THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF ROSS COUNTY SOLAR LLC FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED.	**CASE NO. 20-1380-EL-BGN**

OPINION, ORDER, AND CERTIFICATE

Entered in the Journal on October 21, 2021

I. SUMMARY

{¶ 1} The Ohio Power Siting Board approves and adopts the stipulation and recommendation between Ross County Solar LLC, the Ohio Farm Bureau Federation, the Board of Trustees of Buckskin Township, and the Board Staff, and directs that, subject to the conditions set forth in the stipulation and consistent with this Opinion, Order, and Certificate, a certificate be issued to Ross County Solar LLC for the construction, operation, and maintenance of a 120 megawatt solar-powered electric generation facility in Buckskin and Paint townships in Ross County, Ohio.

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} Ross County Solar LLC (RCS or Applicant) is a person defined in R.C. 4906.01. RCS is held under National Grid Renewables, which is a subsidiary of the development holding company National Grid Holdings One PLC.

{¶ 4} Pursuant to R.C. 4906.04, no person shall construct a major utility facility without first having obtained a certificate from the Board. In seeking a certificate, an applicant must comply with the filing requirements outlined in R.C. 4906.06, as well as Ohio Adm.Code Chapters 4906-2 and 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 were required to implement procedures consistent with recommendations from the Ohio Department of Health (ODH) 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 remained in effect until the COVID-19 emergency was lifted on June 2, 2021, pursuant to the May 17, 2021 Order from the Director of the ODH. This Order was intended to align the state of Ohio's health orders with new guidance from the Center of Disease Control. As result, all evidentiary hearings scheduled subsequent to July 1, 2021, were held in person.

{¶ 6} On August 13, 2020, RCS filed a motion seeking a limited waiver of Ohio Adm.Code 4906-3-03(B) and requested expedited treatment of such waiver. Specifically, RCS sought to allow for the required public informational meeting to be conducted virtually and telephonically instead of in-person in the area in which the project will be located. The motion was granted pursuant to the administrative law judge (ALJ) Entry of September 2, 2020.

{¶ 7} On September 14, 2020, RCS filed a pre-application notification letter with the Board regarding its proposed solar-powered electric generation facility in Buckskin and Paint townships Ross County, Ohio with a capacity of up to 120 megawatts (MW) of electric generating capacity (Project).

{¶ 8} Due to the restrictions in place during the COVID-19 emergency, RCS held a two-phase public informational meeting to discuss the proposed facility with the interested persons and landowners. Applicant held a web-based virtual public meeting on September 30, 2020. Immediately following the web-based meeting, Applicant hosted a phone-based public informational meeting. RCS 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 informational meetings with the Board on September 28, 2020.

{¶ 9} On October 30, 2020, RCS filed an application with the Board for a certificate of environmental compatibility and public need to construct and operate a solar-powered electric generation facility of up to 120 MW in Ross County, Ohio.

{¶ 10} Additionally, on October 30, 2020, RCS filed a motion with the Board seeking waivers from Ohio Adm.Code 4906-4-08(D)(2)-(4) regarding impacts on landmarks, recreation and scenic areas, and the visual impact of the facility. Specifically, RCS requested a waiver to allow for two- and five-mile focused study areas as opposed to the required ten-mile radius. The requested waivers were granted pursuant to the ALJ's Entry of January 20, 2021.

{¶ 11} Along with the motion for waivers, Applicant filed a motion for protective order. The information the Applicant sought to protect included the total estimated capital and intangible costs, the present worth of the capital costs, the estimated annual staffing and operations and maintenance costs for the first two years of commercial operations, and the present worth of the operations and maintenance cost of the Project. Applicant also sought protective treatment of Exhibit B of the application, which details the specific inverter equipment, solar panels, and array tracking systems under consideration for the proposed project. Lastly, the Applicant sought confidential treatment of all disclosures set forth in Exhibit U (Phase 1 Archeological Reconnaissance Report. On November 25, 2020, Board Staff filed a memorandum contra Applicant's motion for a protective order. Specifically, Staff asserted that the Board should deny Applicant's request to keep confidential equipment model information found in Exhibit B to the application because it lacks specificity as required by R.C. 1333.61(D).

{¶ 12} Pursuant to the ALJ Entry January 20, 2021, the October 30, 2020 motion for protective treatment was granted in part and denied in part. Specifically, the ALJ

determined that the equipment model information found in Exhibit B to the application should not be kept confidential inasmuch as the Applicant had not demonstrated that public disclosure of the information it sought to protect will result in harm to RCS.

{¶ 13} Pursuant to Ohio Adm.Code 4906-3-06, within 60 days of receipt of an application for a major utility facility, the Chairman of the Board must either accept the application as complete and compliant with the content requirements of R.C. 4906.06 and Ohio Adm.Code Chapters 4906-1 through 4906-7 or reject the application as incomplete. By letter dated December 29, 2020, the Board notified RCS that its application, as supplemented, was compliant and provided sufficient information to permit Staff to commence its review and investigation. Pursuant to Ohio Adm.Code 4906-3-06 and 4906-3-07, the Board's December 29, 2020 letter directed Applicant to serve appropriate government officials and public agencies with copies of the complete, certified application and to file proof of service with the Board. The letter further instructed RCS to submit its application fee pursuant to R.C. 4906.06(F) and Ohio Adm.Code 4906-3-12.

{¶ 14} On January 8, 2021, RCS filed proof of service of its accepted and complete application as required by Ohio Adm.Code 4906-3-07. Applicant also filed proof that it submitted its application fee to the Treasurer of the State of Ohio.

{¶ 15} By Entry issued January 20, 2021, as amended on January 26, 2021, the ALJ established the effective date of the application as January 20, 2021. The Entry also set forth a procedural schedule directing Staff to file a report of investigation by March 22, 2021, scheduling a virtual public hearing for April 6, and setting a virtual adjudicatory hearing to begin on April 27, 2021. The ALJ further directed RCS to issue public notices of the application and hearings pursuant to Ohio Adm.Code 4906-3-9 indicating that petitions to intervene would be accepted by the Board up to 30 days following service of the notice or by March 8, 2021, whichever was later. Finally, the Entry provided 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.

{¶ 16} On March 1, 2021, the Ohio Farm Bureau Federation (Farm Bureau) filed a motion to intervene and memorandum in support.

{¶ 17} On March 8, 2021, as amended on March 9, 2021, the Board of Trustees of Buckskin Township filed a notice of intervention with a supporting resolution, stating that it has a real and substantial interest which cannot be represented by another party, that its contribution is essential to a just and expeditious resolution of the issues involved in the proceeding, and that its intervention would not delay or prejudice any existing party.

{¶ 18} On March 8, 2021, the Board of Trustees of Paint Township filed a notice of intervention with a supporting resolution, stating that it has a real and substantial interest which cannot be represented by another party, that its contribution is essential to a just and expeditious resolution of the issues involved in the proceeding, and that its intervention would not delay or prejudice any existing party.

{¶ 19} By Entry issued on March 19, 2021, the ALJ granted intervention to the Farm Bureau, Buckskin Township, and Paint Township.

{¶ 20} On March 22, 2021, Staff filed its Report of Investigation (Staff Report) pursuant to R.C. 4906.07(C).

{¶ 21} The local public hearing was conducted as scheduled on April 6, 2021.

{¶ 22} On May 18, 2021, RCS, the Farm Bureau, Buckskin Township, and Staff filed a joint stipulation and recommendation (Stipulation).

{¶ 23} On May 19, 2021, the adjudicatory hearing was called and continued for the purpose of allowing for the filing of testimony pertaining to the Stipulation.

{¶ 24} On May 21, 2021, RCS filed supplemental direct testimonies on behalf of a number of its witnesses pertaining to the Stipulation.

{¶ 25} Beginning on June 10, 2021, the ALJs commenced the adjudicatory hearing where the Stipulation was presented for the Board's consideration. On June 11, 2021, the adjudicatory hearing was continued in order to allow for further settlement negotiations between RCS and Paint Township. The adjudicatory hearing was completed on August 12, 2021.

III. PROJECT DESCRIPTION

{¶ 26} RCS seeks certification to construct a 120 MW solar-powered generating facility in Buckskin and Paint townships in Ross County. The Project will consist of large solar panels ground-mounted on a tracking rack system. The Project will occupy approximately 927 acres within an approximate 1,433-acre project area comprised of private land secured by RCS through agreements with landowners. The Project will include associated facilities such as access roads, an operations and maintenance building, underground and overhead electric collection lines, weather stations, inverters and transformers, a collection substation, and a 138 kV gen-tie electric transmission line. The Project will be secured by perimeter fencing which would be six-feet tall and accessed through gated entrances. RCS will ensure that solar modules are setback a minimum of 300 feet from the adjacent non-participating residences, and at least 50 feet from both non-participating property lines and public roads. (Staff Ex. 1 at 4-6.)

{¶ 27} The solar panels will be attached to metal racking, which will include steel piles driven approximately 8-15 feet into the ground. The solar panel modules have not yet been procured for the Project. The Applicant anticipates that the facility will be comprised of 390 to 450-watt panels. Depending on the module selected, the facility would include approximately 365,000 panels. The solar panel arrays will be grouped in large clusters that would be fenced in with gated entrances and electronic security systems. The highest point of each module will be approximately 15 feet, and the fence will not exceed seven feet. The

project's arrays will be mounted on a single-axis tracking system that will rotate east-west to track the sun as it moves through the sky each day. Applicant estimates that the solar panel modules will occupy approximately 656 acres of the project area.

