THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF CLEARVIEW SOLAR I, LLC FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED.	**CASE NO. 20-1362-EL-BGN**

OPINION, ORDER, AND CERTIFICATE

Entered in the Journal on October 21, 2021

I. SUMMARY

{¶ 1} The Ohio Power Siting Board issues a certificate of environmental compatibility and public need to Clearview Solar I, LLC for the construction, operation, and maintenance of the solar-powered electric generation facility, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate.

II. PROCEDURAL BACKGROUND

{¶ 2} All proceedings before the Ohio Power Siting Board (Board) are conducted according to the provisions of R.C. Chapter 4906 and Ohio Adm.Code Chapter 4906-1, et seq.

{¶ 3} Clearview Solar I, LLC (Clearview or Applicant) is a person as defined in R.C. 4906.01.

{¶ 4} 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). In seeking a certificate, applicants must comply with the filing requirements outlined in R.C. 4906.04, as well as Ohio Adm.Code Chapters 4906-2 through 4906-4.

{¶ 5} 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 were urged to heed the advice of the Department of Health regarding this public health emergency in order to protect their health and safety. The Executive Order was effective immediately and was to remain in effect until rescinded. The Department of Health is making COVID-19 information, including information on preventative measures, available via the internet at coronavirus.ohio.gov/.

{¶ 6} Pursuant to R.C. 3701.13, the 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 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."

{¶ 7} On September 17, 2020, Applicant filed a preapplication notification letter with the Board, consistent with Ohio Adm.Code 4906-3-03(A), regarding its proposed construction of a 144 megawatt (MW) solar-powered electric generation facility (Facility) in Champaign County, Ohio. Due to the restrictions in place during the COVID-19 emergency, on the same date, Applicant filed a letter of compliance regarding service of notice to each property owner and affected tenant within the project area and proof of publication regarding the public information meetings with the Board on September 17, 2020, and October 2, 2020, respectively. Applicant met the public information meeting requirement of Ohio Adm.Code 4906-3-03(B) by holding a virtual public information meeting on October 6, 2020, as well as a telephone-only public information meeting on October 8, 2020.

{¶ 8} On December 18, 2020, Applicant filed an application with the Board for a certificate of environmental compatibility and public need to construct the Facility. Simultaneous with its application, Applicant filed a motion requesting a waiver of the requirements of Ohio Adm.Code 4906-4-08-(D)(2)-(4) in order to reduce the study area of impacts to cultural resources and landmarks and the study area of impacts for recreation and scenic areas and visual impacts.

{¶ 9} On December 29, 2020, Board Staff (Staff) filed correspondence regarding Applicant's motion for waiver, in which Staff stated that it felt that the requested waiver should be granted based upon the rationale offered by Applicant in its motion and supporting memorandum.

{¶ 10} By Entry issued January 11, 2021, the administrative law judge (ALJ), pursuant to Ohio Adm.Code 4906-4-01(B), granted Applicant's request for waiver of Ohio Adm.Code 4906-4-08(D)(2)-(4).

{¶ 11} By letter dated February 16, 2021, the Board notified Applicant that its application was compliant and provided sufficient information to permit Staff to commence its review and investigation.

{¶ 12} On March 1, 2021, Applicant filed a certificate of service of its accepted and complete application and, on March 4, 2021, filed proof that it submitted its application fee to the Treasurer of the State of Ohio, as required by Ohio Adm.Code 4906-3-07.

{¶ 13} On March 12, 2021, the Board of Commissioners of Champaign County, Ohio (Board of Commissioners) filed a notice of intervention pursuant to Ohio Adm.Code 4906-2-12.

{¶ 14} By Entry issued March 15, 2021, the ALJ established the effective date of the application as March 15, 2021, scheduled a public hearing for June 8, 2021, and scheduled the adjudicatory hearing for July 1, 2021. Additionally, this 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 April 29, 2021, whichever was later. Finally, the Entry established deadlines for all parties to file testimony, as well as for the filing of any stipulation, and indicated that the public and adjudicatory hearings would both be held using remote access technology that facilitates participation by telephone and/or live video on the internet.

{¶ 15} On March 30, 2021, Applicant filed proof of publication attesting that, in accordance with R.C. 4906.06(C), Applicant published notice of the procedural schedule and the accepted, complete application in the *Bellefontaine Examiner*, *Urbana Daily Citizen*, and *Sidney Daily News*, each newspapers of general circulation in the project area. In addition, this filing stated that Applicant served the initial written notice required under Ohio Adm.Code 4906-3-09(A)(1).

{¶ 16} On April 27, 2021, the Ohio Farm Bureau Federation (OFBF) filed a motion to intervene pursuant to Ohio Adm.Code 4906-2-12.

{¶ 17} 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 Centers for Disease Control and Prevention. These new guidelines became effective in the state of Ohio on June 2, 2021.

{¶ 18} On May 24, 2021, Staff filed its report of investigation (Staff Report).

{¶ 19} On June 2, 2021, Applicant filed proof of publication attesting that, in accordance with Ohio Adm.Code 4906-3-09(A)(2), Applicant published a second notice of the procedural schedule and the accepted, complete application in the *Bellefontaine Examiner*, *Urbana Daily Citizen*, and *Sidney Daily News*, each newspapers of general circulation in the project area. In addition, this filing stated that Applicant served written notice required under Ohio Adm.Code 4906-3-09(A)(1).

{¶ 20} On June 4, 2021, Applicant filed its list of issues about which it may be interested in pursuing cross-examination of witnesses at the adjudicatory hearing.

{¶ 21} A local public hearing was held via Webex on June 8, 2021. Fourteen witnesses provided testimony concerning the Facility.

{¶ 22} In light of the updated COVID guidelines, and to afford the public an additional in-person opportunity to testify regarding the Facility, the ALJ issued an Entry on June 17, 2021, which suspended the outstanding procedural deadlines and stated that a second, in-person local public hearing would be held near the area of the proposed Facility. The ALJ stated that a new procedural schedule and dates for subsequent hearings would be established by future entry. Further, acknowledging that Applicant had already filed proofs of service and public notices with respect to the adjudicatory hearing scheduled for July 1, 2021, the ALJ directed that the adjudicatory hearing would be called and then continued to a date to be determined by future entry. This Entry also granted the Board of Commissioners intervenor status and granted OFBF's motion to intervene.

{¶ 23} The adjudicatory hearing was held via Webex on July 1, 2021 and was called and continued to a future date.

{¶ 24} By Entry issued July 19, 2021, the ALJ scheduled a second local public hearing, to be held in-person, for August 19, 2021, at the Fire/Township Meeting Room, 10778 W. St. Rt. 29, Rosewood, Ohio 43070. The ALJ also scheduled the adjudicatory hearing to recommence on September 1, 2021, at 10:00 a.m., at the office of the Public Utilities Commission of Ohio (Commission). Finally, this Entry reestablished procedural deadlines for the parties to file testimony and any stipulation.

{¶ 25} On August 17, 2021, Applicant filed a second proof of publication and service of second procedural schedule, attesting that notice of the accepted, complete application was published in the *Sidney Daily News*, *Urbana Daily Citizen*, and *Bellefontaine Examiner*, each newspapers of general circulation in the project area. Additionally, this filing states that written notice required under Ohio Adm.Code 4906-3-09(A) was also served.

{¶ 26} On August 19, 2021, the second local public hearing was held at the Fire/Township Meeting Room, 10778 W. St. Rt. 29, Rosewood, Ohio 43070. Testimony was offered by or on behalf of 22 individuals concerning the Facility.

{¶ 27} On August 25, 2021, Applicant, Staff, OFBF, and the Board of Commissioners filed a joint stipulation and recommendation (Stipulation) through which the parties intend to resolve all matters pertinent to the certification and construction of the Facility. Additionally, on August 25, 2021, Applicant filed the direct testimony of Douglas Herling.

{¶ 28} On August 27, 2021, Staff filed the direct testimony of Andrew Conway.

{¶ 29} On August 31, 2021, Applicant filed the Board of Commissioners' signature page to the Stipulation.

{¶ 30} On September 1, 2021, the adjudicatory hearing recommenced at the offices of the Commission. On behalf of Applicant, Douglas Herling presented his direct testimony (App. Ex. 20) in support of the application (App. Ex. 1), the Stipulation (Joint Exs. 1 and 1A), and a number of exhibits identified in the Stipulation and during the hearing (App. Exs. 2-19). On behalf of Staff, Andrew Conway presented his direct testimony (Staff Ex. 1) and sponsored the Staff Report (Staff Ex. 2) for admission into the record.

III. PROJECT DESCRIPTION

{¶ 31} Applicant seeks certification to build a 144 MW solar-powered electric generation facility in Adams Township, Champaign County, Ohio. The Facility would consist of large arrays of photovoltaic panels, commonly referred to as solar panels, which will be ground-mounted on a tracking rack system. The Facility would occupy approximately 1,075 acres within an approximate 1,195-acre project area. The Facility would include associated support facilities such as access roads, underground electric collection lines, weather stations, inverters and transformers, a collection substation, a 138 kilovolt generation interconnection (gen-tie) electric transmission line, and laydown areas for construction staging. The project area would be secured by six-foot tall perimeter fencing and be accessed through gated entrances. Applicant expects to finalize the interconnection agreement in mid-2021 and proposes to begin construction near the end of

2021, with construction continuing through most of the next year and the Facility placed in service by the end of 2022.

IV. CERTIFICATION CRITERIA

{¶ 32} Pursuant to R.C. 4906.10(A), the Board shall not grant a certificate for the construction, operation, and maintenance of a major utility facility, either as proposed or as modified by the Board, unless it finds and determines all of the following:

(1) The basis of the need for the facility if the facility is an electric transmission line or a gas or natural gas transmission line;

(2) The nature of the probable environmental impact;

(3) The facility 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;

(4) In the case of an electric transmission line or generating facility is consistent with regional plans for the expansion of the electric power grid of the electric systems serving this state and interconnected utility systems and that the facility will serve the interests of electric system economy and reliability;

(5) The facility will comply with R.C. Chapters 3704, 3734, and 6111, as well as all rules and standards adopted under those chapters and under R.C. 4561.32;

(6) The facility will serve the public interest, convenience, and necessity;

(7) The impact of the facility 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 and alternate site of any proposed major facility; and

(8) The facility incorporates maximum feasible water conservation practices as determined by the Board, considering available technology and the nature and economics of various alternatives.

