

THE OHIO POWER SITING BOARD

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In the Matter of the :
Application of Pleasant : Case No.
Prairie Solar Energy, LLC : 20-1679-EL-BGN
for a Certificate of :
Environmental Compatibility :
and Public Need. :

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PROCEEDINGS

Before Jay Agranoff, Administrative Law Judge,
held at the offices of the Public Utilities
Commission of Ohio, 180 East Broad Street,
Hearing Room 11-D, Columbus, Ohio, on Monday,
August 29, 2022, at 10:00 A.M.

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APPEARANCES:

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Dickinson Wright
By Ms. Christine Pirik
and
Mr. Matt McDonnell
and
Mr. Will Vorys
180 East Broad Street, Suite 3400
Columbus, Ohio 43215

On behalf of the Applicant.

Ms. Amy Milam
280 North High Street, 6th Floor
Columbus, Ohio 43215

On behalf of the Ohio Farm
Bureau Federation.

Borsius, Johnson & Griggs
By Ms. Jennifer Huber
1600 Dublin Road, Suite 100
Columbus, Ohio 43215

On behalf of Pleasant Township and
Board of Township Trustees of
Prairie Township.

Van Kley & Walker
By Mr. Jack Van Kley
132 Northwest Boulevard, Suite C-1
Columbus, Ohio 43235

On behalf of Park Commissioners of
the Columbus and Franklin County
Metropolitan Park District.

Carpenter, Lipps & Leland
By Mr. Jonathan Wygonski
and

Ms. Kimberly W. Bojko
280 North High Street, Suite 1300
Columbus, Ohio 43215

On behalf of No Prairie Solar, LLC.

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APPEARANCES (CONTINUED)

1 Mr. Robert Eubanks
2 Assistant Attorney General
3 30 East Broad Street
4 26th Floor
5 Columbus, Ohio 43215

6 On behalf of the Staff of the
7 Ohio Power Siting Board

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Monday Morning,
August 29, 2022.

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ALJ AGRANOFF: The Ohio Power
Siting Board has scheduled for hearing at this
time and place Case No. 20-1679-EL-BGN being In
the Matter of the Application of Pleasant
Prairie Solar Energy, LLC for a Certificate of
Environmental Compatibility and Public Need to
Construct a Solar Powered Electric Generation
Facility in Franklin County, Ohio.

My name is Jay Agranoff, and I am
one of the Administrative Law Judges assigned to
hear this case.

At this point in time we will take
the appearances of the parties on behalf of the
Applicant.

MS. PIRIK: Thank you, Your Honor.
On behalf of the Applicant, Pleasant Prairie
Solar Energy, LLC, the law firm of Dickinson
Wright, Christine Pirik, Matt McDonnell and Will
Vorys, 180 East Broad Street, Suite 3400,
Columbus, Ohio 43215.

ALJ AGRANOFF: Thank you. On behalf
of the Ohio Farm Bureau Federation.

1 MS. MILAM: Good morning, your
2 Honor. Amy Milam on behalf of Ohio Farm Bureau
3 Federation, 280 North High Street, 6th Floor,
4 Columbus, Ohio 43215.

5 ALJ AGRANOFF: Thank you. On behalf
6 of the Board of Township Trustees of Pleasant
7 Township.

8 MS. HUBER: Good morning, your
9 Honor. Jennifer Huber, for Pleasant Township,
10 1600 Dublin Road, Suite 100, Columbus, Ohio
11 43215.

12 ALJ AGRANOFF: Thank you. And while
13 you are standing, on behalf of the Board of
14 Township Trustees of Prairie Township.

15 MS. HUBER: Jennifer Huber, also for
16 Prairie Township, Borsius, Johnson & Griggs,
17 1600 Dublin Road, Suite 100, Columbus, Ohio
18 43215.

19 ALJ AGRANOFF: Thank you. On behalf
20 of the Park Commissioners of the Columbus and
21 Franklin County Metropolitan Park District.

22 MR. VAN KLEY: Jack Van Kley, Van
23 Kley & Walker, 132 Northwest Boulevard, Suite
24 C-1, Columbus, Ohio.

25 ALJ AGRANOFF: Thank you. On behalf

1 of No Prairie Solar.

2 MR. WYGONSKI: Good morning, your
3 Honor. Jonathan Wygonski and Kimberly W. Bojko,
4 Carpenter, Lipps & Leland, 280 North High
5 Street, Suite 1300, Columbus, Ohio 43215, on
6 behalf of Intervenor No Prairie Solar, LLC.