{¶ 28} RCS will install an underground collector system consisting of a network of electric and communication lines that would transmit the electric power from the solar arrays to a central location. RCS proposes to install up to 9.3 miles of buried cable. It is also considering using a hybrid above/below ground electrical cabling system. The system will allow greater access for maintenance and less disturbance of the ground. Direct current collection cables will be strung under each row of panels and would not require above ground poles. (Staff Ex. 1 at 5.)

{¶ 29} The underground lines would be installed by direct burial method or horizontal directional drilling. Installation of the cable will require an approximately 15-foot-wide temporary work area along its entire length. The below grade portion of the collector system would be buried at least 36 inches. (Staff Ex. 1 at 5.)

{¶ 30} The electricity from the solar panels would be generated in direct current and would be delivered to circuits, which would then be routed through cable trays and then to combiner boxes. Power from the combiner boxes would be transmitted to an inverter housed in a power conversion station mounted on a concrete foundation. The facility would include approximately 37 inverters/power conversion stations. (Staff Ex. 1 at 5.)

{¶ 31} The facility substation will occupy approximately 2.8 acres of land adjacent to the existing AEP Ohio Transmission Company (AEP) Buckskin 69 kV substation. The major components of Applicant's substation will be a dead-end support structure for the 69 kV gen-tie electric transmission line, a main power transformer, circuit breakers, surge arrestors, insulators, and a lightning mast. The collection substation will be located at the south side of Lower Twin Road near the intersection of Lower Twin Road and State Route

41. A 69 kV transmission gen-tie line between 475 and 850 feet in length will connect the project substation to the existing AEP Buckskin 69 kV substation. (Staff Ex. 1 at 5-6.)

{¶ 32} Applicant proposes to construct approximately 12.4 miles of new access roads for construction, operation, and maintenance of the solar facility. The access roads would be up to 25 feet wide during construction. After construction, the finished access roads would be approximately 16 feet in width. (Staff Ex. 1 at 6.)

{¶ 33} Applicant proposes to use three construction laydown areas, one each located in the northern, central, and southern areas of the project with a total acreage of 6.2 acres. The laydown area will be utilized for material and equipment storage, construction, parking, and construction trailers. It will be fenced-in with a six-foot tall chain link fence and topped with one foot of barbed wire. The laydown areas will be restored at the end of construction. (Staff Ex. 1 at 6.) The project will also include weather stations that will measure solar irradiance and wind speed. Solar irradiance is the amount of solar energy per square meter received from the sun (Staff Ex. 1 at 6).

{¶ 34} Applicant proposes to construct one operations and maintenance building, which will be approximately 5,000 square feet and up to 20 feet tall. The building will require a water supply and will have an onsite septic system. The operations and maintenance building will serve as a workspace for operations personnel. (Staff Ex. 1 at 6.)

{¶ 35} Lighting will be installed at the operations and maintenance building, inverters, substation, and at project access points. Temporary lighting will be used at the laydown area. To the extent practical, lighting will be oriented toward the interior of the solar facility and away from roads and residences. During operation, lighting will be downlit. Motion-activated lighting will be used at the operations and maintenance building, inverters, and at project access points. (Staff Ex. 1 at 6.)

{¶ 36} Construction is anticipated to begin in the fourth quarter of 2021 and is expected to last 12-16 months with the facility being placed into service in the fourth quarter

of 2022. According to Applicant, delays could impact project financing, including the ability to procure solar panel modules and facility components and resulting in a push back of the in-service date, which may cause significant financial burden. (Staff Ex. 1 at 6.)

IV. CERTIFICATION CRITERIA

{¶ 37} 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 pipeline;

(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, that the 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;

(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. In determining whether the facility will comply with all rules and standards under R.C. 4561.32, the Board shall consult with office of Aviation of the

Division of Multi-Modal Planning and Programs of the Department of Transportation under R.C. 4561.341;

(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 the various alternatives.

V. SUMMARY OF THE EVIDENCE

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

A. Local Public Hearing

{¶ 39} Fourteen individuals testified at the local public hearing that was held remotely on April 6, 2021. Seven witnesses expressed their support for the proposed project and seven opposed the project. Five of the seven witnesses in support of the project are participating landowners and have lease agreements with RCS. The landowners emphasized the importance of being able to decide how to utilize their land. (Apr. 6, 2021 Tr. at 59, 60, 65, 71 92, 94, 95, 98). Those in favor of the proposed project recognized the importance of solar energy as an alternative, renewable energy source, and noted the environmental and economic benefits to the community and the farmers who receive lease

payments (Apr. 6, 2021 Tr. at 15, 55, 56, 61, 92, 95). One witness praised the Applicant's parent company National Grid and stated that the company was very responsive to concerns such as vegetative setbacks and the limiting of access points to control traffic to and from the site (Apr. 6, 2021 Tr. at 60).

{¶ 40} Another supporting witness described the efforts being taken to construct fencing around the solar farm and to design the Project in a manner so that it will not be seen by many individuals (Apr. 6, 2021 Tr. at 66, 68). The witness also responded to concerns regarding decommissioning, runoff, and illness related to the project. (Apr. 6, 2021 Tr. at 67, 69, 70). Finally, the witness opined that following decommissioning, the land would lead to even more agricultural production in the future (Apr. 6, 2021 Tr. at 67).

{¶ 41} Objecting witnesses raised concerns related to environmental impact, including the impact on and safety of wildlife and animals including endangered species, and the ability to enjoy nature, scenic views, and the state parks (Apr. 6, 2021 Tr. at 17-18, 20-21, 36, 37, 45 52, 78, 79). Concerns were raised regarding the safety of the solar panels and potential resulting contaminants and waste, the manner in which they will be recycled, and potential health concerns, including the contamination of water resources due to the presence of karst (Apr. 6, 2021 Tr. at 20, 29-31, 42-43, 49, 50, 52-54, 83). Testimony identified a concern regarding noise from the solar panels and regarding the loss of agricultural land (Apr. 6, 2021 Tr. at 20, 29, 53). Witnesses also testified regarding the Project's adverse impact on property value, the ability to obtain financing, and the long-term tax implications for surrounding non-participating landowners (Apr. 6, 2021 Tr. at 22, 23, 29, 35, 41, 45, 80, 81, 86). Opposing witnesses also complained of Applicant's lack of communication with non-participating landowners regarding the Project and its effect on these individuals (Apr. 6, 2021 Tr. at 28, 29, 40, 41, 48, 77). Witnesses questioned the efficiency of producing solar energy and the lack of any economic benefit to non-participating landowners (Apr. 6, 2021 Tr. at 31, 32, 44, 45, 76, 81, 84). Concerns were also raised regarding resulting glare and potential road accidents (Apr. 6, 2021 Tr. at 37, 38, 42).

B. Staff Report

{¶ 42} 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

{¶ 43} 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. As the project is a proposed electric generating facility, Staff recommends that the Board find that this consideration is inapplicable to this application (Staff Ex. 1 at 8).

2. NATURE OF PROBABLE ENVIRONMENTAL IMPACT

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

a. Socioeconomic Impacts

{¶ 45} RCS is seeking to construct the project on approximately 927 acres within 1,433 acres of leased private land in a rural area of Ross County. Staff concludes in its report that the proposed project would not conflict with any of the three planning documents for governments within the five mile project study area; these include the Fayette County "enVISION Fayette County Plan" which calls for preservation of the rural and agricultural character of Fayette County; next, the "Highland County Needs Assessment" lists the economic development and increased access to jobs as the county's top needs; finally, the "Ross County/City of Chillicothe Thoroughfare Plan Update" is focused on areas in the vicinity of the City of Chillicothe, which is outside the project study area. Staff also asserts that the proposed Project would be expected to aid regional development by increasing local

tax revenues. The facility will provide supplemental income to farmers and the land could be returned to agricultural production upon decommissioning. (Staff Ex. 1 at 9.)

{¶ 46} The predominant land use within the project area is agriculture and all impacts from construction and operation of the facility will occur on agricultural land. Of the 1,433 acres of leased land for the project, approximately 924 acres of agricultural land is expected to be converted to solar and ancillary uses. Significant impacts to commercial, industrial, recreational, and institutional land uses are not anticipated, and surrounding agricultural land use will continue with minimal disruption. (Staff Ex. 1 at 9.)

{¶ 47} The construction and operation of the proposed facility will not physically impact any recreational facilities. The Applicant identified 24 recreational areas within five miles of the project area. According to the Applicant's visual impact study, for 20 of the 24 recreational areas, visibility of the facility is not anticipated. Although the project area will likely be visible from some edges of the Paint Creek Lake Wildlife Area and from portions of Mitchell Park, the Christian Union Campgrounds, and Wildlife Production Area 48, Staff's review of the Applicant's viewshed analysis determined that significant adverse aesthetic impacts to recreational areas adjacent to the project area are not likely. (Staff Ex. 1 at 9.)

{¶ 48} Staff notes that the rural nature of the vicinity limits the number of potential viewers. Additionally, due to the smaller transportation corridors, which are more lightly traveled, the number of viewing impacts are reduced. Further, existing woodlots are able to offer additional natural screening. (Staff Ex. 1 at 10.)

{¶ 49} The solar panels will be installed approximately 15 feet above ground level. Based on the results of the Applicant's five-mile visual resources report, the solar panels will not likely be visible at most locations beyond 1.5 miles of the perimeter of the project. Existing landscape features limit likely concentration of viewshed impacts to a half-mile. (Staff Ex. 1 at 10.)

{¶ 50} Applicant's landscape mitigation plan proposes the installation of various planting modules along the facility fence line to soften the viewshed impacts and to blend the facility into the existing vegetation (Staff Ex. 1 at 10).