V. SUMMARY OF THE EVIDENCE

{¶ 33} The Board will review the evidence presented with regard to each of the eight criteria by which we are required to evaluate applications. Any evidence not specifically addressed herein has nevertheless been considered and weighed by the Board in reaching its final determination.

A. Local Public Hearings

{¶ 34} On June 8, 2021, a local public hearing was conducted through Webex, and 14 witnesses provided testimony. Six witnesses testified in support of the proposed Facility and eight voiced opposition to its construction and operation. Three of the witnesses supporting the Facility testified as to the diversification of income for participating farmers, as they contend that the Facility will provide steady income to landowners. (Pub. Tr. I at 15, 26-27, 31.) Additionally, farmers with land committed to the Facility spoke about the increase in tax revenues for the local community that the Facility will generate and the job creation that will result from its construction and operation (Pub. Tr. I at 16-17, 20-21). Two witnesses were members of the International Brotherhood of Electrical Workers (IBEW) and testified as to the electrical jobs they believe will result from the Facility (Pub. Tr. I at 42, 53). The majority of witnesses opposed to the Facility testified that they do not believe that the land in the proposed project area should be converted from active, productive farmland to grounds for a solar facility (Pub. Tr. I at 35-36, 50, 61-62, 69-70, 83). Multiple witnesses testified as to their concerns about the impact that the Facility will have on local wildlife and the safety of the environment in general (Pub. Tr. I at 48-50, 57-58, 80-81, 83-84). Witnesses

had specific concerns about the Facility's potential impact on local groundwater supplies and drain tile around the project area. (Pub. Tr. I at 37, 47-48, 79, 83, 85). Witnesses also expressed doubt as to the viability of a solar facility in Ohio and questioned the projected economic benefits that will accompany the construction and operation of the Facility (Pub. Tr. I at 37-38, 65-66, 68, 74-76). Finally, multiple witnesses stated that those properties participating in the project are owned by individuals who do not actually live in the local community (Pub. Tr. I at 36, 51, 57, 74).

{¶ 35} In light of updated COVID-19 guidelines, and in order to offer the public an additional in-person opportunity to testify regarding the Facility, a second local public hearing was held on August 19, 2021, at the Fire/Township Meeting Room, 10778 W. St. Rt. 29, Rosewood, Ohio 43070. At this hearing, testimony was offered by or on behalf of 22 individuals, eight of whom also previously testified at the June 8, 2021 Webex public hearing. Of the new witnesses, five witnesses voiced opposition to the Facility while seven individuals offered support. Of the seven supporting the Facility, three individuals unable to attend in-person had letters read into the record by a relative in attendance. Those supporting the proposed project pointed out the energy diversification and lower energy costs that they believe the Facility will provide (Pub. Tr. II at 35-36, 40, 53-54). In addition, supporters of the Facility believe that the Facility will offer many economic benefits, including increased tax revenue for local schools and governments and mitigation of risk for participating landowners (Pub. Tr. II at 54, 64, 66-67). One witness also asserted that construction and operation of the Facility would have no effect on property values (Pub. Tr. II at 35). A representative for Operating Engineers Local 18 testified that the Facility would create jobs for its members (Pub. Tr. II at 27-28). New witnesses opposed to the Facility voiced concerns about the negative effect of the Facility on the environment and local wildlife (Pub. Tr. II at 13, 18-20). In addition, witnesses testified that the solar facility would disturb the quiet, rural nature of the community (Pub. Tr. II at 12, 80-82). Witnesses also questioned the viability of solar panels in Ohio (Pub Tr. II at 22-23, 29-30, 80). One new witness raised concerns about potential damage to drain tile and an increase in flooding in

the area. This concern was echoed by a witness who questioned the effects the Facility would have on drain tile but did not explicitly oppose the project. (Pub. Tr. II at 42, 45.) One witness testifying on behalf of the Adams Township Trustees questioned how revenue generated by the Facility would be split among local government entities (Pub. Tr. II at 48).

{¶ 36} Of the eight witnesses at the in-person local public hearing that had previously testified at the Webex hearing, six testified in opposition to the Facility and two offered support of the Facility. One witness supporting the Facility stressed the importance of diversification for local farmers, while the other was a representative of the IBEW and believes that the Facility will create jobs (Pub. Tr. II at 58-59, 75-76). Returning witnesses opposed to the construction and operation of the Facility reiterated similar concerns to those raised during their testimonies at the June 8, 2021 virtual hearing. The primary concerns raised again at this hearing centered on prime farmland being converted to use by solar panels (Pub. Tr. II at 71-72, 93, 102, 106) and the negative impacts of the Facility on local groundwater sources, the flow of water in the area, and drain tile on neighboring properties (84-86, 87, 97-100, 102). Two witnesses also stated their concerns that the property of non-participating landowners was already being trespassed on and are worried that this problem would only worsen if construction of the Facility begins (Pub. Tr. II at 90-91, 94).

{¶ 37} Sixteen public comments regarding the proposed Facility have been received by the Board. One of the public comments filed on the docket in this case supports the proposed Facility, while 13 are opposed to its construction and operation. Two of the public comments are clarifications of testimony or documents submitted as testimony at the in-person local public hearing.

B. Staff Report

{¶ 38} Pursuant to R.C. 4906.07(C), Staff completed an investigation into the application, which included recommended findings regarding R.C. 4906.10(A). The following is a summary of Staff's findings.

1. BASIS OF NEED

{¶ 39} R.C. 4906.10(A)(1) requires an applicant for an electric transmission line or gas pipeline to demonstrate the basis of the need for such a facility. Because the Facility is a proposed electric generation facility, Staff recommends that the Board find that this consideration is inapplicable. (Staff Ex. 2 at 9.)

2. NATURE OF PROBABLE ENVIRONMENTAL IMPACT

{¶ 40} R.C. 4906.10(A)(2) requires that the Board determine the nature of the probable environmental impact of the proposed facility. As a part of its investigation, Staff reviewed the nature of the probable impact of the solar farm and the following is a summary of Staff's findings:

a. Socioeconomic Impacts

{¶ 41} Staff agrees with Applicant's assessment that the proposed Facility is not expected to conflict with existing land use planning outlined in the comprehensive plan for Champaign County, due to the way Applicant proposes to mitigate potential impacts and as a result of Staff's recommendations in its Staff Report. Further, Staff believes that the Facility would be expected to aid regional development by increasing local tax revenues. Staff states that the Facility appears consistent with agricultural industry support, as it would provide supplemental income to farmers and the land could be returned to agricultural production upon decommissioning of the Facility. Staff states that the predominant land use within the project area is agricultural. Staff states that about 1,164 acres of agricultural land would be converted to solar and ancillary uses. Staff asserts that no significant impacts to residential, commercial, industrial, recreational, and institutional land is anticipated and that surrounding agricultural land use would continue with minimal disruption. (Staff Ex. 2 at 10.)

{¶ 42} Staff believes that construction and operation of the Facility would not physically impact any recreation areas. Staff states that Applicant identified 13 recreational

areas within five miles of the project area but that according to Applicant's visual impact study, visibility of the Facility is not anticipated at 11 of those recreation areas. The Facility is expected to be visible from some edges of the Thompson Nature Preserve and Floyd Finrock City Park. After its review of Applicant's viewshed analysis, Staff determined that significant adverse aesthetic impacts on recreation areas are not likely. (Staff Ex. 2 at 10.)

{¶ 43} In further analysis of the aesthetic impact, Staff reports that the rural nature of the area surrounding the Facility generally limits the number of potential viewers. The solar panels are proposed to be installed approximately 15 feet above ground level. According to Applicant's five-mile visual resources report, the solar panels would not likely be visible at locations beyond 1.5 miles of the perimeter of the Facility. Staff states that existing landscape features limit likely concentration of viewshed impacts to a half-mile. Applicant's visual impact study included a mitigation plan in the form of vegetative screening, of numerous plant species of varying height and variety, at selected areas around the project site. The landscape mitigation plan further proposes the installation of various planting modules along the Facility fence line to soften viewshed impacts and blend the Facility into the existing vegetation. The locations of the planting modules will be determined based on the location of sensitive receptors such as non-participating residential structures. Staff states that it is concerned about aesthetic impacts related to the Facility's perimeter fencing. Based on the rural setting of the project, Staff believes that fencing options such as "deer fences" and wooden fences would be ideal. Assuming implementation of the landscape and lighting and fencing conditions outlined in the Staff Report, and with the details provided in the programmatic agreement executed by Applicant and the Ohio Historic Preservation Office (OHPO) on March 19, 2021, Staff believes that the overall expected aesthetic impact of the Facility would be minimal. (Staff Ex. 2 at 10-11.)

{¶ 44} As opposed to subjective aesthetic concerns, glare is an objective phenomenon where sunlight reflects from the solar panels to create a duration of bright light. Included in glare is the concept of glint, which is a momentary flash of bright light.

The potential impacts from solar panel glare include a possible brief loss of vision, afterimage, a safety risk to pilots, and a perceived nuisance to neighbors. According to Applicant's glint and glare analysis, the Facility is not predicted to impact drivers along the local roads and nearby residences. Staff agrees with Applicant's study results and notes that Applicant's aesthetic impact mitigation measures will further reduce potential glare impacts. (Staff Ex. 2 at 14.)

