

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 12, 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 July 7 and November 2, 2021, the administrative law judge (ALJ) granted intervention to various parties, including Against Birch Solar LLC (ABS), Auglaize County, Logan Township Trustees (Logan Township), Ohio Farm Bureau (OFB), Ryan and Michelle Kalnins (Kalnins), Allen Auglaize Coalition for Reasonable Energy (AACRE), International Brotherhood of Electrical Workers, Local Union 32 (IBEW), and Shawnee Township.

{¶ 8} On August 13, 2021, the ALJ determined that the application was complete as of that date. Further, the ALJ established (1) the dates for the local public hearing and the evidentiary hearing, and (2) deadlines for filing lists of outstanding litigation issues, as well as the filing of party testimony and any proposed stipulations.

{¶ 9} On November 4, 2021, the ALJs conducted the local public hearing as originally scheduled, where 56 witnesses testified.

{¶ 10} On November 12, 2021, Applicant filed a motion to call and continue the evidentiary hearing and extend deadlines for filing parties' testimony and stipulations. Applicant describes that the parties do not oppose the motion, which is intended to allow the parties to pursue settlement negotiations. Applicant further requests an expedited ruling on its motion, which was filed one day ahead of its deadline for filing testimony in the case, due to the fact that settlement negotiations are more reasonable in the case following the testimony at the local public hearing that was held on November 4, 2021. Applicant requests that the hearing, which is currently scheduled on November 30, 2021, be called as originally scheduled, and that the hearing be used as an opportunity to discuss the status of settlement negotiations and the scheduling of further actions in the case.

{¶ 11} The ALJ finds that the request to call and continue the case is reasonable in light of the lack of any party opposition and the intent of the parties to pursue settlement negotiations following the testimony at the local public hearing. Accordingly, the deadlines

for filing testimony, as described in the August 13, 2021 Entry, are stayed. Further, the ALJ extends the deadline for the parties to file their lists of litigation issues in the case, setting the new date on November 19, 2021.

{¶ 12} Further, while the case will still be called on November 30, 2021, it is only expected that the parties will discuss (1) the status of settlement negotiations, (2) new deadlines for the filing of testimony and stipulations, and (3) the rescheduling of the evidentiary hearing.

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That the deadlines for filing testimony, as described in the August 13, 2021 Entry, are stayed, and that the deadline for filing lists of litigation issues is extended until November 19, 2021, as described in Paragraph 11. It is, further,

{¶ 15} ORDERED, That the hearing scheduled on November 30, 2021, be called and continued as described in Paragraph 12. It is, further,

{¶ 16} 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

MJA/hac

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in

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

Summary: Administrative Law Judge Entry ordering that the deadlines for filing testimony, as described in the August 13, 2021 Entry, are stayed, and that the deadline for filing lists of litigation issues is extended until November 19, 2021, as described in Paragraph 11 and that the hearing scheduled on November 30, 2021, be called and continued as described in Paragraph 12 electronically filed by Heather A. Chilcote on behalf of Michael L. Williams, Administrative Law Judge, Ohio Power Siting Board