{¶ 51} The Applicant initially conducted a cultural resources literature review to ascertain potential impacts to historical properties and archeological sites in a two-mile radius around the Project. The review initially was based on data provided by Ohio Historic Preservation Office's (OHPO) online geographic information system mapping, Ohio Historic Inventory, the Ohio Archeological Inventory, and the National Register of Historic Places. The Applicant also obtained information on historic cemeteries from the Ohio Genealogical Society. Applicant's historical survey initially identified 83 potential historic resources. OHPO worked with the Applicant to develop a survey plan for historical and archaeological resources. OHPO concurred in the results of Applicant's historical and archeological surveys on October 14, 2020, and October 23, 2020, respectively (Staff Ex. 1 at 10). On February 18, 2021, OHPO executed a Memorandum of Understanding (MOU) with the Applicant which sets forth impact minimalization and mitigation measures, such as avoiding historical resources, implementing vegetative screening, and employing a lighting system to minimize lighting impacts. Based on the MOU, Staff believes that the overall expected aesthetic impact will be minimal. (Staff Ex. 1 at 10.)

{¶ 52} The Applicant will be responsible for the construction, operation, and maintenance of the proposed project. The Applicant currently holds lease or purchase options for the land within the project area other than 4.8 acres north of Lower Twin Road and west of the Buckskin substation. The agreements will not alter the ownership status of the properties within the proposed project area. (Staff Ex. 1 at 11.)

{¶ 53} RCS chose to file its estimated capital and intangible costs, estimated operations and maintenance expenses, and estimated delay costs under seal, and filed a motion for protective order to keep the information confidential as discussed above. (Staff Ex. 2 at 11.)

{¶ 54} According to the Applicant, the proposed installed capital costs of the project and the associated operations and maintenance expenses are consistent with the average weighted capacity costs of utility projects referenced in a 2019 report compiled by the U.S. Department of Energy's Lawrence Berkeley National Laboratory. Additionally, the Applicant contends that proposed project costs are in line with the costs of other similar facilities recently completed by the Applicant. Staff verified that the estimated installed costs of the proposed facility are comparable to those of the Applicant's other projects. Staff verified the Applicant's assertions regarding the costs of the proposed facility. (Staff Ex. 1 at 11.)

{¶ 55} The Applicant provided its estimates of the cost of delays in permitting and construction of the proposed facility. These include lost construction days and costs associated with the inability to procure necessary project components resulting in the facility's in-service date being delayed. Staff found Applicant's characterization of its estimated cost of delays to be reasonable. (Staff Ex. 1 at 11.)

{¶ 56} The Applicant hired a consultant to evaluate the potential economic impacts of the facility on the local region. The identified economic impacts include direct employment and payroll associated with construction and operation of the facility, indirect wages related to supply-chain labor, and induced earnings resulting from spending by persons in the first two categories. The quantified projected economic benefits of the project during construction includes 288 construction jobs and a total of $18.5 million in wages and $28 million in economic output. During operation, the consultant estimates the total annual earnings and economic output benefits to be $1.2 million and $3.0 million, respectively. Staff verified that the methodology of the models relied upon for the study were appropriate. (Staff Ex. 1 at 11, 12.)

{¶ 57} The Project is estimated to generate between $840,000 and $1.1 million annually for Ross County taxing districts. This estimate is based on a Payments in Lieu of Taxes (PILOT) plan in which the Applicant would pay between $7,000 and $9,000 per MW

of nameplate capacity per year, resulting in a positive economic benefit to the region (Staff Ex. 1 at 12).

{¶ 58} RCS hired a consultant to analyze and identify any potential impacts along roads and to area airports due to glint and glare. The consultant utilized software commonly used by solar facility developers to determine the effect of solar glare and found no glare from the project is predicted to effect vehicles using the roadways. The Applicant also found there is no projected glare that would affect area airports. Staff states in its report that it agrees with the study results and notes that aesthetic impact mitigation measures may further reduce impacts of glare as part of the landscape and lighting plan. (Staff Ex. 1 at 12-13.)

{¶ 59} The Applicant holds lands rights to and estimates that the solar facility can operate for 30 years or more, and has created a decommissioning plan with a total decommissioning cost estimate of $12,567,077. Staff states in its report that it reviewed the decommissioning plan. In the plan, RCS states that during decommissioning, it will repurpose, salvage, recycle, or haul offsite to a licensed solid waste disposal facility all solar components. RCS estimates that the net decommissioning cost accounts for the resale or salvage value of the solar equipment. The initial net decommissioning cost of $4,694,666 was calculated by an Ohio licensed engineering firm and will be recalculated every five years thereafter over the life of the project. RCS states that it will post a performance bond for the net decommissioning costs, prior to the commercial operation of the facility, naming the Board as the obligee. The Applicant anticipates that most facility components will be removed within 12 months, but due to weather conditions, may be extended to 18 months. (Staff Ex. 1 at 13-14.)

{¶ 60} The Ohio Department of Natural Resources (ODNR) performed a geological survey of the location of the proposed facility. The report states that there are no known sinkholes in the project area, but within one mile there are 12 field verified or suspected sinkholes. ODNR also found that there is record of a plugged oil and gas well

approximately 1.8 miles west of the project area. RCS hired a consultant to prepare a preliminary geotechnical engineering report. This report did not encounter karst topography features during geotechnical exploration, but states that additional studies could be undertaken to refine the final project design. The most likely type of solar panel support structure would be W-Section steel piles driven to depths of eight to 15 feet. The report states that excavations for electrical collection systems or for shallow foundations could encounter groundwater and may require dewatering, especially during high groundwater periods. Staff recommends in its report that the final engineering drawings of the project design shall account for geological features, including but not limited to karst topography and should be provided to Staff prior to construction for review and acceptance. (Staff Ex. 1 at 14-15.)

b. Ecological Impacts

{¶ 61} Staff states that there are 2 water wells within the project area and approximately 93 wells within one mile of the project area according to the Applicant and ODNR. The Applicant has indicated that it does not anticipate adverse impacts to the nearest water wells because for any wells identified that will be impacted by construction or operation will be decommissioned, cut, and capped prior to the anticipated impact. (Staff Ex 2 at 15.)

{¶ 62} Staff indicates that it conferred with the ODH concerning private water wells near the project area. According to ODH, the nearest solar components should be farther than the minimum isolation distances outlined in Ohio Adm.Code 3701-28-7 between potential contamination sources and private water wells. Staff recommends that the Applicant indicate whether the nearest facility components to each water well within the project area meet or exceed any applicable minimum isolation distances required by Ohio Adm.Code 3701-28-7. Staff specifically recommends for the water well that is within 30 feet of solar equipment, the Applicant relocate the equipment to at least 50 feet from the well,

demonstrate that the well is not for potable use, or seal and abandon the well. (Staff Ex. 1 at 15-16.)

{¶ 63} Staff's report states that there are no public drinking water source protection areas within the project area. According to Staff, the Applicant will implement a Stormwater Pollution Prevention Plan (SWPPP), a spill control and countermeasure plan, and a horizontal directional drilling (HDD) inadvertent release of drilling fluid contingency plan during construction to minimize and prevent potential discharges to surface waters in the project area and surrounding area. (Staff Ex. 2 at 16.)

{¶ 64} The Applicant delineated 60 stream segments within the project area, including 11 perennial stream segments, 32 ephemeral stream segments, and 17 intermittent stream segments. Staff recommends that the Applicant have an environmental specialist on-site during construction activities where HDD activities may impact surface waters. The environmental specialist would have authority to stop HDD activities to ensure that any impacts related to a frac-out are addressed. (Staff Ex. 1 at 15.)

{¶ 65} The Applicant delineated 38 wetlands, including one Category 3 wetland, 20 Category 2 wetlands, and 17 Category 1 wetlands within the project area. The Applicant anticipates .04 acres of temporary wetland impacts and .02 acres of permanent wetland impacts due to construction. (Staff Ex. 2 at 16.)

{¶ 66} The Applicant states that the boundaries of streams and wetlands within and immediately adjacent to the construction limits of disturbance would be flagged, staked, or fenced prior to construction. Further, these sensitive areas would be depicted on all construction drawings, and all contractors and subcontractors would be provided with training to understand the significance of the types of flagging used and the importance of staying within the defined limits of work areas. (Staff Ex. 1 at 16.)

{¶ 67} Additional measures regarding the protection of surface water impacts from indirect stormwater impacts will be addressed through the Applicant's SWPPP, and the

Applicant would obtain an Ohio National Pollutant Discharge Elimination System (NPDES) construction stormwater general permit through the Ohio EPA. Finally, the report states that the Applicant would apply Ohio EPA published Guidance on Post-Construction Storm Water Control for Solar Panel Arrays to project construction and operation. Staff's states that the project would not cross a 100-year floodplain. (Staff Ex. 2 at 16.)

{¶ 68} Staff notes that the Applicant requested information from ODNR and the United States Fish and Wildlife Service (USFWS) concerning listed threatened or endangered plant and animal species known to be located in the historical range of the project area. Staff gathered additional information through field assessments and review of published ecological information. Based on the Staff Report, the Applicant did not identify during field studies any plant or animal species from a compiled list of endangered or threatened species. Specific to the state and federal endangered Indiana bat and the state endangered and federal threatened northern long-eared bat, Staff indicates that the presence of both species have been documented within the project area and that they are tree roosting species in the summer months. Therefore, Staff recommends that the Applicant adhere to seasonal tree cutting dates of October 1 through March 31 for all trees three inches or greater in diameter, unless coordination efforts with the ODNR and the USFWS reflect a different course of action. (Staff Ex. 1 at 19.)

{¶ 69} The project is within the range of the state endangered northern harrier, which breed and hunt in the large wet meadows and dry grasslands. Therefore, Staff recommends that construction in northern harrier preferred nesting habitat types be avoided during the species' nesting period of May 15 through August 1. Further, Staff recommends that the mapping of any habitat areas should be provided to the construction contractor along with instructions to avoid these areas during the restricted dates, unless coordination with the ODNR allows for a different course of action. (Staff Ex. 1 at 20.)

