they remain in place.

- (31) At least 30 days prior to the preconstruction conference, the Applicant shall submit an updated decommissioning plan and total decommissioning cost estimate without regard to salvage value on the public docket. The plan shall include solar components and, prior to construction of the battery energy storage (“BESS”), the BESS components and the cost estimate for the BESS must be added to the plan. The plan shall include: (a) a provision that the decommissioning financial assurance mechanism include a performance bond where the company is the principal, the insurance company is the surety, and the Ohio Power Siting Board is the obligee; (b) a timeline of up to one year for removal of the equipment; (c) a provision to monitor the site for at least one additional year to ensure successful revegetation and rehabilitation; (d) a provision where the performance bond is posted prior to the commencement of construction; (e) a provision that the performance bond is for the total decommissioning cost and excludes salvage value; (f) a provision to coordinate repair of public roads damaged or modified during the decommissioning and reclamation process; (g) a provision that the decommissioning plan be prepared by a professional engineer registered with the state board of registration for professional engineers and surveyors; (h) a provision stating that the bond shall be recalculated every five years by an engineer retained by the Applicant; (i) a provision that the BESS decommissioning cost estimate not include salvage value (this provision only applies prior to construction of the BESS components); and (j) a provision that the BESS decommissioning cost include a significant contingency percentage which can be lowered to ten percent if the Applicant demonstrates environmental insurance coverage has been obtained that covers hazardous waste remediation (this provision only applies prior to construction of the BESS components).
- (32) At the time solar panel end of life disposal, retired panels marked for disposal shall be sent to an engineered landfill with various barriers and methods designed to prevent leaching of materials into soils and groundwater.

B. Exhibits

Subject to the terms and conditions of this Stipulation, the Applicant, Staff and the OFBF agree, stipulate, and recommend that the following exhibits submitted to this docket be marked and admitted into the record of this proceeding:

1. Applicant Exhibit 1: Application filed on March 5, 2021.
2. Applicant Exhibit 2: Supplement to the Application filed on March 31, 2021.
3. Applicant Exhibit 3: Response to First Data Request filed on April 20, 2021.
4. Applicant Exhibit 4: Response to Second Data Request filed on April 27, 2021.
5. Applicant Exhibit 5: Supplemental Response to First Data Request filed on June 29, 2021.
6. Applicant Exhibit 6: Response to Third Data Request filed on July 16, 2021.
7. Applicant Exhibit 7: Supplemental Response to Third Data Request filed on July 23, 2021.
8. Applicant Exhibit 8: Response to Fourth Data Request filed on August 23, 2021.
9. Applicant Exhibit 9: Certificate of Service of the February 17, 2021 Public Information Meeting, notice on property owners and entities filed on February 4, 2021, in accordance with Ohio Adm.Code 4906-3-03.
10. Applicant Exhibit 10: Proof of Publication of the February 17, 2021 Public Information Meeting in the *Marion Star* filed on February 5, 2021, in accordance with Ohio Adm.Code 4906-3-03.
11. Applicant Exhibit 11: Certificate of Service of the accepted, complete application on local public officials and libraries filed on May 6, 2021, in accordance with Ohio Adm.Code 4906-3-07.
12. Applicant Exhibit 12: Proof of Service and Proof of Publication in the *Marion Star* of the procedural schedule, in accordance with the ALJ's July 27, 2021 Entry, filed on August 24, 2021.

13. Applicant Exhibit 13: Proof of Second Service and Proof of Second Publication in the *Marion Star* of the procedural schedule, in accordance with the ALJ's July 27, 2021 Entry, filed on September 23, 2021.
14. Joint Exhibit 1: The October 13, 2021, Stipulation signed on behalf of the Applicant, Staff, and the OFBF.

C. Other Terms of the Stipulation

1. This Stipulation is expressly conditioned upon its adoption by the Board without material modification. Each Signatory Party has the right, in its sole discretion, to determine whether the Board's approval of this Stipulation constitutes a "material modification" thereof. If the Board rejects or materially modifies all of any part of this Stipulation, any Signatory Party shall have the right to apply for rehearing. If the Board does not adopt the Stipulation without material modification upon rehearing, or if the Board makes a material modification to any Order adopting the Stipulation pursuant to any reversal, vacation and/or remand by the Supreme Court of Ohio, then within 30 days of the Board's Entry on Rehearing or Order on Remand any Signatory Party may withdraw from the Stipulation by filing a notice with the Board ("Notice of Withdraw"). No Signatory Party shall file a Notice of Withdraw without first negotiating in good faith with the other Signatory Parties to achieve an outcome that substantially satisfies the intent of the Stipulation. If a new agreement achieves such an outcome, the Signatory Parties will file the new agreement for the Board's review and approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are unsuccessful, and a Signatory Party files a Notice of Withdrawal, then the Board will convene an evidentiary hearing to afford the Signatory Party the opportunity to contest the Stipulation by presenting evidence through witnesses, to cross examine witnesses, to present rebuttal testimony, and to brief all issues that the Board shall decide based upon the record and briefs. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are successful, then some or all of the Signatory Parties shall submit the amended Stipulation to the Board for approval after hearing if necessary.
2. The Signatory Parties agree and recognize that this Stipulation has been entered into only for the purpose of this proceeding. Each party agrees not to assert against another party in any proceeding before the Board or any court, other than in a proceeding to enforce the terms of this Stipulation, that party's participation in this Stipulation as support for any particular position on any issue. Each party further agrees that this Stipulation carries no factual or legal precedent on any issue. The parties request that the Board recognize that its use of this Stipulation in any proceeding other than this

proceeding is contrary to the intentions of the parties in entering into this Stipulation.

