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January 10, 2021

The Honorable David Hicks
Ohio Power Siting Board
180 East Broad Street, 12th Floor
Columbus, OH 43215-3793

Re: Staff's Response to Motion for
Protective Order and Motion for Waiver,
Case No: 21-1061-EL-BGN

Dear Judge Hicks:

On December 23, 2021, Flint Grid, LLC ("Applicant") filed a Motion for Waiver and a Motion for Protective Order. This letter serves as Staff's response to those motions.

Motion for Waiver. Applicant filed a Motion for Waiver under Ohio Administrative Code 4906-4-08(D)(2)-(4) to allow for a reduced study area regarding the impact on landmarks and visual impact of the facility. Applicant averred that its request is for a good cause given the project's low profile, screening afforded by vegetation and existing structures which limit the visibility of the planned components to the immediate vicinity of the Project, limited impact to the nearby landmarks, limited impact to directly adjacent areas, and no adverse effects to identified historic properties.

Staff believes that the Applicant's submitted studies are sufficient and that the rule should be waived in this case. As the Applicant observed, the Board has granted similar waivers to other solar projects in the past. Therefore, Staff does not object to the requested waiver. However, Staff reserves the right to require the results from the Applicant in the area covered by the requested waiver if Staff determines such information to be necessary during the course of its investigation.

Motion for Protective Order. Applicant filed a Motion for Protective Order under Ohio Administrative Code 4906-2-21. Specifically, Applicant asks the Ohio Power Siting Board (“Board”) to keep the following information confidential: portions of a report assessing the socioeconomic impact of the Project (“Socioeconomic Report”), portions of pages 30 to 34 of Application Section 4906-4-06(B)-(E) (“Narrative”) incorporate, without reproducing, Exhibit E with respect to financial data representing estimated capital and intangible costs, operation and maintenance costs, salvage value of panels and equipment, and the estimated loss due to delay in construction. The portion of the Socioeconomic Report that Applicant seeks to redact contains financial data representing the investment and capital cost to Applicant, as well as data collected with significant time and investment on Applicant’s part. According to Applicant, public disclosure of this information would have an adverse effect on the Applicant.

In support of its motion, Applicant refers to R.C. 1333.61¹ through 1333.69, which states that a court shall use reasonable means to preserve a trade secret. R.C. 1333.65. A “trade secret” is defined by the Revised Code as information that (1) derives independent actual or potential economic value from not being generally known by other persons able to obtain economic value from its disclosure or use and (2) it is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. R.C. 1333.61(D). According to Ohio Adm.Code 4906-2-21(D), upon motion by any party, the Board may issue any order which is necessary to protect the confidentiality of information in a document to the extent that federal or state law prohibits the release of the information. Applicant avers that non-disclosure of the information will not impair the purposes of Title 49 of the Revised Code, in compliance with Ohio Adm.Code 4906-2-21(D).

Staff of the Board does not oppose Applicant’s motion to keep the proposed portions of the Socioeconomic Report and Narrative confidential.

¹ Though Applicant refers to R.C. 1331.61 on page four of Applicant’s Motion for a Protective Order, Staff assumes that the motion is appropriately made according to 1333.61.

Respectfully submitted,

/s/ Sarah Feldkamp

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**On Behalf of Staff of the
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Summary: Correspondence Regarding Staff's Response to Motion for Protective Order and Motion for Waiver electronically filed by Mrs. Kimberly M. Naeder on behalf of OPSB