{¶ 45} Applicant commissioned a cultural resources literature review for a two-mile radius around the proposed Facility. The historical survey initially identified 47 potential historic resources. On December 8, 2020, the OHPO issued a letter of concurrence stating that the OHPO agrees that if the Facility is completed as proposed, there will be no adverse effects on historic properties. On March 19, 2021, Applicant entered into a programmatic agreement with the OHPO, in which Applicant agreed to avoid adverse effects on cultural resources. Staff points out, however, that Applicant's May 3, 2021 response to data requests indicates that 150 acres of potential archaeological resources remain to be surveyed. Of the archaeological resources survey already completed at that time, Staff states that at least one site will be recommended for avoidance based on potential eligibility in the National Register of Historic Places. Of the 150 acres remaining to be surveyed, Staff recommends that the Board exclude those acres from the certified project area, because, at the time of issuance of the Staff report, Staff could not opine on the potential impacts in that area. Additionally, prior to filing an amendment or other filing for the Board's consideration on that 150 acre area, Staff recommends that Applicant: (1) complete all steps in the programmatic agreement to survey the 150 acre area; (2) receive OHPO concurrence on the results of the survey; and (3) comply with avoidance measures for any identified archaeological resources. Further, Staff states that if significant archaeological resources are identified and avoidance is not feasible, Applicant should work with the OPHO to develop a minimization/mitigation plan to be memorialized in a memorandum of understanding. Based upon the programmatic agreement between Applicant and the OHPO, as well as the conditions contained within the Staff Report, Staff determined that

minimal adverse environmental impacts to cultural resources would be achieved. (Staff Ex. 2 at 11-12.)

{¶ 46} Staff states that Applicant would own all the assets that comprise the Facility but will contract the construction and operation of the Facility to third parties. Applicant currently possesses over 90 percent of landowner agreements within the proposed project area. These landowner agreements will not alter the ownership status of the properties; however, Applicant will have the option to purchase certain properties, as detailed in the application. Staff notes that cost comparisons between the proposed Facility and other comparable facilities must be included in the application. Staff confirmed that the estimated capital costs for Applicant are not substantially different from the average capital costs for similar facilities and that the estimated capital costs for the Facility are not substantially different from recent solar projects of comparable scale undertaken by the Partners. [1] Staff also notes that Applicant provided operations and maintenance (O&M) expense comparisons between the proposed Facility and other comparable facilities, as required. Based upon costs information submitted in the application, O&M costs for utility-scale solar facilities in 2020 is predicted to be $8/kilowatt (kW) and the costs for projects undertaken by the Partners in the mid-Atlantic region were about $10-13/kW. Applicant predicts O&M costs at the Facility to be $9/kW in the first year of operations and to increase at a rate of approximately two percent annually. Applicant also provided estimates of the cost of delays in permitting and construction of the Facility. Applicant characterized permitting stage delay costs as being associated with the time value of delayed revenue payments and that these delays could cost Applicant $1,000,000 per month. Applicant also stated that delays could prevent the Facility from meeting federal Investment Tax Credit deadlines which could result in the loss of these benefits to Applicant. Applicant further states delays could result in penalties to the extent that they would prevent Applicant from meeting

---

1 Applicant is owned by Clean Planet Renewable Energy, which is a joint venture partnership between MAP Energy, Inc. and Open Road Renewables, LLC (the Partners). Staff notes in the Staff Report that the Partners have had several other projects pending before or approved by the Board (Staff Ex. 2 at 4).

delivery deadlines under a potential power purchase agreement. Staff finds Applicant's characterization of its estimated costs of delays to be reasonable. (Staff Ex. 2 at 12-13.)

{¶ 47} Staff states that the Partners retained the Economics Center of the University of Cincinnati to report on the economic impact of the Facility, and Staff further explains parameters within which this study was conducted. Based upon this report, Applicant estimates that the Facility would create 737 construction-related jobs and 13 long-term operational jobs for the state of Ohio. The Facility is estimated to generate between $46 million and $170.7 million in local earnings during the construction period and between $348,000 and $399,000 in annual earnings during Facility operations. Further, it is estimated that the Facility would add between $50.2 million and $277.4 million in local output for the state of Ohio during the construction period; operations would add an annual output of between $402,000 and $2.6 million for the state of Ohio. Based upon a potential Payment in Lieu of Taxes (PILOT) plan, Applicant estimates that the Facility would generate an estimated $1.3 million annually for the Champaign county taxing districts. This estimate is based on a PILOT plan in which the Partners would pay $7,000/MW annually for a 144 MW facility plus an additional $288,000 to the Champaign County General Fund. At the time of the issuance of the Staff Report, Applicant had not yet come to terms on a potential PILOT agreement with Champaign County. (Staff Ex. 2 at 13-14.)

{¶ 48} Regarding blasting activities in the project area, Staff states that Applicant believes that bedrock is well below any anticipated construction activity. Applicant anticipates that any rock-breaking activities will be minimal and limited. Staff points out that the Ohio Department of Natural Resources (ODNR) has analyzed the project area and indicates that the entire project area is covered by a high concentration of surface boulders which can impede shallow trenches and excavations. Applicant stated that it can avoid such areas, but in the unlikely event that these areas cannot be avoided, Applicant would use methods such as a hoe ram, standalone rock-breaker equipment, or rock breaker attachments for an excavator to break the rocks. If those methods do not complete the work, however, blasting activities may be required. At the time of the issuance of the Staff Report,

Applicant had not provided a requested map indicating where the most likely locations for blasting activities would occur. Based upon this, Staff states that it is unable to determine that the nature of the environmental impact from blasting is minimal, pursuant to R.C. 4906.10(A)(3) and, therefore, recommends that Applicant shall not utilize blasting to construct the Facility. (Staff Ex. 2 at 14.)

{¶ 49} There are two existing pipelines in the northeast section of the project area which share a common easement. The pipelines are categorized as non-highly volatile liquids high pressure petroleum products pipelines. Staff states that Applicant has begun discussions with the pipeline owners/operators to determine their guidelines for construction on and near the pipeline easement. Applicant indicated that after issuance of a certificate, the precise location of the right-of-way pipeline easement would be determined and confirmed through survey and tile work research, in conjunction with Applicant's engineering, procurement, and construction contractor. Applicant stated that for construction and operation of the Facility, when work is to be done in the pipeline right-of-way, Applicant will adhere to Energy Transfer Partner's "General Guidelines for Third Party Construction or Maintenance Activities" (Guidelines) and applicable construction and safety standards. Staff reviewed the Guidelines and notes certain distinctive features of the Facility and project area that might conflict with some recommendations in the Guidelines. Staff recommends that at least 60 days prior to the preconstruction conference, Applicant submit a refined solar Facility layout that shows the pipeline easement and right-of-way, Applicant's setback of solar panels and inverters to that pipeline easement and right-of-way, the access roads to avoid crossing the pipeline easement, the location of the underground electric collection system within the pipeline easement, and the method for installing the underground electric collection system within the pipeline easement. Staff also recommends that at least 60 days prior to the preconstruction conference, Applicant submit a document indicating that it has met or addressed notable points from the Guidelines, as more fully outlined in the Staff Report. Finally, Staff recommends that Applicant denote pipeline easements on the final engineering drawings and install construction fencing along

the pipeline easement so that the pipeline easement is avoided during construction. (Staff Ex. 2 at 14-15.)

{¶ 50} Applicant estimates that the Facility can operate for 30 years or more. Applicant prepared a decommissioning plan and the total decommissioning costs estimate is $12,340,325. According to Applicant's plan, at the end of the useful life of the Facility, the solar farm will be decommissioned and the land returned to its current agricultural use or the specific agricultural use desired by the landowner. Applicant states that it would obtain all necessary permits to accomplish this plan. Applicant would remove all above-ground solar components, with a few exceptions, and may leave in place any electric lines that will not impact the restored use and are greater than 36 inches below-grade. If requested by landowners, access roads will be left in place. Applicant plans to restore the land significantly to its original topography to allow for resumption of pre-construction agricultural uses. Staff states that Applicant anticipates decommissioning activities and restoration to occur over a 6.5-month period, depending on weather. Based upon the weather-dependent nature of site restoration, Staff recommends that the updated decommissioning plan include a requirement to monitor the site to ensure successful revegetation and rehabilitation. Applicant will repurpose, salvage, recycle, or haul offsite to a licensed solid waste disposal facility all solar components; however, solar components that can be resold or possess salvage value will be sold to offset decommissioning costs. Staff points out that Applicant is considering panels that have been certified to comply with the United States Environmental Protection Agency's (US EPA) toxicity characteristics leachate procedure (TCLP) test and meet the US EPA definition of non-hazardous waste. If solar panels do need to be landfilled, Applicant insists that it will meet all disposal requirements. To the extent that the panels' manufacturer will accept panels back to their facility for recycling or reuse, Applicant would utilize those programs, as practicable. (Staff Ex. 2 at 15-16.)

{¶ 51} Staff states that Applicant will provide financial security to ensure that funds are available for decommissioning and land restoration. Prior to commencing construction,

Applicant would provide an updated decommissioning plan and recalculate the net decommissioning costs. Applicant's updated decommissioning plan would be prepared by a registered professional engineer licensed in the state of Ohio and would include a provision that the decommissioning financial assurance mechanism include a performance bond where the company is the principal, the insurance company the surety, and the Board the obligee. Decommissioning costs would then be reviewed by a professional engineer every five years thereafter to assess the value of the financial assurance. Staff also highlights that Applicant has considered several scenarios where its decommissioning plan may be activated prior to the end of the useful life of the Facility. To further address such scenarios, Staff recommends that at least 30 days prior to the preconstruction conference, when Applicant submits an updated decommissioning plan, that the updated plan include a provision where the performance bond is posted prior to the commencement of construction. (Staff Ex. 2 at 16-17.)

b. Site Geology and Soils

{¶ 52} Staff states that the project area lies within the glaciated margin of the state and includes several Wisconsonian-age glacial features. The Teays Buried Valley feature runs east to west through the center of the project area. Staff further states that much of the project area consists of relatively flat to gently undulating glacially derived ground moraine and has a dense concentration of surface boulders. Glacial drift within the project area ranges from approximately 70 feet to over 600 feet in thickness. Staff notes that four different uppermost bedrock units are present. Due to the glacial drift thickness, however, no evidence of karst geology features such as sinkholes or caves are documented within several miles of the project boundary. Staff states that ODNR records indicate that no oil and gas activity are located within the Facility's footprint, and that no Class II injection well activity occurs within several miles. There are two historic wells located within one mile of the project area, but these wells have been plugged and abandoned for over 40 years. Finally, Staff notes that no active mining occurs near the project area and that no known abandoned underground mines are located within several miles. (Staff Ex. 2 at 17-18.)

