

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of **Wild**)
Grains Solar, LLC for a Certificate of)
Environmental Compatibility and Public Need)
for a Solar Facility Located in Van Wert)
County, Ohio.)

Case No. 21-823-EL-BGN

**APPLICANT WILD GRAINS SOLAR, LLC'S
MOTION FOR WAIVER**

Wild Grains Solar, LLC (“Wild Grains” or “Applicant”) will be filing an application to the Ohio Power Siting Board (“OPSB” or “Board”) to construct and operate an up to 150 megawatt solar facility in Hoaglin Township, Van Wert County, Ohio. Through this motion, Wild Grains seeks a waiver from Ohio Administrative Code (“O.A.C.”) Rule 4906-4-08(D)(2)-(4), which requires a ten-mile study area with respect to the impact on landmarks and cultural resources. Wild Grains submits that good cause exists for granting this waiver, as set forth in the accompanying Memorandum in Support.

Moreover, Wild Grains also seeks a waiver from O.A.C. Rule 4906-3-14(D), which requires that a signed Interconnection Service Agreement (“ISA”) be in place prior to the start of construction. For reasons discussed further in the memorandum below, to the extent that this rule requires a *final* signed ISA, Wild Grains requests the ability to use an Interim ISA to meet this requirement.

WHEREFORE, Wild Grains Solar, LLC respectfully requests that the Board grant a waiver from 1) O.A.C. Rule 4906-4-08(D)(2)-(4) and; 2) to the extent required to allow for the use of an Interim ISA, from O.A.C. Rule 4906-4-08(D)(2).

Respectfully submitted on behalf of
WILD GRAINS SOLAR, LLC



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MEMORANDUM IN SUPPORT

I. INTRODUCTION

Wild Grains is proposing to construct an up to 150 MW solar powered electric generating facility in Hoaglin Township, Van Wert County, Ohio (the “Project”). In support of its application to construct the Project, Wild Grains respectfully requests a waiver from Ohio Administrative Code (“O.A.C.”) Rule 4906-4-08(D)(2)-(4) with respect to evaluation of impacts to landmarks, identification of and evaluation of impacts to landmarks, recreation and scenic areas, and visual impacts. In addition, Wild Grains seeks a waiver from O.A.C. Rule 4906-3-14(D), which requires that a signed Interconnection Service Agreement (“ISA”) be in place prior to the start of construction.

As more fully explained below, good cause exists to grant the waivers. Moreover, Wild Grains’ application will provide all information necessary for the Board and its Staff to conduct a review and make the determinations required by Ohio Revised Code (“R.C.”) Section 4906.10.

II. WAIVER REQUESTS

1) O.A.C. Rule 4906-4-08(D)(2)-(4)

Wild Grains requests a waiver from the ten-mile study areas required by O.A.C. Rule 4906-4-08(D). Rule 4906-4-08(D)(2) requires an applicant to provide an evaluation of the impact of the

proposed facility on the preservation and continued meaningfulness of mapped landmarks within a ten-mile radius and to describe plans to avoid or mitigate any adverse impact. Rule 4906-4-08(D)(3) requires an applicant to describe and evaluate impacts to the identified recreation and scenic areas within ten miles of the project area. And Rule 4906-4-08(D)(4) requires applicant to evaluate the visual impact of the proposed facility within a ten-mile radius from the project area.

A waiver to allow a reduction in the area of analysis here better aligns with the characteristics of the Project. Wild Grains has evaluated the impact of the Project on the preservation and continued meaningfulness of the registered landmarks within a two-mile vicinity of the Project Area, and within a five-mile vicinity of the Project Area for scenic and recreation areas, visibility, and viewshed. As part of its review and because of the Project's low profile, as well as screening afforded by vegetation and existing structures, visibility of the planned components is anticipated to be limited to the immediate vicinity of the Project. The Visual Impact Assessment (Application, at Exhibit V) provides information on the lack of impact to landmarks. It notes that due to the nature of the technology and the setting specific to the Project, no effects are anticipated on landmarks or scenic and recreation areas outside of the immediate Project Area, although the effects on landmarks outside of the immediate Project Area were studied and considered within a five-mile radius of the Project.

For these reasons, good cause exists for a waiver from O.A.C. Rule 4906-4-08(D)(2)-(4), to allow for the focused two- and five-mile study areas rather than the ten-mile study area. The Board has granted similar waivers to other solar projects in the past. *In re Union Ridge Solar, LLC*, Case No. 20-1757-EL-BGN, Entry (June 25, 2021); *In re Ross County Solar, LLC*, Case No. 20-1380-EL-BGN, Entry (Jan. 20, 2021); *In re Yellowbud Solar, LLC*, Case No. 20-0972-EL-BGN, Entry (July 9, 2020).

