

## THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF  
BIRCH SOLAR, LLC, FOR A CERTIFICATE  
OF ENVIRONMENTAL COMPATIBILITY  
AND PUBLIC NEED FOR THE  
CONSTRUCTION OF A SOLAR-POWERED  
ELECTRIC GENERATION FACILITY IN  
ALLEN AND AUGLAIZE COUNTIES, OHIO.

CASE NO. 20-1605-EL-BGN

### ENTRY

Entered in the Journal on November 2, 2021

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

{¶ 2} R.C. 4906.04 provides that no person shall construct a major utility facility in the state without first obtaining a certificate from the Ohio Power Siting Board (Board). In seeking a certificate, applicants must comply with the filing requirements outlined in R.C. 4906.04, as well as Ohio Adm.Code Chapters 4906-2 and 4906-4.

{¶ 3} On November 3, 2020, Birch Solar filed a pre-application letter with the Board regarding its proposed 300 megawatt solar-powered electric generation facility in Allen and Auglaize counties, Ohio (Facility).

{¶ 4} On November 20, 2020, and November 23, 2020, Birch Solar held public information meetings using virtual technology to discuss the proposed project with interested persons and landowners; the company filed its affidavit of publication with the Board on November 18, 2020.

{¶ 5} On February 12, 2021, Birch Solar filed its application with the Board for a certificate of environmental compatibility and public need to construct the proposed Facility.

{¶ 6} On March 25, 2021, March 31, 2021, and April 5, 2021, Birch Solar filed supplements to its application.

{¶ 7} On June 2, 2021, a petition for leave to intervene was filed on behalf of: Against Birch Solar LLC, Linda M. Beckstedt, Jesse M. Bott and Kacie Rison, Ryan and Stacy Brenneman, Patricia Buzard, Cheryl M. Counts, Ann Marie R. and Christopher H. Fisher, Deed Hall, Allyshia and Kyle Kuhbander, Angie M. and Kenneth R. McAlexander, Alexandra and Timothy Rostorfer, Susan and William Walters, Althea A. and Mark Wellman, and Ellen Wieging (collectively, Against Birch Solar).<sup>1</sup> In seeking intervention, Against Birch Solar describes that Against Birch Solar LLC is an organization of more than 100 members who claim that they will be directly and adversely affected by the Birch Solar project, which will be constructed and operated near their homes and properties. Further, Against Birch Solar indicates that its members, including those named individually in the petition to intervene, include persons who own or live on properties adjacent to the solar project.

{¶ 8} On July 7, 2021, the ALJ granted intervention to Against Birch Solar and the Kuhbanders, finding that they have a substantial interest in the proceeding, and that their participation as parties contributes to the just and expeditious resolution of the matter without causing undue delay or prejudice. Ohio Adm.Code 4906-2-12.

{¶ 9} On August 13, 2021, the ALJ determined that the application was complete as of that date. As part of that Entry, the ALJ established the dates for the local public hearing, the evidentiary hearing, and the deadline for filing to intervene in the case.

{¶ 10} On August 19, 2021, notices of intervention were filed separately by Auglaize County and Logan Township Trustees (Logan Township).

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<sup>1</sup> On June 11, 2021, counsel for Against Birch Solar filed a notice of withdrawal from representation of Allyshia and Kyle Kuhbander (collectively, Kuhbanders), indicating that, while he was no longer representing them, the Kuhbanders continue to seek intervention in the case.

{¶ 11} On September 8, 2021, Kuhbanders filed a notice of withdrawal as intervenors in the case.

{¶ 12} On September 29, 2021, Ohio Farm Bureau (OFB) filed a motion to intervene and memorandum in support.

{¶ 13} On September 29, 2021, Ryan and Michelle Kalnins (Kalnins) filed a petition to intervene and memorandum in support.

{¶ 14} On October 1, 2021, petitions to intervene and memoranda in support were filed separately by Allen Auglaize Coalition for Reasonable Energy (AACRE) and International Brotherhood of Electrical Workers, Local Union 32 (IBEW). On October 4, 2021, AACRE filed a revised petition for intervention, explaining that its prior filing was being updated due to a clerical error involving that filing.

{¶ 15} On October 20, 2021, Shawnee Township filed a motion to intervene.

{¶ 16} As to each of the motions to intervene, notices of intervention, and petitions for intervention, there were no memoranda contra filed by the parties to the case. Further, each filer claimed the right to participate in the case based on their status as either (1) an impacted public agency (Ohio Adm. Code 4906-2-12(A)), or (2) a person or organization having a substantial interest in the proceeding whose participation as a party contributes to the just and expeditious resolution of the matter without causing undue delay or prejudice (Ohio Adm.Code 4906-2-12(B)).

{¶ 17} The ALJ finds that each request for intervention satisfies the requirements in Ohio Adm.Code 4906-2-12. Accordingly, the following are admitted as intervening parties in the case: Auglaize County, Logan Township, OFB, Kalnins, AACRE, IBEW, and Shawnee Township.

{¶ 18} Further, the ALJ finds that Kuhbanders are removed as intervenors in the case.

{¶ 19} It is, therefore,

{¶ 20} ORDERED, That Auglaize County, Logan Township, OFB, Kalnins, AACRE, IBEW, and Shawnee Township be granted intervention as described in Paragraph 17. It is, further,

{¶ 21} ORDERED, That Kuhbanders be removed as intervenors as described in Paragraph 18. It is, further,

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

THE OHIO POWER SITING BOARD

*/s/Michael L. Williams*

By: Michael L. Williams  
Administrative Law Judge

GAP/hac

**This foregoing document was electronically filed with the Public Utilities  
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**in**

**Case No(s). 20-1605-EL-BGN**

Summary: Administrative Law Judge Entry ordering that Auglaize County, Logan Township, OFB, Kalnins, AACRE, IBEW, and Shawnee Township be granted intervention as described in Paragraph 17 and that Kuhbanders be removed as intervenors as described in Paragraph 18 electronically filed by Heather A. Chilcote on behalf of Michael L. Williams, Administrative Law Judge, Ohio Power Siting Board