III. RECOMMENDED FINDINGS

The Signatory Parties agree that the record in this case, provided the Board approves the conditions in this Stipulation, contains sufficient probative evidence for the Board to find and determine, as findings of fact and conclusions of law, that:

A. Recommended Findings of Fact

1. The Applicant is a wholly owned subsidiary of Savion LLC, and is licensed to do business in the state of Ohio.
2. The facility qualifies as a major utility facility as defined in R.C. 4906.01(B)(1).
3. On February 4, 2021, the preapplication notification letter was filed informing the Board of the public information meeting in this proceeding. Notice of the public information meeting was served on county and township officials and agencies, property owners, local first responders, the local school district, and the local library, and published in the *Marion Star*. The public information meeting was held, as scheduled, on February 17, 2021.
4. The Applicant formally submitted its application for a Certificate of Environmental Compatibility and Public Need on March 5, 2021.
5. The OFBF filed a motion for intervention which the ALJ granted on September 10, 2021.
6. On May 4, 2021, the Staff filed a letter stating that it had received sufficient information to begin its review of the Application as supplemented.
7. On May 14, 2021, the Applicant filed notice that the Application fee had been submitted.
8. On May 6, 2021, the Applicant filed a certificate of service indicating that a copy of the Application was served on local public officials and libraries.
9. By entry issued on July 27, 2021, the ALJ established the procedural schedule and scheduled the local public and evidentiary hearings for September 28 and October 28, 2021, respectively.

10. On August 24 and September 23, 2021, the Applicant filed proof that the first and second notices of the procedural schedule were served and published in the *Marion Star*.
11. The Staff Report was filed on September 13, 2021.
12. The public hearing was held on September 28, 2021.
13. On October 13, 2021, the Applicant, Staff, and OFBF filed the Stipulation.
14. The adjudicatory hearing is scheduled to commence on October 28, 2021.
15. The basis of need, as specified under R.C. 4906.10(A)(1), is not applicable to this generating facility project.
16. Adequate data on the project has been provided to determine the nature of the probable environmental impact, as required by R.C. 4906.10(A)(2).
17. Adequate data on the project has been provided to determine that the facility described in the application represents the minimum adverse environmental impact, considering the available technology and nature and economies of the various alternatives, and other pertinent considerations, as required by R.C. 4906.10(A)(3).
18. Adequate data on the project has been provided to determine that, because the project is an electric generation facility, the proposed electric generating facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving the state of Ohio and interconnected utility systems, and that the facility will serve the interests of electric system economy and reliability, and the requirements of R.C. 4906.10(A)(4) are met.
19. Adequate data on the project has been provided to determine that, to the extent that any of them are applicable, the solar-powered generation facility will comply with the requirements in the R.C. regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous waters, and air navigation, and all regulations thereunder, as required by R.C. 4906.10(A)(5).
20. Adequate data on the project has been provided to determine that the facility will serve the public interest, convenience, and necessity, as required by R.C. 4906.10(A)(6).

21. Adequate data on the project has been provided to determine what the facility's impact will be on the viability as agricultural land of any land in an existing agricultural district established under R.C. Chapter 929 that is located within the site of the proposed facility, as required by R.C. 4906.10(A)(7).
22. Adequate data on the project has been provided to determine that the facility as proposed incorporates maximum feasible water conservation practices considering available technology and the nature and economics of the various alternatives, as required by R.C. 4906.10(A)(8).
23. The record evidence in this matter provides sufficient factual data to enable the Board to make an informed decision.

B. Recommended Conclusions of Law

1. The Applicant is a "person" under R.C. 4906.01(A).
2. The proposed facility is a major utility facility as defined in R.C. 4906.01(B)(1).
3. The application complies with the requirements of Ohio Adm.Code Chapter 4906-3.
4. The requirement for the need for the facility under R.C. 4906.10(A)(1) is inapplicable.
5. The record establishes the nature of the probable environmental impact from construction, operation, and maintenance of the facility under R.C. 4906.10(A)(2).
6. The record establishes that the facility, if conditioned in the certificate as recommended by the Signatory Parties, represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations under R.C. 4906.10(A)(3).
7. The record establishes that the facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving the state of Ohio and interconnected utility systems, and will serve the interests of electric system economy and reliability, as required by R.C. 4906.10(A)(4).
8. The record establishes, as required by R.C. 4906.10(A)(5), that, to the extent that any of them are applicable, construction of the proposed facility will comply with the requirements in the R.C. regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous waters, and

air navigation, and all rules and standards adopted under the relevant Chapters of the R.C.

9. The record establishes that the facility, if conditioned in the certificate as recommended by the Signatory Parties, will serve the public interest, convenience, and necessity under R.C. 4906.10(A)(6).
10. The facility's impact on the viability as agricultural land of any land in an existing agricultural district has been determined under R.C. 4906.10(A)(7).
11. The record establishes that the facility would incorporate maximum feasible water conservation practices under R.C. 4906.10(A)(8).
12. Based on the record, the Signatory Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for construction, operation, and maintenance of the facility, which includes the conditions in the Staff Report, as presented and modified by this Stipulation

The undersigned hereby stipulate and agree and they represent that they are authorized to enter into this Joint Stipulation and Recommendation.

(Signatures on following page)

Respectfully submitted on behalf of,

THE STAFF OF THE OHIO POWER SITING BOARD

By: /s/ Thomas Lindgren CMTP per 10/13/21 email

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THE OHIO FARM BUREAU FEDERATION

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Summary: Stipulation and Recommendation electronically filed by Christine M.T. Pirik on behalf of Marion County Solar Project, LLC