7 ALJ AGRANOFF: Thank you. And on
8 behalf of the Staff of the Ohio Power Siting
9 Board.

10 MR. EUBANKS: Good morning, your
11 Honor. Robert Eubanks, Assistant Attorney
12 General's Office, 30 East Broad Street,
13 Columbus, Ohio 43215, 26th Floor.

14 ALJ AGRANOFF: Thank you. It's my
15 understanding that the parties have entered into
16 a joint Stipulation and Recommendation in this
17 matter. And we have two witnesses that have
18 provided testimony with respect to that
19 stipulation.

20 And at this point in time if Ms.
21 Pirik, would you like to proceed with your
22 witnesses and marking of the exhibits?

23 MS. PIRIK: Would you like me to
24 mark the exhibits at this time?

25 ALJ AGRANOFF: Might as well while

1 we are beginning

2 MS. PIRIK: Perfect. Applicant
3 Exhibit 1 is the Application that was filed on
4 February 19th, 2021.

5 Applicant Exhibit 2 is the
6 Supplement to the Application filed on April
7 7th, 2021.

8 Applicant Exhibit 3 is the Second
9 Supplement to the Application filed April 21st,
10 2021.

11 Applicant Exhibit 4 is the Third
12 Supplement to the Application filed on October
13 6th, 2021.

14 Applicant Exhibit 5 is the Response
15 to the First Data Request filed March 18th,
16 2021.

17 Applicant Exhibit 6 is the Response
18 to the Second Data Request filed on April 16th,
19 2021.

20 Applicant Exhibit 7 is the Response
21 to the Third Data Request filed on April 16th,
22 2021.

23 Applicant Exhibit 8 is the Response
24 to the Fourth Data Request filed on April 20th,
25 2021.

Applicant Exhibit 9 is the
Supplemental Response to the Second and Third
Data Requests filed on May 12th, 2021.

Applicant Exhibit 10 is the Second
Supplemental Response to the Third Data Request
filed on June 2nd, 2021.

Applicant Exhibit 11 is the Response
to the Fifth Data Request filed on June 9th,
2021.

Applicant Exhibit 12 is the Response
to the Sixth Data Request filed on June 9th,
2021.

Applicant Exhibit 13 is the Third
Supplemental Response to the Third Data Request
and the Supplemental Response to the Fifth Data
Request filed on July 6th, 2021.

Applicant Exhibit 14 is the
Certificate of Service filed on November 25th,
2020.

Applicant Exhibit 15th is the Proof
of Publication filed on December 9th, 2020.

Applicant Exhibit 16 is the
Certificate of Service filed on April 21, 2022.

Applicant Exhibit 17 is the Proof of
Service filed on June 2nd, 2021.

Applicant Exhibit 18 is the Proof of the Second Service and Second Publication filed on July 16th, 2021.

And, your Honor, we would also like to mark Joint Exhibit 1 which is the October 27th, 2021 stipulations signed on behalf of the Applicant, the Ohio Power Siting Board Staff, the Townships, Metro Parks, the Ohio Farm Bureau and No Prairie Solar.

As part of that as well are additional signature pages that were filed on November 5th, 2021 and February 16th, 2022.

ALJ AGRANOFF: Thank you. And if I could just seek clarification with respect to the Joint Stipulation and Recommendation. I believe Mr. Wygonski indicated that No Paririe Solar is a signatory party to that agreement?

MS. PIRIK: They signed it as a non-opposing party, your Honor.

ALJ AGRANOFF: Okay.

MS. PIRIK: So that's correct. They would not be considered signatory party, they would be considered a non-opposing party.

MR. WYGONSKI: Your Honor, while on that topic, thank you. Our support of

1 the Stipulation today, as we have discussed
2 previously, is contingent on the finalization
3 and execution of the construction operation
4 agreement with the Applicant which I believe in
5 the testimony is referred to as a Good Neighbor
6 Agreement.

7 We are working diligently on getting
8 that finalized. We intend to work with the
9 Applicant towards that and obtaining the proper
10 signatures, and we are prepared to move forward
11 with the hearing today with that understanding.

