

OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
KINGWOOD SOLAR I LLC FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED.

CASE NO. 21-117-EL-BGN

ENTRY

Entered in the Journal on November 24, 2021

{¶ 1} Kingwood Solar I LLC (Applicant or Kingwood) 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 obtaining a certificate for the facility from the Ohio Power Siting Board (Board).

{¶ 3} On April 16, 2021, Kingwood filed an application with the Board for a certificate of environmental compatibility and public need to construct a 175 megawatt solar powered electric generating facility in Greene County, Ohio (Facility).

{¶ 4} On various dates, timely petitions and notices for intervention in this proceeding were filed by the following entities: the Board of Trustees of Cedarville Township, Greene County, Ohio (Cedarville Township); the Board of Trustees of Xenia Township, Ohio (Xenia Township); the Board of Trustees of Miami Township, Greene County, Ohio (Miami Township); In Progress, LLC (In Progress); the Tecumseh Land Preservation Association, also known as the Tecumseh Land Trust (TLT); the Greene County Board of Commissions (Greene County Commissioners); the Ohio Farm Bureau Federation (OFBF); and Citizens for Greene Acres, Inc. (CGA) and 14 named landowners (collectively, CGA Intervenors). Each of these parties were granted intervenor status in subsequent entries issued by the administrative law judge (ALJ).

{¶ 5} By Entry dated August 26, 2021, a procedural schedule was established in this matter. The effective date of the application was established as August 26, 2021, the public hearing was scheduled for November 15, 2021, and the adjudicatory hearing was scheduled

to commence on December 13, 2021. Also, it was established that the Board would accept petitions to intervene up to 30 days following the service of the notice required by Ohio Adm.Code 4906-3-09 or by October 8, 2021, whichever was later, and established a procedural schedule directing Staff to file its report of investigation on or before October 29, 2021; parties to file a list of issues citing specific concerns about which they may be interested in pursuing cross-examination of witnesses at the adjudicatory hearing by November 22, 2021; Applicant to file all expert and factual testimony by December 1, 2021; Staff and intervenors to file all expert and factual testimony by December 8, 2021; and any stipulation entered into by the parties to be filed by noon on December 10, 2021, along with the associated testimony supporting the stipulation.

{¶ 6} On October 29, 2021, Staff filed its report of investigation.

{¶ 7} On November 10, 2021, the ALJ issued an Entry directing that the adjudicatory hearing scheduled to commence on December 13, 2021, at 10:00 a.m., at the offices of the Board, would proceed as scheduled but would take place via Webex virtual hearing technology.

{¶ 8} The public hearing was held, as scheduled, on November 15, 2021.

{¶ 9} On November 22, 2021, Kingwood and the Greene County Commissioners each filed a notice of the list of issues about which each party may be interested in pursuing cross-examination of witnesses at the adjudicatory hearing. Additionally, on the same date, Xenia Township, Cedarville Township, and Miami Township collectively filed a list of issues about which they may be interested in pursuing cross-examination of witnesses at the adjudicatory hearing.

{¶ 10} Also, on November 22, 2021, a joint motion to continue deadlines and a request for expedited ruling was filed by Kingwood and OFBF (Moving Parties). As outlined in the motion and supporting memorandum, the Moving Parties request that the December 1, 2021 deadline for Applicant to file its expert and factual testimony, the December 8, 2021 deadline

for Staff and intervenors to file their expert and factual testimony, and the December 10, 2021 deadline for a stipulation and supporting testimony be suspended. Additionally, the Moving Parties request that the December 13, 2021 adjudicatory hearing be called and continued, and that a status conference be held immediately thereafter to allow the parties to provide a settlement update. The Moving Parties explain that Applicant intends to engage in settlement discussions with all parties in the case, including OFBF and Board Staff, but that given the number of parties and the issues raised, more time is required for settlement discussions. The Moving Parties point out that stipulations have been filed in many cases before the Board well after a call and continue hearing was held, which they believe reflects the amount of time it can take to reach an agreement on issues. To allow sufficient time for discussions, the Moving Parties request suspension of the remaining procedural deadlines and a call and continue of the scheduled adjudicatory hearing. Kingwood represents that prior to filing the motion it contacted the other parties in the proceeding and that Staff, Xenia Township, Miami Township, In Progress, TLT, CGA Intervenor, and the Greene County Commissioners stated that they do not oppose the joint motion or an expedited ruling on the motion. At the time of filing the motion, Kingwood had not received a response from Cedarville Township and, therefore, could not represent Cedarville Township's position.

{¶ 11} On November 23, 2021, Kingwood filed correspondence stating that Cedarville Township informed Applicant that it does not oppose the joint motion or an expedited ruling on the motion. Kingwood, therefore, certifies that no parties oppose the joint motion to continue deadlines or the request for expedited ruling.

{¶ 12} In accordance with Ohio Adm.Code 4906-2-7, the ALJ finds that the joint motion to continue deadlines should be granted to allow the parties to continue settlement discussions. The ALJ will call the December 13, 2021 adjudicatory hearing and will take appearances of counsel before adjourning for the day to reconvene at a later date. Following the calling and continuing of this adjudicatory hearing, the parties will remain on Webex to discuss the progress of settlement discussions and a future procedural schedule.

Additionally, the ALJ finds that the remaining procedural deadlines previously established in the August 26, 2021 Entry are hereby suspended. The ALJ will establish a new procedural schedule and a date to reconvene the adjudicatory hearing by subsequent entry.

{¶ 13} As noted in the August 26, 2021 Entry, as modified by the November 10, 2021 Entry, the December 13, 2021 adjudicatory hearing will commence as scheduled at 10:00 a.m. but will be conducted via Webex virtual hearing technology. Instructions for participation in the adjudicatory hearing will be emailed to the parties. Individuals interested in attending the adjudicatory hearing as a non-party can access the hearing using the link <https://bit.ly/21-117-ADI> and entering the password OPSB, or by calling 1-408-418-9388 and entering the access code 2338 855 9142.

{¶ 14} It is, therefore,

{¶ 15} ORDERED, That the remaining procedural deadlines established in the August 26, 2021 Entry be suspended, in accordance with Paragraph 12. It is, further,

{¶ 16} ORDERED, That the December 13, 2021 adjudicatory hearing still be called at 10:00 a.m., via Webex virtual hearing technology, in accordance with Paragraphs 12 and 13. It is, further,

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

THE OHIO POWER SITING BOARD

/s/David M. Hicks

By: David M. Hicks
Administrative Law Judge

NJW/kck

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

11/24/2021 1:54:45 PM

in

Case No(s). 21-0117-EL-BGN

Summary: Administrative Law Judge Entry ordering that the remaining procedural deadlines established in the August 26, 2021 Entry be suspended, in accordance with Paragraph 12 and ordering that the December 13, 2021 adjudicatory hearing still be called at 10:00 a.m., via Webex virtual hearing technology, in accordance with Paragraphs 12 and 13. electronically filed by Kelli C. King on behalf of David M. Hicks, Administrative Law Judge, Ohio Power Siting Board