{¶ 53} Regarding seismic activity, Staff relates that ODNR documents three historic (more than 80 years ago) seismic events occurring within three miles of the Facility boundaries. Several geological structures associated with seismic activity are documented near the Facility – pre-Cambrian faults and/or folds exist and appear to exist in both Shelby and Logan counties to the north of the project area. Additionally, several earthquakes have been recorded in adjacent Shelby County, where the Anna Seismic Zone occurs. Staff states that Applicant's evaluation of the seismicity concluded that moderately damaging earthquakes occur in the Anna Seismic Zone every two to three decades and that smaller earthquakes are experienced a few times per decade. Applicant states that the design of the Facility will follow the Ohio Building Code, which contains provisions for earthquake design data. (Staff Ex. 2 at 18.)

{¶ 54} Staff notes that, according to the United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS) Web Soil Survey, the project area consists primarily of soils derived from glacial till, loess, and glaciofluvial deposits. Staff states that Crosby and Brookston are the most common soil series found in the area and make up over 87 percent of the soils within the project area. According to Staff, slope is variable throughout the project area, rarely exceeding 12 percent, with slope occurring mostly along stream valleys in the eastern portion of the project boundary. Staff states that there is a low to moderate risk of shrink-swell potential in the soils in the project area. Finally, Staff identifies poor drainage as a limiting factor. (Staff Ex. 2 at 18.)

{¶ 55} Staff notes that Applicant provided a Preliminary Geotechnical Report prepared by Hull and Associates, LLC. To further evaluate soil and bedrock properties in this report, 12 borings were advanced to a range of 15 to 50 feet below ground level. Hull and Associates' report findings indicate that the soils and bedrock encountered at the site are considered suitable for the proposed Facility foundations. Staff states that further geotechnical exploration work, in addition to pile load testing, will be performed to support the final design of the Facility. (Staff Ex. 2 at 18-19.)

{¶ 56} Staff recommends that final detailed engineering drawings of the final project design 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. Staff further recommends that Applicant provide the final geotechnical engineering report to Staff at least 30 days prior to the preconstruction conference. After reviewing the application, and considering the input provided by ODNR and the Ohio Department of Agriculture, Staff believes that there are no particular geological features in the project area that are incompatible with construction and operation of the Facility; subject, however, to the implementation of the conditions recommended in the Staff Report. Staff notes, however, that the project area lies within relatively close proximity to one of the most seismically active areas of Ohio. Based upon this, Staff recommends that the final geotechnical engineering report specifically address seismicity and its possible impacts on soil/foundation stability. Staff also believes that the widespread presence of large glacial boulder deposits may present challenges for all sub-grade work such as pile installation, collection trenches, and foundation work. While the application indicates that no blasting activities are anticipated and that excavation will not be extensive, Staff recommends a condition prohibiting blasting for construction of the Facility. (Staff Ex. 2 at 19.)

c. Ecological Impacts

{¶ 57} Staff states that there are no water wells within the project area. Staff consulted with ODNR, however, and learned that there are approximately 107 water wells within one mile of the project area. Typically, water wells are located near a residence, so Applicant plans to implement setbacks of 150 feet to a non-participating home in order to avoid water wells. Staff states that Applicant has represented that neither construction nor operation of the Facility is expected to impact private water supplies. The project area overlaps with the southernmost portion of the Village of Quincy's (Village) drinking water source protection area (SWPA). Applicant does not anticipate that construction or operation of the Facility poses a risk to the Village of Quincy's SWPA because the water supply has a

moderate susceptibility, construction of the Facility will be at shallow below-ground depths, and the solar components do not contain any liquids or materials that could threaten the supply. (Staff Ex. 2 at 19-20.)

{¶ 58} Staff highlights a letter from the Ohio Environmental Protection Agency (Ohio EPA) to Staff, dated January 15, 2021, in which the Ohio EPA relayed concerns about the potential release of lead, cadmium, and other toxic chemicals which would be released if the solar panels were destroyed in a natural disaster. Ohio EPA indicated that it was assisting the Village of Quincy to revise its drinking water source protection plan and that it would encourage the Village to work with Applicant on response actions to be taken in the event of damage to the solar panels in a natural disaster. To address the concerns raised in this letter, Applicant stated that the solar panels contain no liquids that can spill, are not toxic, and, even in the unlikely event of a natural disaster, would not pose a risk to the Village of Quincy's water supply. Specifically, Applicant averred that the solar panel racking can withstand winds of up to 145 miles per hour and that the racking will have a stow feature. Further, if the Facility is impacted by a natural disaster, Applicant will follow industry best practices to remediate the site, repair or replace damaged components, and bring the Facility back to operation or decommission in accordance with the final decommissioning plan. Applicant also commits to maintaining comprehensive liability insurance. Staff states that Applicant has conferred with both the Ohio EPA and the Village of Quincy on these issues and plans to continue coordination with both entities regarding an emergency response plan. Staff supports continuing such coordination and recommends that at least 30 days prior to the preconstruction conference, Applicant submit its final emergency response plan and that the plan include provisions to keep the Village of Quincy informed of the status of any spills, significant panel damage, and any repair/cleanup schedule. (Staff Ex. 2 at 20.)

{¶ 59} Staff states that Applicant will implement a stormwater pollution prevention plan (SWPPP), a spill prevention plan, and a preliminary horizontal directional drilling

(HDD) inadvertent return plan during construction to minimize and prevent potential discharge to surface waters in the project area and surrounding area. (Staff Ex. 2 at 20.)

{¶ 60} Applicant delineated one perennial stream within the project area, which is Indian Creek. According to Staff, Applicant provided detailed mapping that shows one underground collection line crossing the stream and that Applicant states that only about 0.1 acres of the stream will be temporarily impacted. If necessary, Applicant states that the Facility will utilize HDD techniques to install collection lines underneath the stream. While HDD is typically preferred when crossing surface water resources, Staff points out that the process does include the risk of a "frac-out." To account for this, Applicant included a frac-out contingency plan as part of the application. To further avoid and minimize potential impacts to the stream and surrounding wildlife, Staff recommends that Applicant have an environmental specialist on site during construction activities where HDD activities may impact surface waters and that the environmental specialist have authority to stop HDD activities to ensure that any impacts related to a frac-out are addressed. Staff states that specifics about how surface waters would be further protected from indirect construction stormwater impacts using erosion and sedimentation controls would be outlined in Applicant's SWPPP. Applicant would obtain an Ohio National Pollutant Discharge Elimination System (NPDES) construction stormwater general permit through Ohio EPA prior to the start of construction. Staff also notes that while Applicant delineated two Category 2 wetlands in the project area, no impacts to wetlands will occur. Finally, Staff states that the Facility would not cross any 100-year floodplain. (Staff Ex. 2 at 20-21.)

{¶ 61} Staff points out that Applicant would, prior to commencing construction, demarcate the boundaries of streams and wetlands within and immediately adjacent to the construction limits of disturbance with flags, stakes, and fencing. These sensitive areas would also be depicted on construction drawings and all contractors and subcontractors would be provided training to understand the significance of the types of flagging used and importance of staying within defined limits of work areas. (Staff Ex. 2 at 21.)

{¶ 62} The project area is within the range of the Indiana bat, a state and federal endangered species, and the northern long-eared bat, which is listed as a federal threatened species and state endangered species. In order to avoid impacts to these bat species, Staff recommends that Applicant adhere to seasonal tree cutting dates of October 1 through March 31 for all trees three inches or greater in diameter, unless coordination with ODNR and the United States Fish and Wildlife Service (USFWS) recommends a different course of action. (Staff Ex. 2 at 23.)

{¶ 63} The project area is also within range of the state threatened lake chubsucker and the state threatened tonguetied minnow. ODNR Division of Wildlife recommends no in-water work in perennial streams from April 15 through June 30 in order to avoid impacts to these species. Staff further recommends that Applicant utilize HDD to install the underground collection line crossing of Indian Creek in order to avoid impact to these species. (Staff Ex. 2 at 24.)

{¶ 64} The project area is also within range of several other endangered or threatened species of mussels, birds, reptiles, and amphibians; however, Staff states that impacts to these species will be avoided due to a lack of proposed impacts to suitable habitats. (Staff Ex. 2 at 24.)

{¶ 65} Staff notes that permanent vegetative impacts in and around the project area will occur primarily within agricultural lands. Forestland impact is estimated to be about 2.19 acres, while impacts to grasslands and wetlands are each expected to be less than one acre. Staff explains that Applicant has developed a vegetation management plan in which it would incorporate pollinator-friendly habitat in accordance with the recommendations of the Ohio Pollinator Habitat Initiative. These plantings would enhance the visual appeal of the proposed Facility, enrich local wildlife habitat, benefit the local farming community, increase plant diversity, and discourage invasive species. Staff believes that the Facility would be expected to represent a reduced environmental impact when compared to the current land use, as the Facility will lead to less frequent tilling, which causes erosion and

sedimentation, and less fertilizer and pesticide application. To assure that these benefits are realized, Applicant has committed to take steps to prevent the establishment and/or further propagation of noxious weeds identified in Ohio Adm.Code 901:5-37 et seq. during implementation of any pollinator-friendly plantings. (Staff Ex. 2 at 24.)

d. Public Services, Facilities, and Safety

{¶ 66} Staff reports that Applicant has indicated that the Facility would be designed and installed to withstand and minimize potential damage from high winds. To ensure this, the support piles for racking will be made of galvanized steel and will be installed, based on site-specific soil sampling and further geotechnical pull testing, at sufficient depths to prevent movement caused by winds. During the final engineering design, Applicant will select racking and solar panels with specific manufacturers' wind ratings that ensure safe performance during high winds. Applicant asserts that the tracking systems it is considering for the Facility can withstand wind speeds up to 145 miles per hour. Further, Applicant states that the racking system would also include a stowing feature that allows panels to be tilted to certain angles to reduce wind loading during high wind speed events. Staff and Applicant found that components of the proposed Facility have windspeed design load ratings inherent in their design and are generally not susceptible to damage from high winds, except those of tornado force. (Staff Ex. 2 at 24-25.)