{¶ 70} The project is within the range of the state endangered upland sandpiper. Staff recommends that construction in upland sandpiper preferred nesting habitat types be

avoided during the species' nesting period of April 15 through July 31. Staff also recommends that further mapping of any habitat areas should be provided to the construction contractor along with instructions to avoid these areas during the restricted dates unless coordination with the ODNR allows for a different course of action. (Staff Ex. 1 at 20.)

{¶ 71} Additionally, for a number of other species, the Staff Report reflects that, although they may be in the historical range of the project area, due to the location and type of habitat present at the project site and within the vicinity of the project area, the project is not likely to impact the species. In the event that the Applicant encounters any listed plant or animal species prior to construction, Staff recommends that the Applicant contact Staff, ODNR, and USFWS and include the location and how impacts could be avoided in mapping based on the final engineering drawings to be provided to Staff prior to the preconstruction conference. In the event that the Applicant encounters listed plant or animal species during construction, Staff recommends that the Applicant contact Staff, ODNR, and the USFWS as applicable. (Staff Ex. 1 at 17-19.)

{¶ 72} Permanent impacts to vegetation resulting from construction of the project would occur primarily within agricultural lands, which constitute 1,295 acres of the project area. Forestland impact is estimated to be approximately .95 acres of the 99.19 acres of forestland within the project area and would be limited to narrow tree lines between fields. (Staff Ex. 1 at 20.)

{¶ 73} The 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. The Applicant states that this will enhance visual appeal, enrich local wildlife habitat, increase plant diversity, and discourage invasive species. Further, Staff states that the project will be expected to represent a reduced environmental impact when compared to the current land use of agricultural plant production due to the reduction of tilling, and application of pesticides and fertilizers. The

Applicant has committed to take steps to prevent propagation of noxious weeds during implementation of any pollinator-friendly plantings. (Staff Ex. 2 at 20-21.)

c. Public Services, Facilities, and Safety

{¶ 74} Staff states that the facility would be designed to withstand typical high-wind occurrences. Staff determined that components of the proposed facility are generally not susceptible to damage from high winds except for tornado-force winds. (Staff Ex. 1 at 21.)

{¶ 75} Staff states that part of the Applicant's geotechnical report addresses test borings completed by the Applicant, which indicate the project area's suitability for solar facility development. The Applicant states that it will further refine the geotechnical report and testing completed to account for soil conditions necessary to identify soil strength and the pile depth necessary to withstand high wind events. (Staff Ex. 1 at 21.)

{¶ 76} During the detailed engineering phase, the Applicant will minimize any potential damage from high wind velocities by proper structural design of the project support equipment at sufficient depth based on site-specific soil conditions. The Applicant states that it will identify pile type and depth for the facility's support piles to account for risk factors due to wind, snow, seismic activity, frost, and corrosion. (Staff Ex. 1 at 21.)

{¶ 77} Staff states that while the Applicant has not yet finalized its delivery route, it expects deliveries to the project site to be made by way of US Route 35 to State Route 753 to State Route 41. From there, the main transportation routes to access the project would be Lower Twin Road, Rolfe Road, Moxley Road, and Rapid Forge Road. The Applicant conducted a route evaluation study to identify viable means of accessing the project area. According to the Applicant's Route Evaluation Study, the bridges along the anticipated routes are in good condition. Further, the Applicant's consultant found that the culverts along the proposed delivery routes were in good condition. No weight restrictions were documented on the project delivery routes. No overhead obstructions, inadequate road

surfaces, or active railroads were present that would be crossed by construction material deliveries. (Staff Ex. 1 at 21-22.)

{¶ 78} The Applicant states that conventional heavy equipment which does not require a special permit would make up the majority of construction traffic. Electrical transformers and switchgear are anticipated to be overweight and thus require special permitting and route coordination for delivery. The Applicant does not anticipate significant changes to traffic patterns but does anticipate an increase in truck traffic during construction. RCS does not anticipate post-construction and operation activity to cause any additional traffic beyond routine maintenance and does not anticipate road closures. The Applicant states it will enter a Road Use Maintenance Agreement with the Ross County Engineer. Once the transportation permitting process has been completed, Staff recommends that the Applicant develop a final transportation management plan, which would include any county-required road use maintenance agreements. According to Staff, any damaged public roads and bridges will be repaired by the Applicant promptly to their previous or better condition under the guidance of the appropriate regulatory authority. Any temporary improvement will be removed unless the appropriate regulatory authority requires that they remain in place. (Staff Ex. 1 at 22.)

{¶ 79} While adverse noise impacts are expected, the construction noise would be temporary and intermittent, would occur away from most residential structures, and would be limited to daytime working hours. Operational noise impacts for a solar generation facility would be relatively minor and occur only during the day. The step-up transformer at the new substation and the inverters may operate at night, but the noise impact would also be relatively minor. (Staff Ex. 1 at 22.)

{¶ 80} The Applicant conducted a background ambient operational noise level study. No non-participating receptors were modeled to receive noise impacts greater than the daytime ambient noise level plus five dBA. Therefore, the Project is expected to have minimal adverse noise impacts on the adjacent community. According to the Staff, if an

inverter or transformer model different than the proposed inverter or transformer model is chosen, the Applicant should 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. 1 at 22.)

{¶ 81} Staff recommends that the Board find that the 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 for the proposed facility include the conditions specified in the section of the Staff Report entitled "Recommended Conditions of Certificate" (Staff Ex. 1 at 22-23).

3. MINIMUM ADVERSE ENVIRONMENTAL IMPACT

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

{¶ 83} The Applicant's site selection process focused on the availability of solar resources, ease of access to bulk power transmission system, compatible land use, sufficiently low population density, few environmentally sensitive areas, landowner interest, and local government support. In preparing the application, RCS engaged local officials and the public. Local governmental guidance and public input have been incorporated into the project design where feasible. (Staff Ex. 1 at 24.)

{¶ 84} The OHPO and Applicant signed a MOU detailing avoidance of archaeological sites identified in OHPO's initial correspondence received by Staff. RCS and OHPO identified specific visual mitigation to address adverse effects to historical and archaeological sites. (Staff Ex. 1 at 24.)

{¶ 85} Staff states that the Project would have an overall positive impact on the state and local economy due to the increase in construction spending, wages, purchasing of goods

and services, annual lease payments to local landowners, increased tax revenues, and PILOT revenue. (Staff Ex. 1 at 24.)

{¶ 86} Staff states that the geology of the project site does not present conditions that would limit or negatively impact the construction or later operation of the proposed facility. Staff recommends that the final detailed engineering drawings of the final project design account for geological features. (Staff Ex. 1 at 24).

{¶ 87} RCS anticipates .04 acres of temporary wetland impacts and .02 acres of permanent wetland impacts due to construction of access roads and collection lines. The Applicant did not identify any listed plant or animal species during field surveys that would be impacted. While the project is within range of several endangered species, impacts would be avoided on suitable habitats. (Staff Ex. 2 at 24.)

{¶ 88} RCS states that noise impacts would be temporary, intermittent, limited to construction activities, and would occur away from most residential structures. Staff recommends that RCS limit hours of construction to address potential concerns from any nearby residents. According to Staff, the Applicant has developed a complaint resolution plan which would be implemented throughout construction and operation. (Staff Ex. 1 at 24.)

{¶ 89} Staff states that during the construction period, roads would experience a temporary increase in truck traffic. Due to the location of the Project, RCS anticipates that most components for the entire project would be delivered by using flatbed or tractor-trailer vehicles and multi-axle dump trucks. A transportation management plan would be finalized once the engineering layout is determined. A final delivery route plan would be developed through discussions with local officials. RCS intends to enter a road use agreement with the Ross County Engineer. (Staff Ex. 1 at 25.)

{¶ 90} Due to the low profile of the Project, combined with the existing vegetation in the area, the visual impacts would be most prominent to landowners in the immediate

vicinity of the infrastructure itself. RCS has developed a visual resource assessment and mitigation plan, as well as a lighting plan in order to lessen the impact to non-participating residences. (Staff Ex. 1 at 25.)

{¶ 91} The Applicant has committed to taking steps to address potential impacts to farmland and to restore temporarily impacted land to its original use. In order to avoid impacts to drain tiles, the Applicant will locate tiles as accurately as possible prior to construction. The Applicant has committed to promptly repairing any drain tile damaged by the Project during its operational life. Further, following decommissioning of the facility, land can be restored for agricultural use or other economical land use desired by the landowner. (Staff Ex. 1 at 25.)

{¶ 92} According to Staff, the Applicant has prepared a decommissioning plan for the facility. The Applicant will provide financial security to ensure that funds are available for decommissioning and land restoration. The Applicant would restore land significantly to its original topography to allow resumption of agricultural or other economic land use as desired by the landowner. (Staff Ex. 1 at 25.)

{¶ 93} Staff concludes that the proposed Project would result in both temporary and permanent impacts to the Project and surrounding areas. The Project is unlikely to pose a significant adverse impact to existing land use, cultural resources, recreational resources, or wildlife. With Staff's recommended conditions to further mitigate potential impacts, Staff concludes that the Project represents the minimum adverse environmental impact. (Staff Ex. 1 at 25.)

{¶ 94} Staff recommends that the Board find that the proposed facility represents the minimum adverse environmental impact, and therefore complies with the requirements specified in R.C. 4906.10(A)(3), provided that any certificate issued by the Board for the proposed facility include the conditions specified in the section of the Staff Report entitled "Recommended Conditions of Certificate" (Staff Ex. 1 at 25).

4. ELECTRIC POWER GRID

{¶ 95} 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.