12 ALJ AGRANOFF: Okay.

13 MR. WYGONSKI: Thank you.

14 ALJ AGRANOFF: Thank you. Ms.
15 Pirik, at this point in time would you like to
16 call your first witness?

17 MS. PIRIK: Thank you, your Honor.
18 We would call Josh Hreha to the stand.

19 ALJ AGRANOFF: Please come forward.

20 (WITNESS SWORN)

21 - - -

22 JOSH HREHA

23 called as a witness, being first duly sworn,
24 testified as follows:

25 DIRECT EXAMINATION

1 By Ms. Pirik:

2 Q. Please state your name, title and
3 company affiliation for the record, please?

4 A. Josh Michael Hreha, Senior
5 Development Manager at Invenergy.

6 Q. And could you spell your last name,
7 please?

8 A. H-R-E-H-A.

9 Q. Thank you. Do you have before you
10 what's been marked as Applicant Exhibit 19?

11 A. I do.

12 Q. And is that your prefiled testimony
13 that was filed on August 16th, 2022?

14 A. It is.

15 Q. Can you confirm that the testimony
16 before you was prepared by you and under your
17 supervision?

18 A. I can confirm.

19 Q. And do you have any corrections to
20 your testimony?

21 A. No.

22 Q. If you were asked the same questions
23 today that are present in Applicant Exhibit 19
24 would your answers be the same?

25 A. Yes.

1 Q. Do you have before you what's been
2 marked as Joint Exhibit 1?

3 A. I do.

4 Q. And is this the Joint Stipulation
5 and Recommendation as well as the additional
6 signature pages that were entered into between
7 Pleasant Prairie, the Power Siting Board Staff,
8 the Ohio Farm Bureau Federation, the Board of
9 Township Trustees for Pleasant and Prairie
10 Townships and the Board of Park Commissioners
11 for the Columbus and Franklin County
12 Metropolitan Park District, and signed as
13 non-opposing by the No Prairie Solar?

14 A. It is.

15 MS. PIRIK: Thank you. Your Honor,
16 we have no further questions for this witness.
17 He is available for cross-examination.

18 ALJ AGRANOFF: Thank you. Does
19 counsel for any of the parties have any
20 cross-examination?

21 I will take silence as a no. I do
22 have some questions for you, sir.

23 EXAMINATION

24 By the Administrative Law Judge:

25 Q. With respect to both documents, that

1 being the Joint Stipulation and Recommendation
2 as well as your direct testimony.

3 Why don't we start first with the
4 Joint Stipulation and Recommendation. Do you
5 have that in front of you?

6 A. Yes.

7 Q. Thank you. If you could please turn
8 to Page 2 of that document.

9 A. Okay.

10 Q. And specifically under Letter A,
11 Recommended Conditions. Do you see that?

12 A. Yes.

13 Q. I know that it speaks there in that
14 last sentence to construction of the facility is
15 expected to begin as early as the first quarter
16 of 2022.

17 Do you have an update as to that
18 particular time frame?

19 A. I do. Obviously dependent on
20 receiving a certificate, we would be planning
21 now to start as early as first quarter of 2023.

22 Q. Thank you. And if you could now
23 turn, please, to Page 6 of the Joint Stipulation
24 and Recommendation.

25 A. Okay.

1 Q. And if you could look at, see where
2 there is a little a?

3 A. Yes.

4 Q. If you could go up about 10 lines
5 and there is a line that begins "And shall
6 promptly repair."

7 A. Yes.

8 Q. Okay. Could you let me know as to
9 whether or not there is any intended parameters
10 with respect to the use of the term promptly?

11 A. I am sorry. Parameters regarding
12 that time line?

13 Q. Yes. As to what promptly would
14 constitute.

15 A. I would say commercially reasonable.
16 So once made aware of the issue, you know, as
17 commercially reasonable to gather up materials
18 and a work force to repair that issue. I guess
19 that's how I would define promptly.

20 Q. Okay. And that same term is
21 utilized, if you can turn to Page 8 of your
22 testimony. Not of your testimony, but the Joint
23 Stipulation and Recommendation.

24 A. Okay.

25 Q. And if you go down four lines, the

1 line that begins "In agricultural areas."

2 A. Yes.

3 Q. And you see that last or second to
4 the last word on that line is also promptly.
5 I assume your response that you gave previously
6 would be similar for that?

7 A. That's correct.

8 Q. As well as on Page 10 of that same
9 document. If you look at paragraph 29, the
10 fourth line down, fourth line from the bottom of
11 Paragraph 29, also utilizing repair promptly.