{¶ 67} While Applicant has not finalized its delivery route, Staff states that it is expected that deliveries to the Facility would be made by way of State Route 235, with the main routes to access the project site to be State Route 235, Logan Champaign Road, Champaign Logan Shelby Road, Snapptown Road, and N. Elm Tree Road. Applicant conducted a route evaluation study to identify viable means of accessing the project area and examined traffic patterns, bridge conditions, culvert conditions, road surface conditions, and potential obstructions in its evaluation. This transportation assessment indicated that all bridges along the proposed transportation routes are in good condition and that the road surface and culvert qualities range from good to fair. The assessment did

reveal one culvert on N. Elm Tree Road to be in fair condition and with inadequate cover, the remedy for which would be outlined in Applicant's Road Use Maintenance Agreement (RUMA) with Champaign County. Staff notes that the majority of construction traffic would be made up of conventional heavy equipment, which does not require special permitting, although the electric transformer will likely be overweight and require a special permit and route coordination for delivery. Applicant acknowledges that an increase in truck traffic is likely during construction. Once the Facility is operational, Applicant anticipates no additional traffic beyond routine maintenance. Staff states that Applicant expects to enter into a RUMA with Champaign County. Staff recommends that Applicant develop a final transportation management plan which should include any county required RUMAs. Staff believes that any damaged roads and bridges should be promptly repaired to their previous or better condition by Applicant, under the guidance of the appropriate regulatory authorities. Further, Staff recommends that the plan require that temporary improvements be removed unless the appropriate regulatory authority requests that they remain in place. (Staff Ex. 2 at 25.)

{¶ 68} Staff believes that noise impacts from the Facility would occur primarily during construction and be generated by activities such as site clearing, installation of mechanical and electric equipment, and commissioning and testing of equipment. Staff states that many of these activities would generate significant noise levels during the anticipated 10 months of construction. This adverse noise impact, however, would be temporary and intermittent, would occur away from most residential structures, and would be limited to daytime working hours. Further, Staff states that Applicant would use mitigation practices such as limiting construction activities to daylight hours, keeping equipment in good working condition, and establishing a complaint resolution process. With regard to operational noise, Staff notes that noise for a solar facility is relatively minor and occurs during the day. While the step-up transformer at the new substation and the inverters may operate at night, Staff believes that the noise impact would be relatively minor. Staff points to the ambient noise level study conducted by Applicant which showed

that operational noise impacts would be less than the ambient nighttime noise levels. Further, Staff states that Applicant's study showed that no non-participating receptors were modeled to receive impacts greater than the daytime ambient noise level plus five dBA. Staff notes, however, that if an inverter or transformer model different than that proposed by Applicant is chosen, Applicant would submit a noise report confirming that no non-participating receptors were modeled to receive noise impacts greater than the daytime ambient noise level plus five dBA. (Staff Ex. 2 at 25-26.)

{¶ 69} In sum, Staff recommends that the Board find that Applicant has determined the nature of the probable environmental impact for the proposed Facility and, therefore, complies with the requirements specified in R.C. 4906.10(A)(2), provided that any certificate issued by the Board include the conditions specified in the Staff Report (Staff Ex. 2 at 26).

3. MINIMUM ADVERSE ENVIRONMENTAL IMPACT

{¶ 70} Pursuant to R.C. 4906.10(A)(3), the proposed facility must represent the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, along with other pertinent considerations.

{¶ 71} Staff states that Applicant selected the location of the proposed Facility based on several factors. First, Applicant focused on the strong electricity demand in the Dayton and Columbus metropolitan areas. Next, Applicant considered areas where the transmission system had sufficient capacity to accommodate the Facility with minimal electric system upgrade requirements. Finally, Applicant considered the solar resources within southwest Ohio to be the best in the state. Applicant then determined a suitable transmission line in that area upon which to connect the proposed Facility. Once Applicant selected the transmission line point of interconnection (POI), Applicant's siting process then focused on four criteria: (1) relatively level land that had been previously disturbed and was dry; (2) land that was contiguous to other similarly suitable parcels; (3) minimal impacts to

ecologically sensitive areas and features; and (4) individual landowner interest to host the Facility. (Staff Ex. 2 at 27.)

{¶ 72} Staff highlights that the OHPO issued correspondence agreeing with Applicant's representation that the Facility would not have adverse effects on any historical resources. Regarding archaeological resources, Staff believes that implementation of the March 19, 2021 programmatic agreement between Applicant and the OHPO, and the application of Staff's recommended conditions, should result in minimal overall impact to cultural resources. (Staff Ex. 2 at 27.)

{¶ 73} Staff believes that the Facility would have an overall positive impact on the state and local economies due to the increase in construction spending, increased wages, purchasing of goods and services, annual lease payments to local landowners, increased tax revenues, and potential PILOT revenue. To the extent that impacts to the project and surrounding areas were identified, Staff believes that such impacts that cannot be avoided can be mitigated and/or reduced. For example, impacts on wildlife and habitat can be avoided or abated by following seasonal restrictions; noise impacts would be primarily limited to the construction phase, would be temporary and intermittent, and would occur away from most residential structures; and, traffic impacts would also be temporary. Given the low profile of the Facility and existing vegetation in the area, visual impacts would be most prominent to landowners in the immediate vicinity of the Facility, and such effects will be mitigated by the landscape and lighting plan recommended by Staff. Additionally, Applicant has committed to take steps to address potential impacts to farmland, including repairing all drainage tiles damaged during construction and restoring temporarily impacted land to its original use upon decommissioning. Staff also highlights that Applicant has created a "Home Solar Program" to provide interested neighbors of the Facility the financial means to purchase a cost-effective solar energy system for their property. Applicant indicated that several neighbors have expressed an interest in the program. (Staff Ex. 2 at 27-28.)

{¶ 74} Overall, Staff recommends that the Board find that the proposed Facility represents the minimum adverse environmental impact considering the state of available technology and the nature and economics of the various alternatives and other considerations. Staff, therefore, finds that the Facility complies with the requirements of R.C. 4906.10(A)(3), provided that any certificate issued by the Board include the conditions specified in the Staff Report. (Staff Ex. 2 at 29.)

4. ELECTRIC POWER GRID

{¶ 75} Pursuant to R.C. 4906.10(A)(4), the Board must determine that the proposed facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems. Under the same authority, the Board must also determine that the proposed facility will serve the interest of the electric system economy and reliability.

{¶ 76} Staff evaluated the impact of integrating the proposed Facility into the existing regional electric transmission grid. As proposed, the solar-powered electric generation Facility would be capable of producing 144 MW and would interconnect from the collection substation to a prominent Dayton Power & Light (DP&L) transmission line known as the East Sidney-Quincy 138 kV transmission line. DP&L is expected to construct, own, and operate a new utility substation to provide the connection from the Facility to the electric grid. A short 138 kV line will connect the Facility substation to the utility substation. As an owner, operator, and/or user of the bulk power system (BPS), Applicant is subject to compliance with various North American Electric Reliability Corporation (NERC) reliability standards. The NERC reliability standards are included as part of the system evaluations conducted by PJM Interconnection, LLC (PJM), which is the regional transmission organization responsible for planning upgrades and administering the generation queue for the regional transmission system in Ohio. (Staff Ex. 2 at 30.)

{¶ 77} Applicant submitted two generation interconnection requests for the proposed Facility to PJM. The initial request, submitted in June 2019, was assigned the

queue ID AE2-206 and requested an energy injection of 99 MW. The second request, submitted in August 2019, was assigned queue ID AF1-078 and requested an increase of 45 MW. PJM completed and issued feasibility and system impact study reports for both requests. PJM studied the interconnection as an injection into the BPS via the DP&L East Sidney-Quincy 138 kV transmission line, with a total injection of 144 MW, of which 60.48 MW could be available in the PJM capacity market. PJM analyzed the proposed Facility interconnected to the BPS using a 2022 summer peak flow model to evaluate regional reliability impacts for AE2-206, and the results were verified by DP&L. For AF1-078, PMJ used a 2023 summer peak flow model, and the results were verified by DP&L. The studies found no reliability criteria violations. PJM's studies also identified no overload concerns, congestion issues, or circuit breaker problems. The Staff Report does note that PJM requires mitigation of contingencies that may cause reliability violations with the proposed construction of the Facility. One such contingency is the loss of DC power at a substation or the Facility. To address this potential contingency, PJM would need to further evaluate remote-end relay signal equipment at the Shelby and Logan substations to determine whether equipment would need setting adjustments or replacement to accommodate the Facility. Staff states that this would be settled within the Facility's Interconnection Service Agreement and the Interconnection Construction Service Agreement with PJM. (Staff Ex. 2 at 30-32.)

{¶ 78} Staff concludes that the Facility would be consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems and would serve the interests of electric system economy and reliability. Accordingly, Staff recommends that the Board find that the Facility complies with the requirements of R.C. 4906.10(A)(4) so long as any certificate issued for the proposed Facility includes the conditions specified in the Staff Report. (Staff Ex. 2 at 32.)

5. AIR, WATER, SOLID WASTE, AND AVIATION

{¶ 79} Pursuant to R.C. 4906.10(A)(5), the facility must comply with Ohio law regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous wastes, and air navigation.