{¶ 96} The North American Electric Reliability Corporation (NERC) is responsible for the development and enforcement of the federal government's approved reliability standards, which are applicable to all owners, operators, and users of the bulk power system (BPS). As an owner, operator, and/or user of the BPS, the Applicant is subject to compliance with various NERC reliability standards. NERC reliability standards are included as part of the system evaluations conducted by PJM Interconnection, LLC (PJM). PJM is the regional transmission organization charged with planning for upgrades and administrating the generation queue for the regional transmission system in Ohio. PJM reviews applications for expansions and upgrades of the PJM transmission system to ensure compliance with reliability criteria. (Staff Ex. 1 at 26.)

{¶ 97} PJM analyzed the bulk electric system, with the facility interconnected to the BPS, for compliance with NERC reliability standards and PJM reliability criteria. The PJM studies indicated that no reliability violations would occur during single and multiple contingencies and no potential violations were found during the short circuit analysis. Based on PJM's analysis, the facility would provide additional electrical generation to the regional transmission grid, would be consistent with plans for expansion of the regional power system, and would serve the interests of the electric system economy and reliability. Based on these determinations, Staff recommends that the Board find that the facility complies with the requirements of R.C. 4906.10(A)(4) provided any certificate issued for the proposed facility includes the conditions specified in the Staff Report. (Staff Ex. 1 at 26-28.)

5. AIR, WATER, SOLID WASTE, AND AVIATION

{¶ 98} 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.

{¶ 99} Air quality, air permits, and air pollution control equipment are not required for construction of the proposed facility due to the fact that the facility will not include any stationary sources of air emissions. The Applicant would comply with fugitive dust rules by use of water spray or other appropriate dust reduction measures whenever necessary. (Staff Ex. 1 at 29.)

{¶ 100} With respect to water quality impacts, the Applicant anticipates obtaining environmental permits if and where necessary. The applicable permits could include: an Ohio NPDES construction storm water general permit (Ohio EPA Permit No. OHC000005); the U.S. Army Corps of Engineers Section 404 or nationwide permit for stream crossings and wetland impacts; Ohio EPA Water Quality Certification under Section 401 of the Clean Water Act; and an Ohio Isolated Wetland Permit. (Staff Ex. 1 at 29.)

{¶ 101} Within the collection substation footprint, an aboveground storage tank may be used to store oil for cooling and insulation of transformers at the collection station. The Applicant would develop a plan to mitigate release of hazardous oil if the tank would exceed a certain size specified in 40 C.F.R. Part 112. (Staff Ex. 1 at 29.)

{¶ 102} Staff opines that with these measures, construction and operation of the facility would comply with the requirements of R.C. Chapter 6111, and the rules and laws adopted under that chapter (Staff Ex. 2 at 29).

{¶ 103} Regarding solid waste, debris generated from construction would include items such as plastic, wood, cardboard and metal packing materials, construction debris, and general refuse. Operation of the project could generate small amounts of solid waste, such as wood, cardboard, material packing/packaging materials, used oil, general refuse,

universal waste, and used antifreeze. It is also anticipated that the operations and maintenance building will generate solid waste comparable in type and quantity to a small business office. The solid waste generated during the construction or operation of the facility would be disposed of at an authorized solid waste disposal facility. The operation and maintenance facilities would utilize local waste recycling and disposal services. Staff notes that the Applicant's solid waste disposal plans would comply with solid waste disposal requirements as required in R.C. Chapter 3734 and the rules and laws adopted under this chapter. (Staff Ex. 1 at 29, 30.)

{¶ 104} RCS indicated that one residence and an associated shed, located on Rolfe Road, are proposed to be removed for construction of the proposed facility. RCS states that the owner of the residence intends to relocate the trailer home to outside of the project area. Staff states that it has confirmed with RCS that it has authorization pursuant to a lease agreement to remove the residence and shed prior to construction, at the landowner's request. (Staff Ex. 1 at 30.)

{¶ 105} The tallest above-ground structures would be the substation support structures, which would be approximately 65 feet tall. That height is under the height requirement from the Federal Aviation Administration (FAA), pursuant to 14 C.F.R. Part 77.9(a), for filing a Form 7460-1. (Staff Ex. 1 at 36.)

{¶ 106} There are no known public use airports or helicopter pads within five miles of the project area. The nearest public use airports are the Highland County Airport and Fayette County Airport, which are located between 11 and 15 miles from the proposed solar facility project collection substation. There are 2 private airports located within 1.8 to 3 miles from the project area; the Applicant claims one of these, Unger Field, is no longer in use. Notice of the proposed solar farm size and the estimated construction start date was provided to these private airports. Additionally, the FAA issued a Determination of No Hazard to air navigation for various points around the solar facility. (Staff Ex. 1 at 30.)

{¶ 107} Staff contacted the ODOT Office of Aviation during review of the application to coordinate review of potential impacts of the facility on local airports, but no such concerns were identified as of the filing of the Staff Report. (Staff Ex. 1 at 30.)

{¶ 108} 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 30).

6. PUBLIC INTEREST, CONVENIENCE, AND NECESSITY

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

{¶ 110} The Applicant stated that it will use reliable and certified equipment compliant with the applicable standards of the Underwriters Laboratories, Institute of Electrical and Electronics Engineers, National Electrical Code, National Electrical Safety Code, and the American National Standards Institute. The Applicant also intends that components will adhere to applicable building and electrical codes for safe and reliable operation. (Staff Ex. 1 at 31.)

{¶ 111} The Applicant intends to restrict public access to the facility by enclosing the project area with a six-foot tall woven wire fence topped with a one-foot tall, barbed wire strand. Prior to construction, the Applicant intends to develop and implement an emergency response plan and to further consult with potentially affected emergency response personnel. Staff recommends that the Applicant share the finalized fire protection, safety, and medical emergency plans prior to the preconstruction conference. (Staff Ex. 1 at 31.)

{¶ 112} In addition to providing the availability of copies of its application consistent with the Board's rules, RCS hosted a public informational open house on September 30,

2020, where attendees were given the opportunity to provide feedback. The Applicant also maintains a project website.

{¶ 113} The Applicant stated that it would use reliable and certified equipment compliant with applicable standards, including building and electrical codes for components (Staff Ex. 1 at 31). The Applicant intends to use warning signs, fencing, and gates to restrict access to potential hazards within the project area. Further, the Applicant intends to design its facility with setbacks to non-participating sensitive receptors and properties, and to public roads. (Staff Ex. 21at 31.)

{¶ 114} The Applicant has drafted a complaint resolution plan to handle complaints during the construction and operation of the facility. Staff recommends that a final version of the plan be filed in the docket no later than 30 days prior to the start of construction. The Applicant committed to notifying affected property owners and tenants about the project and the complaint resolution plan prior to the start of construction and prior to operation. Staff also recommends the Applicant submit to Staff a quarterly complaint summary report during construction and each of the first five years of operation of the facility. (Staff Ex. 2 at 31.)

{¶ 115} Based on nine public comments summarized in the Staff Report, commenters expressed concerns such as the recycling and chemical makeup of the solar panels, loss of agricultural land, effects of the facility on wildlife, impacts to property values, and other concerns. Staff states that many of the concerns contained in the public comments are addressed in the Staff Report, minimized by the Applicant, and further mitigated by the Recommended Conditions of Certificate. (Staff Ex. 2 at 31.)

{¶ 116} 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 specified in R.C. 4906.10(A)(6), provided that any certificate issued by the Board includes the conditions specified in the Staff Report (Staff Ex. 1 at 32).

7. AGRICULTURAL DISTRICTS

{¶ 117} 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. Agricultural district land is exempt from sewer, water, or electrical service tax assessments (Staff Ex. 1 at 33).

{¶ 118} Agricultural land can be classified as an agricultural district through an application and approval process that is administered through the local county auditor's office. Eligible land must be devoted exclusively to agricultural production or be qualified for compensation under a land conservation program for the preceding three years. Furthermore, eligible land must be at least 10 acres or produce a minimum average gross annual income of $2,500. (Staff Ex. 1 at 33.)

{¶ 119} The construction, operation, and maintenance of the proposed facility would occur on approximately 925 acres of land currently used for agricultural purposes. Specifically, 607 acres of cash crop land and 318 acres of vacant agricultural land would be utilized for the Project. The repurposed land could be restored for agricultural use when the project is decommissioned. No land with Agricultural District designation would be impacted. (Staff Ex. 1 at 33.)

{¶ 120} The construction and operation of the proposed facility would disturb the existing soil and could lead to broken drain tiles. The locating and avoidance of damaging drain tile mains can help prevent the pooling of water on project parcels and adjacent parcels according to Staff. The Applicant has consulted landowners and Ross County officials to collect data on existing drain tiles within the project area. The Applicant has supplied a Drain Tile Mitigation Plan with its application and has consulted with local landowners and Ross Count officials to obtain data on existing drain tiles. The Applicant has committed to promptly repair any drain tile found to be damaged by the Project during its operational life. (Staff Ex. 1 at 33.)

{¶ 121} No agricultural structures are expected to be impacted by the proposed project. The Applicant has committed to take steps to address potential impacts to farmland, including repairing drain tiles, restoring temporarily impacted land to its original use, and restoring original topsoil separated during construction. (Staff Ex. 1 at 33.)

{¶ 122} 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, complies with the requirements of R.C. 4906.10(A)(7), provided that any certificate issued by the Board includes the conditions specified in the Staff Report (Staff Ex. 1 at 33).

8. WATER CONSERVATION PRACTICE

{¶ 123} 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.