2) O.A.C. Rule 4906-3-14(D)

O.A.C. Rule 4906-3-14(D) requires that, “[p]rior to construction of any electric generation project or associated facilities, the applicant shall provide to staff a letter stating that an interconnection service agreement has been signed or shall submit a copy of a signed interconnection service agreement.” Typically, the Board will often reiterate this regulation as a specific condition to a certificate.¹

The Wild Grains Feasibility Study and System Impact Study are complete. Although the Facilities Study is in progress, this step in the PJM Interconnection review process can take considerable time. As a result of increasing delays in the PJM Interconnection review process, it may be necessary to execute an Interim ISA, rather than the final ISA, prior to the commencement of construction of the Project.

Granting this waiver is consistent with the Board’s past practice. In multiple cases, the Board has issued certificates to projects with conditions expressly allowing the use of an Interim ISA.²

Moreover, other projects have utilized an Interim ISA to commence construction *without* any such express reference to the allowance of an Interim ISA. For instance, the condition language

¹ See, e.g., Opinion, Order and Certificate, *In the Matter of the Application of Arche Energy Project, LLC for a Certificate of Environmental Compatibility and Public Need*, Case No. 20-979-EL-BGN (April 15, 2021), Condition No. 11.

² See, e.g., Opinion, Order and Certificate, *In the Matter of South Field Energy LLC for a Certificate of Environmental Compatibility and Public Need to Construct an Electric Generation Facility in Columbiana County*, Case No. 15-1716-EL-BGN (Sept. 22, 2016), Condition No. 12 (stating “With the exception of removal of trees, SFE shall not commence any construction of the facility until it has an Interconnection Service Agreement or Interim Interconnection Service Agreement with PJM, signed or filed unsigned with the Federal Energy Regulatory Commission. The Applicant shall docket in the case record a letter stating that the agreement has been signed or a copy of the signed Interconnection Service Agreement to Staff.”); Opinion, Order and Certificate, *In the Matter of the Application of Heartland Wind, LLC, for a Certificate to Construct a Wind-Powered Electric Generation Facility in Van Wert and Paulding Counties, Ohio*, Case No. 09-1066-EL-BGN (Aug. 23, 2020), Condition No. 9 (stating, “Heartland shall not commence construction of the facility until it has a signed Interconnection Service Agreement or signed an Interim Interconnection Service Agreement with PJM, which includes construction, operation, and maintenance of system upgrades necessary to reliably and safely integrate the proposed generating facility into the regional transmission system. Applicant shall provide a copy of the final, executed Interconnection Service Agreement to staff.”).

in Hardin Solar (Case Nos. 17-0773-EL-BGN and 18-1360-EL-BGN) reflects the language of O.A.C. Rule 4906-3-14(D), without any express language granting the use of an Interim ISA. Hardin Solar had two phases of the project, a 150MW and a 170 MW phase. For the initial phase, Hardin Solar filed its Interim ISA on August 2, 2019 in compliance with its condition requirement to submit an ISA.³ The docket does not show any filing of the final ISA between when the Interim ISA was filed and when construction began. It appears to be the case that the project was able to start construction with only the Interim ISA in place despite no reference to an Interim ISA in the condition language. Notably, the language of O.A.C. Rule 4906-3-14(D) only references “a signed” ISA, which could itself permit the use of an Interim ISA for compliance.

In any event, for the avoidance of doubt, Wild Grains respectfully submits this waiver request for the express approval to allow for the submission of an Interim ISA prior to construction.

IV. CONCLUSION

For good cause, Wild Grains respectfully requests that the Board or Administrative Law Judge grant a waiver in part or in whole as to Ohio Administrative Code Rules 4906-4-08(D)(2)-(4) and 4906-3-14(D).

Respectfully submitted on behalf of
WILD GRAINS SOLAR, LLC



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³ See, (<https://dis.puc.state.oh.us/ViewImage.aspx?CMID=A1001001A19H20B55329C03332>). The project than filed notice of the start of construction on September 13, 2019 (<https://dis.puc.state.oh.us/ViewImage.aspx?CMID=A1001001A19I13B32526J01763>).

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

11/16/2021 11:23:20 AM

in

Case No(s). 21-0823-EL-BGN

Summary: Motion for Waivers by Dixon Run Solar, LLC electronically filed by
Teresa Orahod on behalf of Herrnstein, Kara