{¶ 80} Although the proposed Facility will not require any air quality permits, fugitive dust rules adopted under R.C. Chapter 3704 may be applicable to its construction. Staff states that Applicant has indicated that it expects the amount of dust to be low because little topsoil will be moved and there will be minimal grading activities. Accordingly, Applicant would need to control and localize fugitive dust by using best management practices such as using water to wet soil and/or dust suppressants on unpaved roads, as needed. Staff also concludes that the Facility would not include any stationary sources of air emissions and, therefore, would not require air pollution control equipment. (Staff Ex. 2 at 33.)

{¶ 81} Staff relates that Applicant would mitigate potential water quality impacts associated with aquatic discharges by obtaining an NPDES construction stormwater general permit (OHC00005) from the Ohio EPA with submittal of a notice of intent for coverage under that permit. The construction stormwater general permit also requires development of an SWPPP to direct the implementation of construction related stormwater best management practices for soil erosion control. Staff further notes that the Ohio EPA has developed guidance on post-construction stormwater controls for solar panel arrays and Staff recommends that Applicant construct the Facility in a manner that incorporates post construction stormwater management under such guidance. If required, Applicant will seek certain water protection permits issued by the U.S. Army Corps of Engineers and the Ohio EPA under Sections 404 and 401 of the federal Clean Water Act, as well as seek an Ohio Isolated Wetland Permit. Applicant also would develop a spill prevention, control, and countermeasure plan to mitigate the unlikely release of hazardous substances. With

these measures in place, Staff believes that the Facility will comply with R.C. Chapter 6111 and the rules and laws adopted thereunder. (Staff Ex. 2 at 33.)

{¶ 82} Debris from construction activities would consist of items such as damaged/unused parts or materials, crates, nails, boxes, containers, packing/packaging materials, construction scrap, and general refuse. Applicant has represented that all construction-related debris that is not reused or recycled would be disposed of at an authorized solid waste disposal facility. Staff also notes that Applicant indicated that there are approximately four farm-related structures in the northeastern part of the project area that are to be removed prior to the start of construction. Any remaining debris from these structures will be disposed of at a licensed solid waste disposal facility. Applicant further indicated that the current property owner is already demolishing and relocating the structures. Staff states that operation of the Facility would generate only small amounts of solid waste, which would be reused, recycled, or properly disposed of in accordance with applicable solid waste regulations. According to Staff, the nature of the solid waste during operation would be comparable to the types generated during construction. Based upon its review, Staff concludes that Applicant's solid waste disposal plans would comply with the requirements set forth in R.C. Chapter 3734. (Staff Ex. 2 at 34.)

{¶ 83} Staff notes that the height of the tallest above-ground structures at the Facility would be the lightning masts at the substation, which would be approximately 70 feet tall. That height is under the height requirement in the Federal Aviation Administration (FAA) regulations for filing a Form 7460-1. Applicant also used the FAA's notice criteria tool and confirmed that the Facility did not need to file with the FAA. According to Applicant, there are no public use airports, public use helicopter pads, or public use landing strips within five miles of the project area. Staff confirmed through the FAA that the closest public-use airports are Sidney Municipal Airport and Bellefontaine Regional Airport, which are between 7 and 10 miles from the proposed Facility collection substation. Staff consulted with the ODOT Office of Aviation, as required under R.C. 4906.05(A)(5), and ODOT has identified no impacts on local airports.

{¶ 84} Based on these findings, Staff recommends that the Board find that the proposed Facility complies with the requirements specified in R.C. 4906.10(A)(5), provided that any certificate issued for the Facility include the conditions specified in the Staff Report (Staff Ex. 2 at 34).

6. PUBLIC INTEREST, CONVENIENCE, AND NECESSITY

{¶ 85} Pursuant to R.C. 4906.10(A)(6), the Board must determine that the facility will serve the public interest, convenience, and necessity.

{¶ 86} Public interest, convenience, and necessity should be examined through a broad lens. For example, this factor should consider the public's interest in energy generation that ensures continued utility services and the prosperity of the state of Ohio. At the same time, this statutory criterion regarding public interest, convenience, and necessity, must also encompass the local public interest, ensuring a process that allows for local citizen input, while taking into account local government opinion and impact to natural resources. As part of the Board's responsibility under R.C. 4906.10(A)(6) to determine that all approved projects will serve the public interest, convenience, and necessity, we must balance projected benefits against the magnitude of potential negative impacts on the local community. As discussed below, the parties assert that the application, and the evidence of record, as modified by the Stipulation, benefits the public in multiple ways.

{¶ 87} For public safety, Applicant will use reliable equipment that is compliant with applicable safety standards. Applicant intends to utilize components from leading Tier 1 solar panel manufacturers and use primary components that will have standard industry warranties. Applicant has also planned for O&M expenses, to be used for monitoring and supervision, grid regulation, corrective maintenance, preventative maintenance, and site maintenance. Staff states that Applicant intends to use warning signs, fencing, and gates to restrict access to potential hazards at the Facility. Specifically, Staff highlights that Applicant intends to implement the following setbacks: 25 feet to the public road right-of-way; 25 feet from the property line of any non-participating parcel; 25 feet to any waterbody

or wetland; 150 feet to a non-participating home; and 500 feet between an inverter and a non-participating home. Applicant stated that these would be minimum setbacks and that actual setbacks would likely be much greater. Applicant intends to restrict general public access by enclosing the entire Facility with fencing that complies with National Electric Safety Code requirements. The fencing will be a six-foot tall chain link fence topped with a one foot tall barbed wire strand. Staff recommends that, except for substation fencing, that the Facility's perimeter fencing be both wildlife permeable and aesthetically fitting for a rural location. Finally, Applicant commits to developing and implementing an emergency response plan prior to construction, which will be based on consultation with affected emergency response personnel. Staff states that it has already reviewed an example emergency response plan submitted by Applicant. (Staff Ex. 2 at 35.)

{¶ 88} Staff states that the transmission facilities would be installed according to the requirements of the National Electric Safety Code. According to Staff, since the Facility is not within 100 feet of an occupied residence or institution, calculation of the production of electromagnetic fields during operations is not warranted per Ohio Adm.Code 4906-5-07(A)(2). (Staff Ex. 2 at 35-36.)

{¶ 89} Staff highlights that Applicant has engaged the community in developing the Facility by such activities as web-based and telephonic public informational meetings and maintaining a project website. Staff also notes that to reach out to the local community, Applicant developed and created its "Home Solar Program" to provide interested neighbors of the Facility the financial means to purchase a cost-effective solar energy system for their property. Applicant indicated that several neighbors have expressed an interest in the program. Applicant has drafted a complaint resolution plan to address complaints from the public concerning the Facility and Staff recommends that a final version of this plan be filed on the docket in this case at least 30 days prior to the start of construction. Applicant has committed to notify, by mail, affected property owners and tenants, no later than seven days prior to the start of construction. Staff recommends that a similar notice be mailed to these same individuals at least seven days prior to the start of Facility operations. Staff also

recommends that Applicant submit to Staff a quarterly complaint summary report during construction and the first five years of Facility operations. Staff also reviewed the one public comment filed on the docket at the time of issuance of the Staff Report and outlines Staff's response. (Staff Ex. 2 at 36-37.)

{¶ 90} In all, Staff recommends that the Board find that the proposed Facility would serve the public interest, convenience, and necessity and, therefore, complies with the enumerated requirements of R.C. 4906.10(A)(6), provided that any certificate issued by the Board includes the conditions specified in the Staff Report (Staff Ex. 2 at 37).

7. AGRICULTURAL DISTRICTS

{¶ 91} Pursuant to R.C. 4906.10(A)(7), the Board must determine the facility's impact on the agricultural viability of any land in an existing agricultural district within the project area of the proposed utility facility.

{¶ 92} Staff states that of the approximately 1,168 acres of agricultural land that would be disturbed by the Facility, 1,164 acres are planned to be permanently impacted. Staff notes that none of the parcels within the project area are currently enrolled in the agricultural district program. According to Applicant, the repurposed land could be restored for agricultural use when the Facility is decommissioned. Staff acknowledges that the construction and operation of the Facility would disturb the existing soil and could lead to broken drainage tiles. Applicant has worked with landowners and performed surveys to create maps of known existing drain tiles in the project area and included a Drainage Tile Assessment and Impact Report as part of its application. Applicant has committed to promptly repair any damaged drain tile due to the construction and operation of the Facility. While no agricultural structures are expected to be impacted by the Facility, Applicant has also committed to take steps to address any additional impacts to farmland. (Staff Ex. 2 at 38.)

{¶ 93} Staff recommends that the Board find that the impact of the proposed Facility on the viability of existing agricultural land in an agricultural district has been determined and, therefore, the requirements of R.C. 4906.10(A)(7) are satisfied, so long as any certificate issued by the Board include the conditions specified in the Staff Report. (Staff Ex. 2 at 38.)

8. WATER CONSERVATION PRACTICE

{¶ 94} Pursuant to R.C. 4906.10(A)(8), the proposed facility must incorporate maximum feasible water conservation practices, considering available technology and the nature and economics of the various alternatives.

{¶ 95} Staff states that the Facility would not require the use of significant amounts of water. Water may be used for dust suppression and control on open soil surfaces such as construction access roads or unpaved transportation routes, as needed. Staff further states that operation of the proposed Facility would also not require the use of significant amounts of water and that no sanitary water discharge would occur. According to Applicant, water may be trucked in to use for the cleaning of solar panels, as necessary. (Staff Ex. 2 at 39.)

{¶ 96} In all, Staff believes that the Facility would incorporate maximum feasible water conservation practices as specified in R.C. 4906.10(A)(8) (Staff Ex. 2 at 39).

9. RECOMMENDATIONS

{¶ 97} In addition to making various findings through its report, Staff recommended that 33 conditions be made part of any certificate issued by the Board for the proposed Facility (Staff Ex. 2 at 40-45). With some slight modifications, the recommended conditions found within the Staff Report were adopted and re-enumerated in the parties' Stipulation (Joint Ex. 1 at 2-9). The conditions are discussed below.