{¶ 124} Construction of the proposed facility would not require the use of significant amounts of water. Water may be utilized for dust suppression and control on construction access roads or unpaved transportation routes as needed. (Staff Ex. 1 at 34.) Similarly, operation of the proposed facility will not require the use of significant amounts of water. Additionally, the Applicant states that it does not anticipate the need to clean the solar panels with water because of sufficient rainfall in the area. (Staff Ex. 1 at 34.)

{¶ 125} Staff recommends that the Board find that the proposed facility would incorporate maximum feasible water conservation practices, and, therefore, complies with the requirements specified in R.C. 4906.10(A)(8). Staff further recommends that any certificate issued by the Board for the certification of the proposed facility include the conditions specified in the Staff Report. (Staff Ex. 1 at 34.)

9. RECOMMENDATIONS

{¶ 126} In addition to making various findings throughout its report, Staff recommended that 25 conditions be made part of any certificate issued by the Board for the proposed facility (Staff Ex. 1 at 35-39).

VI. ARGUMENTS OF THE PARTIES

{¶ 127} Following the adjournment of the August 12, 2021 adjudicatory hearing, RCS, Paint Township, and Staff filed briefs on August 27, 2021, and RCS and Staff filed reply briefs on September 10, 2021. In its initial post-hearing brief, RCS generally restates the summary of the evidence as to why the Board should certify the facility. Similarly, Staff's initial brief argues that the sum of the evidence supports certification of the facility as a renewable energy generating facility in Ohio. As noted below, the only statutory criteria for which the parties are in dispute regarding the proposed stipulation is the public interest, convenience, and necessity prong set forth in R.C. 4906.10(A)(6).

{¶ 128} Paint Township filed a brief in opposition of certification solely based on the application of R.C. 4906.10(A)(6). Specifically, Paint Township argues that the proposed facility does not satisfy the public interest requirement of R.C. 4906.10(A)(6) which requires the Applicant to show that the proposed facility will serve "the public interest, convenience, and necessity." Rather than serving the public interest, Paint Township asserts that the proposed facility will have a negative impact on the property values of property owners that are adjacent to the proposed facility site and, therefore, the Project does not serve the public interest (Paint Township Initial Br. at 3.) Specifically, Paint Township argues that the decisions of the Applicant and the landowners with whom the Applicant has entered into agreements with to construct and operate the facility will have a direct impact on the property rights and values of adjacent non-participating landowners. (Paint Township Initial Br. at 3-4, 6.)

{¶ 129} In support of its position, Paint Township cites the testimony of Applicant witness Andrew Lines, who stated in his prefiled direct testimony that an adjacent property located at 6267 Rapid Forge Road was listed at $239,000 (Applicant Ex. 10 at 3). However, Paint Township points out that at the June 10, 2021 adjudicatory hearing, Mr. Lines was asked and confirmed that a listing obtained from Zillow.com for a property located at 6267 Rapid Forge Road, Greenfield, Ohio, showed that the same property sold for $225,000, a loss of six percent. (June 10 Tr. at 53-56.) Paint Township submits that the biggest potential cause for this reduction is the proposed solar facility at issue in this application. Paint Township believes that this is especially true considering the current real estate market. Further, Paint Township argues that while Mr. Lines testified that he did not expect the proposed project to hurt the value of properties adjacent to the project area, the sample size of data of home sales in the project area upon which he could rely for this conclusion was limited to the one property sale referenced above. Further, Paint Township contends that there is no substantive evidence to show that the proposed project does not affect the property values of adjacent landowners around the project site. Therefore, Paint Township believes that the Board should err on the side of caution and give great weight and consideration to the potential harm that non-participating landowners will experience if the project is approved. (Paint Township Initial Br. at 4-6.)

{¶ 130} In their replies to Paint Township's brief, both RCS and Staff argue that while the property rights of owners in the project area should be protected, Paint Township's argument does not show that any such reduction will actually occur.

{¶ 131} RCS submits that the record in this case demonstrates that the Project is in the public interest, convenience, and necessity (RCS Reply Br. at 2). RCS rejects any contention that a certificate should not be approved because the project will have a negative impact on property values in the surrounding area. In support of its position, RCS points to the testimony of its expert witness Andrew Lines, a Certified General Real Estate Appraiser, with active licenses in multiple states, including Ohio. Mr. Lines opined that the project is not expected to affect property values in the project area (Applicant Ex. 10 at 2, 8;

June 10 Tr. at 67, 70-71). RCS argues that Paint Township has no data or expert to support its contention that the six percent reduction between the list price and the sale price for the property at 6267 Rapid Forge Road, Greenfield, Ohio was caused by the news of the proposed project (RCS Reply Br. at 3). In support of its position, RCS references Mr. Lines belief with respect to 6267 Rapid Forge Road, that the $225,000 sale price reflected a fairly reasonable annual appreciation for a rural area and that homes do not always sell for their list price. (RCS Reply Br. at 3 citing June 10 Tr. at 71.)

{¶ 132} RCS notes that at the time of the hearing, RCS witness Lines testified that he was aware of a home at 6215 Rapid Forge Road, that was listed for sale at $235,000. Upon the filing of its reply brief, RCS provided a link to the Ross County Auditor website. According to the website, the home sold on July 22, 2021, for the amount of $237,400, which is $2,400 over the list price (RCS Reply Br. at 3). Witness Lines also discussed his review of home sales adjacent to the Hillcrest Solar Project, which is currently under construction. The reviewed sales were from the start of construction of the Hillcrest project in late January 2020 through the date of the drafting of his testimony. Specifically, witness Lines testified that each of these sales sold during normal marketing time of 30-90 days on the market and sold from list price discounts of 2.2 percent to 12.6 percent above list price. (Applicant Ex. 10 at 8.)

{¶ 133} Based on witness Lines' testimony, RCS opines that the record evidence supports a finding that the project will not affect property values near the project area (RCS Reply Br. at 4). Additionally, RCS notes that the Board has accepted Mr. Lines' Testimony in other proceedings [RCS Reply Br. at 4 citing *In re Alamo Solar I, LLC*, Case No. 18-1578-EL-BGN, Opinion and Order (June 24, 2021); *In re Angelina Solar I, LLC*, Case No 18-1579-EL-BGN, Opinion and Order (Jun. 24, 2021); *In re Big Plain Solar LLC*, Case No. 19-1823-EL-BGN, Opinion and Order (Mar. 18, 2021); *In re Yellowbud Solar, LLC,* Case No. 20-972-EL-BGN, Opinion and Order (Feb. 18, 2021)].

{¶ 134} While recognizing that many of the conditions that it recommends are intended to protect adjacent property owners from adverse impacts, Staff avers that it is impossible to insure against any possible impacts, including property values. Further, Staff submits that the law does not require such a guarantee. In particular, Staff argues that the Board should not extrapolate from data related to a single parcel that all adjacent property values will decline as a result of the project's existence. Staff submits that Paint Township did not show that the proposed project was the cause of the price reduction of the sole property, only opining that the project was "the biggest potential cause." (Staff Reply Br. at 5-6.)

A. Board Conclusion

{¶ 135} Pursuant to R.C. 4906.10(A)(6), the Board must determine that the facility will serve the public interest, convenience, and necessity. Public interest, convenience, and necessity should be examined through a broad lens. For example, this factor should consider the public's interest in a power siting project 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.

{¶ 136} Based on our review of the record regarding R.C. 4906.10(A)(6), the Board finds that the proposed project will serve the public interest, convenience, and necessity. Specific to the issue of the proposed project's impact on real estate values, the Board identifies that the only witness testifying on this issue was Mr. Andrew Lines who testified on behalf of RCS. As noted above, the witness opined that based on studies that he has conducted in the Midwest (including in Ohio, Florida, Virginia, New York, and North

Carolina) the project is not expected to cause a decrease in property values in the project area. (Applicant Ex. 10 at 2, 8; June 10 Tr. at 67, 70-71). Although Paint Township did identify one property in the project area that sold for less than list price, the Board notes that this is a very small sample size, and the record does not establish the direct causation for this decrease in price.

VII. STIPULATION AND CONDITIONS

{¶ 137} At the June 10, 2021 adjudicatory hearing, counsel for RCS presented the Stipulation entered into by the Applicant, the Farm Bureau, Buckskin Township, and Staff (Jt. Ex. 1; June 10, 2021 Tr. at 5, 14-38). Pursuant to the Stipulation, the signatory parties agree that the Board issue the Certificate of Environmental Compatibility and Public Need, as requested by RCS, subject to the 29 listed conditions.

{¶ 138} 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 agree as follows:

(1) The Applicant shall install the facility, utilize equipment and construction practices, and implement mitigation measures as described in the application and as modified and/or clarified by supplemental filing, replies to data requests, and the recommendations in the Staff Report and the Stipulation.

(2) The Applicant shall conduct a preconstruction conference prior to the start of any construction activities. Staff, the Applicant, and representatives of the primary contractor and all subcontractors for the project shall attend the preconstruction conference. The conference shall include a presentation of the measures to be taken by the Applicant and contractors to ensure compliance with all conditions of the certificate, and discussion of the procedures for on-site investigations by Staff during construction. Prior to the conference, the Applicant shall provide

a proposed conference agenda for Staff review. The Applicant may conduct separate preconstruction meetings for each stage of construction.

(3) Within 60 days after the commencement of commercial operation, the Applicant shall submit to Staff a copy of the as-built specifications for the entire facility. If the Applicant demonstrates that good cause prevents it from submitting a copy of the as-built specifications for the entire facility within 60 days after commencement of commercial operation, it may request an extension of time for the filing of such as-built specifications. The Applicant shall use reasonable efforts to provide as-built drawings in both hard copy and as geographically-referenced electronic data.