VI. STIPULATION AND CONDITIONS

{¶ 98} At the adjudicatory hearing, Applicant presented the Stipulation executed by Applicant, OFBF, the Board of Commissioners, and Staff (Joint Exs. 1 and 1A). Pursuant to the Stipulation, the parties recommend that the Board issue the certificate requested by Applicant, subject to the 33 conditions outlined therein. The following is a summary of the conditions agreed to by the parties and is not intended to replace or supersede the actual Stipulation. The parties stipulate that:

(1) Applicant shall install the Facility using the equipment, construction practices, and mitigation measures presented in the application as modified by supplemental filings.

(2) Prior to the start of any construction activities, Applicant shall conduct a preconstruction conference, which shall be attended by Staff, Applicant, and representatives of the primary contractor and all subcontractors for the Facility. The preconstruction conference shall include a presentation of measures to be taken by Applicant and contractors to ensure compliance with all conditions of the certificate. Applicant shall provide a proposed agenda for Staff review prior to the conference.

(3) Within 60 days after the commencement of commercial operation, Applicant shall submit to Staff a copy of the as-built specifications for the entire Facility.

(4) If Applicant has not commenced a continuous course of construction for the proposed Facility within five years of the date of the certificate's journalization, the certificate shall become invalid unless the Board grants a waiver or extension of time.

(5) As information becomes known, Applicant shall docket in the case record the date on which construction will begin, on which construction was completed, and on which the Facility begins commercial operation.

(6) Before commencement of construction activities in any affected areas, Applicant shall obtain and comply with all necessary permits and authorizations. Within seven days of issuance or receipt of such permits and authorizations, Applicant shall provide copies to Staff. Applicant shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference.

(7) The authority provided by the certificate issued 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 discretion of any other local, state, or federal permitting or licensing authority in the areas subject to their supervision and control.

(8) At least 30 days prior to the preconstruction conference, Applicant shall submit one set of detailed engineering drawings—reviewed and approved by registered professional engineers, structural engineers, or engineering firms, as is relevant—and mapping of the final project design to Staff for review and acceptance. All final geotechnical study results shall be included in this submission.

(9) 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, Applicant shall submit one set of detailed engineering drawings—reviewed and approved by registered professional engineers, structural engineers, or engineering

firms, as is relevant—and mapping for each phase to Staff for review and acceptance. All applicable geotechnical study results, and stormwater and drainage plans, shall be included in the submission of the final project design to Staff.

(10) At least 30 days prior to the preconstruction conference, Applicant shall provide Staff, for review and acceptance, the final geotechnical engineering report. This report shall include summary statements addressing geologic and soil suitability, special considerations given to seismic activity and the fault system within the region and an evaluation of its potential impacts during construction and operation.

(11) At least 30 days prior to the start of construction, Applicant shall file a copy of the final complaint resolution plan on the public docket. At least seven days before the start of construction and seven days before the start of Facility operations, Applicant shall notify via mail affected property owners and tenants, individuals who were provided notice of the public information meeting, residences located within one mile of the project area, anyone who requested updates regarding the project, parties to the case, certain government officials, emergency responders, and certain other entities. These notices must provide information about the project, including contact information and a copy of the complaint resolution plan. Each of these notices shall include written confirmation that Applicant has complied with pre-construction or construction-related conditions of the certificate, as is relevant, and Applicant shall file a copy of the notices on the public docket. Applicant shall submit to Staff a complaint summary report by the fifteenth of April, July, October, and January of each year for the first five years of operation, which must include a list of all complaints received through the complaint resolution process, a description of

actions taken towards resolution, and a status update if yet to be resolved.

(12) 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, LLC, and Applicant shall docket in the case either a letter stating that the agreement has been signed or a copy of the executed agreement.

(13) The Facility shall be operated in such a way as to assure that no more than 144 megawatts would be injected into the bulk power system.

(14) Prior to the commencement of construction, Applicant shall prepare a landscape and lighting plan in consultation with a licensed landscape architect to address 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 (including methods for fence repair), vegetative screening, or good neighbor agreements. The plan shall provide for the planting of vegetative screening designed to enhance the view from the residence and to be in harmony with existing vegetation and viewshed in the area. Applicant shall adjust its plan to incorporate a third-tier planting module or other appropriate planting measures to address impacts to nearby communities and recreationalists. Applicant shall maintain vegetative screening for the life of the Facility and shall replace any failed plantings so that, after five years, at least 90 percent of the vegetation has survived. Applicant shall maintain all fencing along the perimeter of the project area in good repair for the term of the project. Lights at the Facility shall be motion-

activated and designed to narrowly focus light inward toward the Facility.

(15) Prior to the commencement of construction, Applicant shall submit to Staff for approval a solar panel perimeter fence type that is both wildlife permeable and aesthetically fitting for a rural location, while also meeting all applicable electrical codes.

(16) 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 between the hours of 9:00 a.m. and 7:00 p.m., or until dusk when sunset occurs after 7:00 p.m. Impact pile driving may occur between 7:00 a.m. and 9:00 a.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., Applicant shall install a noise monitor to ensure compliance with noise level restrictions. Hoe ram operations, if required, shall be limited to the hours between 10:00 a.m. and 4:00 p.m., Monday through Friday. HDD operations, if started during general construction activities hours, may continue until completion of HDD activity. 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.

(17) If the inverters or substation transformer chosen for the Facility have a higher sound power output than the models used in the noise model, Applicant shall submit, at least 30 days prior to construction, an updated noise study using noise data from the inverter and substation chosen for the Facility. The updated noise study shall show that sound

levels will not exceed the daytime ambient level plus five dBA at any non-participating sensitive receptor.

(18) With respect to the 150 acres identified in Applicant's May 3, 2021 data request response where it is acknowledged that potential archaeological resources remain to be surveyed, Applicant shall continue to comply with its March 19, 2021 programmatic agreement with the OHPO and shall complete all additional surveys and studies required under the programmatic agreement. Further, Applicant will avoid any adverse effects to archaeological resources for the Facility, including those identified in the identified 150-acre area and any others revealed through additional surveys and studies.

(19) Applicant shall avoid, where possible, or minimize 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 to at least original conditions or the modern equivalent at Applicant's expense.

(20) Applicant shall include in the final engineering drawings and associated mapping required in Condition 8 any new listed plant or animal species, or suitable habitat of these species, encountered by Applicant prior to construction and shall avoid impacts to these species during construction.

(21) 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 Indiana bats and northern long-eared bats, unless coordination with ODNR and USFWS allows a different course of action.

(22) Applicant shall have a Staff-approved environmental specialist with authority to stop construction to assure that unforeseen environmental impacts do not progress and to recommend procedures to resolve those impacts on site during construction activities that may affect sensitive areas such as wetlands, streams, and locations of threatened or endangered species. A map shall be provided to Staff showing sensitive areas which would be impacted during construction with information on when the environmental specialist would be present.

(23) Applicant shall contact Staff, ODNR, and the USFWS within 24 hours if state or federal listed species are encountered during construction activities, and construction activities that could adversely impact the identified plants or animals shall be halted until an appropriate course of action has been agreed upon.

(24) Applicant shall avoid all impacts to perennial streams through Facility design, HDD, or other methods.

(25) At least 60 days prior to the preconstruction conference, Applicant shall submit a refined solar Facility layout that shows the pipeline easement and right-of-way, Applicant's setback of solar panels and inverters to that pipeline easement and right-of-way, the access roads necessary to avoid crossing the pipeline easement, the location of the underground electric collection system within the pipeline easement, and the method for installing the underground electric collection system within the pipeline easement.

(26) At least 60 days prior to the preconstruction conference, Applicant shall submit a document indicating that it has met or addressed notable points from the pipeline owner's written guidelines for third-party construction or maintenance activities within the pipeline's easement,

and includes, but is not limited to, addressing the specific points outlined in this Stipulation condition.

(27) Applicant shall not utilize blasting to construct the Facility.

(28) Applicant shall denote the pipeline easement on the final engineering drawings and install construction fencing along the pipeline easement so that the easement is avoided during construction.

(29) At least 30 days prior to the preconstruction conference, Applicant shall submit its emergency response plan to Staff for review and acceptance. The plan shall include a provision requiring Applicant to keep the Village of Quincy and Champaign County informed as to the status of any spills, significant panel damage, and any repair/cleanup or decommission schedule.

(30) Applicant shall construct the Facility in a manner that incorporates post construction stormwater management under permit OHC00005 in accordance with the Ohio EPA's Guidance on Post-Construction Storm Water Controls for Solar Panel Arrays.

(31) 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 comply with any public orders concerning abatement of noxious weeds.

(32) Applicant shall obtain transportation permits prior to the commencement of construction activities that require them. 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. Applicant shall detail this coordination as part of a final transportation management plan which shall include a Road Use Maintenance Agreement entered into by Applicant with Champaign County. This plan will also include subcontractors and decommissioning work and inspection and shall be submitted to Staff prior to the preconstruction conference for review and confirmation by Staff that it complies with this condition.

(33) Applicant shall submit an updated decommissioning plan at least 30 days prior to the preconstruction conference. The plan shall include a provision to monitor the site to ensure successful revegetation, a provision calculating total decommissioning costs without regard to salvage or resale value, and rehabilitation of the project area and a provision where the performance bond for the decommissioning costs is posted prior to commencement of construction.

(Joint Ex. 1 at 2-9.)

VII. CONSIDERATION OF THE STIPULATION

{¶ 99} Pursuant to Ohio Adm.Code 4906-2-24, parties before the Board are permitted to enter into stipulations concerning issues of fact, the authenticity of documents, or the proposed resolution of some or all of the issues in a proceeding. In accordance with Ohio Adm.Code 4906-2-24(D), no stipulation is binding on the Board. However, the Board affords the terms of the stipulation substantial weight. The standard of review for considering the reasonableness of a stipulation has been discussed in numerous Board proceedings. See, e.g. *In re Hardin Wind, LLC*, Case No. 13-1177-EL-BGN (Mar. 17, 2014); *In re Northwest Ohio Wind Energy, LLC*, Case No. 13-197-EL-BGN (Dec. 16, 2013); *In re AEP Transm. Co., Inc.*, Case No. 12-1361-EL-BSB (Sept. 30, 2013); *In re Rolling Hills Generating LLC*, Case No. 12-1669-EL-BGA (May 1, 2013); *In re American Transm. Systems Inc.*, Case No. 12-1727-EL-BSB (Mar. 11, 2013). The ultimate issue for the Board's consideration is whether

the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of a stipulation, the Board has used the following criteria:

a) Is the settlement the product of serious bargaining among capable, knowledgeable parties?

b) Does the settlement, as a package, benefit ratepayers and the public interest?

c) Does the settlement package violate any important regulatory principle or practice?