(4) Separate preconstruction conferences may be held for the different phases of civil construction and equipment installation. At least 30 days prior to the preconstruction conference, the Applicant shall submit to Staff, for review and acceptance, one set of detailed engineering drawings of the final project design and mapping in the form of PDF, which the Applicant shall also file on the docket of this case, and geographically referenced data (such as shapefiles or KMZ files) based on final engineering drawings to confirm that the final design is in conformance with the certificate. Mapping shall include the limits of disturbance, permanent and temporary infrastructure locations, areas of vegetation removal and vegetative restoration as applicable, and specifically denote any adjustments made from siting detailed in the application. The detailed engineering drawings of the final project design shall account for geological features (including, but not limited to Karst topography and groundwater depth) and include the identity of the registered professional engineers(s), or engineering firm(s), licensed to practice engineering in the state of Ohio who reviewed and approved

the designs. All final geotechnical study/evaluation, including boring test results, shall be included in the final submission of the final project design to Staff.

(5) If any changes to the project layout are made after submission of final engineering drawings, the Applicant shall provide all such changes to Staff in hard copy and as geographically-referenced electronic data. All changes are subject to Staff review to ensure compliance with all conditions of the certificate, prior to construction in those areas.

(6) The certificate shall become invalid if the Applicant has not commenced a continuous course of construction of the proposed facility within five years of the date of journalization of the certificate, unless the Board grants a request for waiver or an extension of time.

(7) As the information becomes known, the Applicant shall file in this proceeding, the date on which construction will begin, the date on which the construction was completed, and the date on which the facility begins commercial operation.

(8) Prior to the commencement of construction activities in areas that require permits or authorizations by federal or state laws and regulations, the Applicant shall obtain and comply with such permits or authorizations. The Applicant shall provide copies of permits and authorizations, including all supporting documentation to Staff within seven days of issuance or receipt by the Applicant. The Applicant shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference.

(9) To the extent permitted by R.C. 4906.13(B), the certificate authority provided in this case shall not exempt the facility from any other

applicable and lawful local, state, or federal rules or regulations, nor be used to affect the exercise of discretion of any other local, state, or federal permitting or licensing authority with regard to areas subject to their supervision or control.

(10) At least 30 days prior to the start of construction, the Applicant shall file a copy of the final complaint resolution plan on the public docket. At least seven days prior to the start of construction and at least seven days prior to the start of facility operations the applicant shall notify via mail affected property owners and tenants including those individuals who were provided notice of the public informational meeting, residences located within one mile of the project area, parties to this case, county commissioners, township trustees, and emergency responders, airports, schools and libraries, as well as anyone who requested updates regarding the project. The notices shall provide information about the project, including contact information, a copy of the complaint resolution plan, and a reference to the Board's docketing system for additional information. The start of construction notice shall include a timeline for construction and restoration activities. The start of facility operations notice shall include a timeline for construction for the start of operations. The Applicant shall file a copy of these notices on the public docket, including written confirmation that the Applicant has complied with all preconstruction-related conditions of the certificate. During construction and operation of the facility, the Applicant shall submit to Staff a complaint summary report by the 15th day of April, July, October, and January of each year for the first five years of operation. The report shall include a list of all complaints received through the Applicant's complaint resolution process, a description of the actions taken toward

the resolution of each complaint, and a status update if the complaint has yet to be resolved.

(11) Prior to the preconstruction conference, the Applicant shall provide Staff, for review and acceptance, the fire protection, safety, and medical emergency plan(s) to be used during construction and operation of the facility.

(12) The Applicant shall not commence any construction of the facility until it has executed an Interconnection Service Agreement and Interconnection Construction Service Agreement with PJM Interconnection, which includes construction, operation, and maintenance of system upgrades necessary to integrate the proposed generating facility into the regional transmission system reliably and safely. The Applicant shall docket either a letter stating that each agreement has been signed or an executed copy of each agreement.

(13) The facility shall be operated in such a way as to assure that no more than 120 MW would at any time be injected into the BPS.

(14) The Applicant shall implement the landscape mitigation planting modules listed in the Landscape Mitigation Plan and implement the Lighting Plan. Any modification to these plans shall be provided to Staff for confirmation of compliance with this condition at least 30 days prior to implementation. The Applicant shall maintain vegetative screening measures for the life of the facility and shall replace and maintain any failed plantings so that, after five years, at least 90 percent of the vegetation has survived. The Applicant shall maintain all fencing along the perimeter of the project in good repair and promptly repair any damage as needed for the term of the project.

(15) General construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. or until dusk when sunset occurs after 7:00 p.m. Impact pile driving shall be limited to the hours between 9:00 a.m. and 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. Prior to pile driving activities, the Applicant will provide a map to Staff indicating areas where pile driving cannot occur between 7:00 a.m. and 9:00 a.m., based on the daytime ambient Leq plus 10dBA from the sound data previously collected to support Exhibit Q of the Application. Hoe ram operations, if required, shall be limited to the hours between 10:00 a.m. and 4:00 p.m., Monday through Friday. Construction activities that do not involve noise increases above ambient levels at sensitive receptors are permitted outside of daylight hours when necessary. The Applicant shall notify affected 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.

(16) If the inverters or substation transformer chosen for the project have higher sound power output than the models used in the noise model, the Applicant shall submit, 30 days prior to construction, the results from an updated noise model for the project using the expected sound power output from the models chosen for the project, to show that sound levels will not exceed the project area average daytime ambient level at any non-participating sensitive receptor. If transformer manufacturer data is not available, the model will be updated with sound emission data following the NEMA [National Electric Manufacturers Association] TR1 [Transformers, Regulators, and Reactors] standard. If the inverter manufacturer is not available, a similar inverter model will be used to

update the sound propagation model prior to construction. Once constructed, sound level measurements will be made in close proximity to the inverter to determine the sound power level of the installed inverter. If the level is 2 dBA or more above the updated model, then the model will be updated to ensure project-wide compliance. If the sound power level is less than 2 dBA above the sound power level in the updated model, then the project will be deemed in compliance.

(17) The Applicant shall avoid, where possible, or minimize to the extent practicable, any damage to functioning field tile drainage systems and soils resulting from the construction, operation, and/or maintenance of the facility in agricultural areas. Damaged field tile systems shall be promptly repaired to at least original conditions or modern equivalent at the Applicant's expense. Affected landowners may agree to not having a damaged drain tile repaired only if the systems of adjacent landowners remain unaffected by the non-repair of the landowner's field tile system.

(18) If prior to construction the Applicant encounters new listed threatened or endangered plant or animal species or suitable habitats of these species within the construction limits of disturbance, the Applicant shall identify avoidance areas or alternatively explain appropriate mitigation measures for these species to accommodate construction activities. This information shall be included with the final engineering drawings per Condition 4. Coordination with ODNR or USFWS may allow for a different course of action.

(19) The Applicant shall adhere to seasonal cutting dates of October 1 through March 31 for the removal of trees three inches or greater in diameter to avoid impacts to Indiana bats and northern long-eared bats, unless

coordination with the ODNR and/or the USFWS allows a different course of action.

(20) Construction in northern harrier preferred nesting habitat types shall be avoided during May 15 through August 1 unless coordination by the Applicant with ODNR allows an alternate course of action. Mapping of these habitat areas shall be provided to the construction contractor along with instructions to avoid these areas during the restricted dates, unless coordination with the ODNR allows for an alternate course of action.

(21) Construction in upland sandpiper preferred nesting habitat types shall be avoided during April 15 through July 31 unless coordination by the Applicant with ODNR allows an alternate course of action during the period. Mapping of these habitat areas shall be provided to the construction contractor along with instructions to avoid these areas during the restricted dates, unless coordination with the ODNR allows for an alternate course of action.

(22) The Applicant shall have an environmental specialist on site during construction activities that may affect sensitive areas, as mutually agreed upon between the Applicant and Staff. Sensitive areas which would be impacted during construction shall be identified on a map provided to Staff, and may include, but are not limited to, wetlands and streams, and locations of threatened or endangered species. The environmental specialist shall be familiar with water quality protection issues and potential threatened or endangered species of plants and animals that may be encountered during project construction. The environmental specialist mutually agreed upon the Applicant and Staff shall be authorized to report any issues simultaneously to the Applicant and Staff. To allow time for the Applicant and Staff to respond to any

reported issued, the environmental specialist shall have the authority to stop construction for up to 48 hours if the construction activities are creating unforeseen environmental impacts in the sensitive areas identified on the map.

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

(24) Prior to commencement of construction activities that require transportation, the Applicant shall obtain such permits. The Applicant shall coordinate with the appropriate authority regarding any temporary road closures, road use agreements, driveway permits, lane closures, road access restrictions, and traffic control necessary for construction and operation of the facility. Coordination shall include, but not be limited to, the county engineer, Buckskin Township Trustees, Paint Township Trustees, the Ohio Department of Transportation, local law enforcement, and health and safety officials. The Applicant shall detail this coordination as part of a final transportation management plan submitted to Staff prior to the preconstruction conference for review and confirmation by Staff that it complies with this condition.

(25) At least 30 days prior to the preconstruction conference, the Applicant shall provide the status (i.e., avoidance, mitigation measures, or capping) of each water well within the project area. The Applicant shall indicate to Staff whether the nearest solar components to each uncapped well within the project area meets or exceeds any applicable minimum

isolation distances outlined in Ohio Adm.Code 3701-28-7. The location of ODNR Water Well ID 211507 will be field verified prior to construction and depending on final determined location, and if necessary, the Applicant shall relocate as necessary any solar equipment at least 50 feet from the location of that water well. Alternatively, relocation of the solar equipment shall not be required if the Applicant can demonstrate that the well is for nonpotable use, or seal and abandon the water well.

(26) The Applicant shall take steps to prevent establishment and/or further propagation of noxious weeds identified in Ohio Adm.Code Chapter 901:5-37 during implementation of any pollinator-friendly plantings.

(27) Prior to construction, the Applicant shall establish a road use and maintenance agreement (RUMA) in coordination with Paint Township, Buckskin Township, Ross County, and the Ross County Engineer. The RUMA should ensure that following the completion of construction of the project, local roadways that are impacted by the project will be repaired to a condition at least equal to their preconstruction condition. The RUMA shall include a map of the proposed haul routes and identify roadways to be used by the project and require that local road conditions be documented prior to project use of the roads commences. Reasonable financial surety shall be established by the RUMA and agreed to between the Applicant and the Ross County Engineer to cover costs of any construction related damages not repaired by the Applicant. In the event the Applicant is unable to secure an agreement of any local authority that includes conditions to satisfy this condition of the joint stipulation, then as an alternative the Applicant shall provide a road bond at an amount agreed to by the Ross County Engineer that will allow either the Engineer or applicable local authority to draw upon for road repairs specific to damages caused by the project's construction.

(28) The Applicant shall provide the final inverter and solar panel specifications, as well as the final project layout drawings for the project to Buckskin Township and Paint Township prior to construction. The Applicant will also provide both Board of Trustees with notifications regarding construction in accordance with Condition 10. The Applicant shall also provide a copy of its quarterly complaint summary report required by Condition 10 to the to the Boards of Trustees.

(29) The Applicant shall post a performance bond with the Board as the obligee based on the net costs of decommissioning prior to the commencement of commercial operation of the project. Net costs are to be established by assessing the cost to remove equipment per the specifications of the decommissioning plan, less the salvage value of said equipment. This cost shall be established by an Ohio-licensed engineering firm or professional engineer based on the final design prior to the commencement of facility operations. Following commencement of commercial operation, the Applicant shall reevaluate decommissioning costs every five years thereafter during the life of the project. If this evaluation shows that that the net decommissioning cost for the project has increased, the Applicant shall increase the amount of the performance bond accordingly.

VIII. CONSIDERATION OF THE STIPULATION

{¶ 139} Ohio Adm.Code 4906-2-24 authorizes parties to Board proceedings 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. Although not binding on the Board, pursuant to Ohio Adm.Code 4906-2-24(D), the terms of such an agreement are accorded substantial weight. The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Board proceedings. *See, e.g.*, *In re Northwest Ohio Wind Energy, LLC*, Case No. 13-197-EL-BGN (Dec. 16, 2013); *In re American*

Transm. Systems Inc., Case No. 12-1727-EL-BSB (Mar. 11, 2013); *In re Rolling Hills Generating LLC*, Case No. 12-1669-EL-BGA (May 1, 2013); *In re AEP Transm. Co., Inc.*, Case No. 12-1361-EL-BSB (Sept. 13, 2013); *In re Hardin Wind LLC*, Case No. 13-1177-EL-BGN (Mar. 17, 2014). 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:

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

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

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

{¶ 140} RCS witness William Risse testified that the Stipulation meets the criteria for Board approval. The witness testified that the Stipulation is a good faith settlement that resulted from serious negotiations among capable, knowledgeable parties and that it will benefit the public interest by providing economic benefits to the surrounding local community, including school districts and other taxing districts that serve the project area. (Applicant Ex. 13 at 6.) Witness Risse opined that the Stipulation does not violate any regulatory principle or practice (Applicant Ex. 13 at 8).

{¶ 141} Upon review, the Board finds that, as a package, the Stipulation appears to be the product of serious bargaining among capable, knowledgeable parties. The Board recognizes that the proposed electric generation facility will produce solar-powered electricity that will maximize energy production from solar resources in the project area in order to deliver clean, renewable electricity to the Ohio bulk power transmission system to serve the needs of electric utilities and their customers (Applicant Ex. 13 at 6). Additionally, the Project will have a positive effect on the Ohio economy through the creation of jobs and

a significant positive impact on the local tax base, including local school districts and other taxing districts that serve the project area. (Applicant Ex. 13 at 6.) The Board finds that the Stipulation does not violate any important regulatory principle or practice.

{¶ 142} In conclusion, and based upon the record in these proceedings, the Board finds that all of the criteria established in accordance with R.C. Chapter 4906 are satisfied for the construction, operation, and maintenance of the facility as described in the application filed in this case, subject to the conditions set forth in the Stipulation, as amended, and this Opinion, Order, and Certificate. Accordingly, based upon all of the above, the Board approves and adopts the Stipulation, as amended, and hereby issues a certificate to RCS in accordance with R.C. Chapter 4906.

IX. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 143} RCS is a person under R.C. 4906.01(A) and is licensed to do business in the state of Ohio.

{¶ 144} The proposed electric generation facility is a major utility facility, as defined in R.C. 4906.01(B).

{¶ 145} On August 13, 2020, the Applicant filed a motion for waiver of the requirement to conduct an in-person public informational meeting. The motion was granted on September 2, 2020.

{¶ 146} On September 14, 2020, RCS filed a pre-application notification letter regarding its proposed Project.

{¶ 147} On September 28, 2020, in accordance with Ohio Adm.Code 4906-3-03, RCS filed proof that legal notice was published in *The Hillsboro Times Gazette,* a newspaper of general circulation in Highland County, and the *Chillicothe Gazette,* a newspaper of general circulation in Ross County, on September 18, 2020 and September 19, 2020, respectively, regarding the public informational meeting on its application.

{¶ 148} The Applicant held web-based and phone-based public information meetings to discuss the project with interested persons and landowners on September 30, 2020.

{¶ 149} On October 30, 2020, RCS filed an application to construct and operate a new solar-powered electric generation facility and a motion for protective order to keep portions of the application confidential. The motion for protective order was granted in part on January 20, 2021.

{¶ 150} Also, on October 30, 2020, RCS filed a motion for waiver of Ohio Adm.Code 4906-4-08(D)(2) and (D)(4) to allow for a reduced study area regarding the impact on landmarks and visual impact of the facility. The motion was granted on January 20, 2021.

{¶ 151} By letter filed December 29, 2020, the Board notified RCS that its application had been found to be sufficiently complete pursuant to Ohio Adm.Code 4906-1, et seq.

{¶ 152} On January 8, 2021, the Applicant filed correspondence indicating that the application fee was paid and a proof of service, indicating that a copy of its accepted, complete application was served upon the appropriate government officials and local libraries in accordance with Ohio Adm.Code 4906-3-07.

{¶ 153} On January 20, 2021, and January 26, 2021, the ALJ issued procedural Entries that scheduled a local public hearing for April 6, 2021, an adjudicatory hearing for April 27, 2021, and found the effective date of the filing of the application to be January 20, 2021.

{¶ 154} On March 1, 2021, the Farm Bureau filed a motion to intervene.

{¶ 155} On March 8, 2021, the Boards of Trustees of Buckskin and Paint townships filed notices of intervention.

{¶ 156} On March 19, 2021, the ALJ issued an Entry granting the motion and notices of intervention filed by the Farm Bureau and Buckskin and Paint townships, respectively.

{¶ 157} On March 22, 2021, Staff filed a Report of Investigation of the project proposed in the application.

{¶ 158} In compliance with Ohio Adm.Code 4906-3-09, on February 16, 2021, RCS filed proof of publication showing that notice was published in *The Hillsboro Times Gazette*, and the *Chillicothe Gazette*, newspapers of general circulation in Highland and Ross counties, respectively, on January 29, 2021.

{¶ 159} A remote local public hearing was held on April 6, 2021, via WebEx at which 14 witnesses testified.

{¶ 160} On April 14, 2021, May 19, 2021, and May 21, 2021, RCS and Staff filed the direct and supplemental testimony of their respective witnesses.

{¶ 161} On May 18, 2021, RCS, the Farm Bureau, Buckskin Township, and Staff filed a Stipulation resolving issues in this proceeding.

{¶ 162} An adjudicatory hearing was called and continued on April 27, 2021.

{¶ 163} On June 10, 2021, an adjudicatory hearing was held at which witnesses for RCS and Staff were called to testify in support of the Stipulation.

{¶ 164} On June 11, 2021, an adjudicatory hearing was called and continued.

{¶ 165} On August 12, 2021, an adjudicatory hearing was held at which witnesses for RCS offered further testimony.

{¶ 166} Adequate data on the proposed generation facility has been provided to make the applicable determination required by R.C. 4906.10(A). The record evidence in this matter provides sufficient factual data to enable the Board to make an informed decision.

{¶ 167} 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.

{¶ 168} 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).

{¶ 169} 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).

{¶ 170} 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).

{¶ 171} 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).

{¶ 172} 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).

{¶ 173} 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).

{¶ 174} 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).

{¶ 175} 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.

{¶ 176} Based on the record, the Board finds that RCS' application should be approved, and a certificate should be issued, pursuant to R.C. Chapter 4906, for the construction, operation, and maintenance of the electric generation facility, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate.

X. ORDER

{¶ 177} It is, therefore,

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

{¶ 179} ORDERED, That a certificate be issued to RCS for the construction, operation, and maintenance of the electric generation facility, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate. It is, further,

{¶ 180} ORDERED, That a copy of this Opinion, Order, and Certificate be served upon all 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

JMD/JSA/mef

Summary: Opinion & Order approving and adopting the stipulation and recommendation between Ross County Solar LLC, the Ohio Farm Bureau Federation, the Board of Trustees of Buckskin Township, and the Board Staff, and directing that, subject to the conditions set forth in the stipulation and consistent with this Opinion, Order, and Certificate, a certificate be issued to Ross County Solar LLC for the construction, operation, and maintenance of a 120 megawatt solar-powered electric generation facility in Buckskin and Paint townships in Ross County, Ohio. electronically filed by Ms. Mary E. Fischer on behalf of Ohio Power Siting Board