{¶ 100} Upon review, the Board finds that the Stipulation is reasonable as judged by this three-part test and should be approved. Initially, the Board finds that the Stipulation is the product of serious bargaining among capable, knowledgeable parties. Mr. Herling, on behalf of Applicant, testified that counsel for all parties were invited to settlement negotiations. Mr. Herling further testified that representatives of all parties were involved in the deliberations leading to the Stipulation and were aware of and knowledgeable about the issues addressed therein. (App. Ex. 20 at 9.) The Board further notes that OFBF and Staff have extensive experience in Board matters and that all parties involved were represented by counsel familiar with proceedings before the Board.

{¶ 101} The Board concludes that the second prong of the test is satisfied. The record evidence supports the conclusion that the Stipulation, as a package, benefits ratepayers and the public interest. According to Mr. Herling, the project will benefit the public in several ways. First, Mr. Herling states that the Stipulation ensures that the Facility will represent the minimum adverse environmental impact during both construction and operations. According to Mr. Herling, the Facility will also benefit the public interest by providing a substantial supply of clean energy, putting land to highly productive use for participating

landowners, and providing robust economic and fiscal benefits to local schools and communities. (App. Ex. 20 at 9-10.)

{¶ 102} Finally, the Board finds that the record supports the conclusion that the Stipulation observes and promotes regulatory practices and principles. Mr. Herling testified as to his belief that the application, as agreed to through the Stipulation, satisfies each of the applicable components of R.C.4906(A) (App. Ex. 20 at 7-9). Consistent with our recent findings in similar cases, the evidence demonstrates that the application, as modified by the Stipulation, does satisfy each of the necessary statutory components enumerated in R.C. 4906.10(A) (Staff Ex. 2 at 9-39; Joint Ex. 1 at 2-10). The record is devoid of any evidence to contradict this conclusion. As such, we find that the third prong of the test is met.

{¶ 103} In conclusion, and based on the record in this proceeding, the Board finds that all relevant required elements of R.C. Chapter 4906 are satisfied for the construction, operation, and maintenance of the solar-powered electric generation facility described in Applicant's application, as supplemented and modified, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate. The Board clarifies that all required information submitted to Staff in support of the conditions addressed in the Stipulation should be filed on the docket of this case. Based on the record in this case, the Board thus approves and adopts the Stipulation and hereby issues a certificate to Applicant in accordance with R.C. Chapter 4906.

VIII. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 104} Applicant is a person under R.C. 4906.01(A).

{¶ 105} The proposed solar-powered electric generation facility is a major utility facility as that term is defined in R.C. 4906.01(B).

{¶ 106} On September 17, 2020, Applicant filed a preapplication notification letter informing the Board of its proposed construction of the Facility and its plan to hold virtual and telephonic public information meetings.

{¶ 107} On September 17, 2020, Applicant filed a letter of compliance regarding service of notice to each property owner and affected tenant within the project area and proof of publication regarding the public information meetings in accordance with Ohio Adm.Code 4906-3-03.

{¶ 108} On December 18, 2020, Applicant filed its application with the Board for a certificate of environmental compatibility and public need to construct the Facility.

{¶ 109} By letter dated February 16, 2021, the Board notified Applicant that its application had been found to be sufficiently complete pursuant to Ohio Adm.Code Chapter 4906-1, et seq.

{¶ 110} On March 1, 2021, Applicant filed a certificate of service of its accepted and complete application upon local public officials and libraries pursuant to Ohio Adm.Code 4906-3-07(A) and (B).

{¶ 111} On March 4, 2021, Applicant filed proof that the application fee had been paid pursuant to Ohio Adm.Code 4906-3-07(A).

{¶ 112} On March 12, 2021, the Board of Commissioners filed a notice of intervention and the Board of Commissioners were formally acknowledged as an intervenor by Entry issued June 17, 2021.

{¶ 113} On March 15, 2021, the ALJ issued an Entry establishing the effective date of the application as March 15, 2021, and adopting a procedural schedule, including the date of the local public hearing and the adjudicatory hearing.

{¶ 114} On March 30, 2021, Applicant filed proof of initial publication attesting that, in accordance with R.C. 4906.06(C), Applicant published notice of the procedural schedule and the accepted, complete application in newspapers of general circulation in the project area. In addition, this filing stated that Applicant served the initial written notice required under Ohio Adm.Code 4906-3-09(A)(1).

{¶ 115} On April 27, 2021, OFBF filed a motion to intervene, which was granted by the ALJ on June 17, 2021.

{¶ 116} The Staff Report was filed on May 24, 2021.

{¶ 117} On June 2, 2021, Applicant filed proof of publication attesting that, in accordance with Ohio Adm.Code 4906-3-09(A)(2), Applicant published a second notice of the procedural schedule and the accepted, complete application in newspapers of general circulation in the project area. In addition, this filing stated that Applicant served written notice required under Ohio Adm.Code 4906-3-09(A)(1).

{¶ 118} A local public hearing was held via Webex on June 8, 2021.

{¶ 119} On June 17, 2021, the ALJ issued an Entry which suspended the outstanding procedural deadlines in the case and directed that a second local public hearing would be held in this matter. This Entry also directed that the adjudicatory hearing previously scheduled for July 1, 2021 would be called and then continued to a later date.

{¶ 120} The adjudicatory hearing was held via Webex on July 1, 2021 and was called and continued to a future date.

{¶ 121} On July 19, 2021, the ALJ issued an Entry which reestablished the procedural schedule and scheduled a second, in-person local public hearing to be held on August 19, 2021. This Entry also scheduled the adjudicatory hearing to be reconvened at the offices of the Commission on September 1, 2021.

{¶ 122} On August 17, 2021, Applicant filed a second proof of publication and service of second procedural schedule, attesting that notice of the accepted, complete application was published in newspapers of general circulation in the project area. Additionally, this filing stated that written notice required under Ohio Adm.Code 4906-3-09(A) was served.

{¶ 123} The second local public hearing was held on August 19, 2021, at the Fire/Township Meeting Room, 10778 W. St. Rt. 29, Rosewood, Ohio 43070.

{¶ 124} On August 25, 2021, Applicant, the Board of Commissioners, OFBF, and Staff filed a Stipulation resolving all issues in the case. The additional signature page executed by the Board of Commissioners was filed on August 31, 2021.

{¶ 125} On September 1, 2021, the adjudicatory hearing recommenced, as scheduled, at the offices of the Commission.

{¶ 126} Sufficient information regarding the proposed generation facility has been provided to make the applicable determinations required by R.C. 4906.10(A). The record evidence in this matter provides sufficient factual evidence to enable the Board to make an informed decision.

{¶ 127} The record establishes that the Facility is not an electric transmission line or gas pipeline and, therefore, R.C. 4906.10(A)(1) is not applicable.

{¶ 128} The record establishes the nature of the probable environmental impact from construction, operation, and maintenance of the Facility, consistent with R.C. 4906.10(A)(2).

{¶ 129} The record establishes that the Facility, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate, represents the minimum adverse environmental impact, considering the available technology and nature and economics of the various alternatives, and other pertinent considerations, consistent with R.C. 4906.10(A)(3).

{¶ 130} The record establishes that the Facility, an electric generation facility, is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems and that the Facility will serve the interests of electric system economy and reliability consistent with R.C. 4906.10(A)(4).

{¶ 131} The record establishes that the Facility, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate, will comply with R.C. Chapters 3704, 3734, and 6111; R.C. 4561.32; and all rules and regulations thereunder, to the extent applicable, consistent with R.C. 4906.10(A)(5).

{¶ 132} The record establishes that the Facility, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate, will serve the public interest, convenience, and necessity, consistent with R.C. 4906.10(A)(6).

{¶ 133} The record establishes the impact of the Facility on agricultural lands and agricultural district land consistent with the requirements of R.C. 4906.10(A)(7).

{¶ 134} The record establishes that the Facility will not require significant amounts of water, nearly no water or wastewater discharge, and incorporates maximum feasible water conservation practices. Accordingly, the Facility meets the requirements of R.C. 4906.10(A)(8).

{¶ 135} The evidence supports a finding that all of the criteria in R.C. 4906.10(A) are satisfied for the construction, operation, and maintenance of the Facility as proposed by Applicant, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate.

{¶ 136} Based on the record, the Board should issue a certificate of environmental compatibility and public need to Applicant, pursuant to R.C. Chapter 4906, for the construction, operation, and maintenance of the solar-powered electric generation Facility subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate.

IX. ORDER

{¶ 137} It is, therefore,

{¶ 138} ORDERED, That the Stipulation be approved and adopted. It is, further,

{¶ 139} ORDERED, That a certificate be issued to Clearview Solar I, LLC for the construction, operation, and maintenance of the solar-powered electric generation Facility subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate. It is, further,

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

BOARD MEMBERS:
Approving:

Jenifer French, Chair
Public Utilities Commission of Ohio

Jack Christopher, Designee for Lydia Mihalik, Director
Ohio Department of Development

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

W. Gene Phillips, Designee for Bruce T. Vanderhoff, M.D., 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

DMH/kck

Summary: Opinion & Order issuing a certificate of environmental compatibility and public need to Clearview Solar I, LLC for the construction, operation, and maintenance of the solar-powered electric generation facility, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate. electronically filed by Ms. Mary E. Fischer on behalf of Ohio Power Siting Board