12 A. That's correct. Commercially
13 reasonable.

14 Q. Thank you. Then if you could turn
15 to your testimony. I believe it's been marked
16 as Applicant Exhibit 19.

17 A. Yes.

18 Q. And if you turn to Page 5 of that
19 document.

20 A. Okay.

21 Q. And there is a discussion beginning
22 on line 17 which discusses community outreach
23 included 3,154 phone calls to residents within
24 three miles of the project area. Do you see
25 that?

1 A. Yes.

2 Q. And then there is a discussion
3 beginning on Line 25 of that same page which
4 discusses that the company contacted neighbors
5 of the project in a door-to-door program.

6 A. Yes.

7 Q. And then indicated that that
8 particular endeavor dealt with individuals who
9 lived particularly close, in close proximity to
10 the project?

11 A. Yes.

12 Q. Can you explain for me whether or
13 not there is a distinction between those two
14 groups of individuals that were contacted, or is
15 there a potential that --

16 A. Between the phone and
17 the door-to-door?

18 Q. Yes.

19 A. I can work to get you some further
20 information, but I would say there might be some
21 overlap between those two groups. I would say
22 obviously the 3,000 phone calls is a much
23 broader approach. But I would have to dig into
24 that data and get back to you to see if there is
25 overlap.

1 Q. Was there an intent though that
2 both cases, that the individuals that were
3 communicated with reside within the project
4 area, or in some cases were these individuals
5 that may live outside the project area?

6 A. For the door-to-door program I would
7 say the intent is to outreach folks near
8 the project area.

9 I think for the phone effort it's
10 more of a broader community outreach intent, if
11 that helps.

12 Q. So some of the individuals that were
13 contacted via phone may not live in the project
14 area?

15 A. That's correct.

16 Q. But all individuals that were
17 communicated with via the door-to-door program
18 do reside in the project area?

19 A. Close to it, yes.

20 Q. Close to it or within?

21 A. Close, particularly close proximity.
22 So I would say near the project area, not
23 necessarily adjacent, but also near.

24 Q. So in both cases, both
25 the door-to-door as well as the calls, it may

1 include individuals that live both in and just
2 outside the project area?

3 A. That's correct.

4 Q. Thank you. And again if you could
5 please turn to Page 7 of your testimony. Let
6 me know when you are there.

7 A. Yes.

8 Q. Question 14. Are you there?

9 A. Yes.

10 Q. Okay. The question had asked did
11 you encounter any objections to the Pleasant
12 Prairie Solar project from the governmental
13 officials in the area.

14 And I am not sure whether or not the
15 answer actually was responsive as to a yes or no
16 regarding whether or not there were objections.

17 A. Would you like me to expand on that?

18 Q. Yes, please.

19 A. Yes. We interacted with the
20 townships, of course, and the Franklin County
21 Commissioners. The Commissioners were
22 supportive of the project, and as such passed a
23 project resolution, energy project designation
24 for the project area. So we did encounter some
25 support there, not objection.

1 In terms of our interactions and
2 outreach with the township groups, there were
3 questions and concerns regarding the project
4 which I believe led to their intervention status
5 where we continue to work with them to answer
6 those questions and resolve those concerns via
7 the Stipulation agreement.

8 Q. Okay. Thank you. And please turn
9 to Page 10 of your testimony.

10 A. Okay.

11 Q. And specifically with respect to
12 question on line 4, question 23. If you take a
13 look at line 9 on that page there is use of the
14 phrase qualified energy zone. Do you see that?

15 A. That's correct, yes.

16 Q. Could you please just define what
17 was intended by the use of that phrase?

18 A. I believe that is a defined term, a
19 statutory term, that was utilized again when
20 coordinating on the project with the Franklin
21 County Commissioners to pass that resolution for
22 the project being a qualified energy zone.

23 As a qualified energy zone there are
24 certain programs and obligations for the project
25 to abide by. I think one example is 80 percent

1 in-state labor, different other obligations,
2 coordinate with the project area first responder
3 groups.

4 And so that was an item that we
5 pursued with the County Commissioners.

6 ALJ AGRANOFF: Okay. Thank you.
7 Based on my limited questions does counsel have
8 any follow-up?

9 If not, thank you, sir. I
10 appreciate it.

11 THE WITNESS: Thank you.

12 MS. PIRIK: Your Honor, just to
13 verify, were Mr. Hreha's responses to the
14 community outreach sufficient, or do you need
15 more information?

16 ALJ AGRANOFF: That is fine.

17 MS. PIRIK: Thank you.

18 ALJ AGRANOFF: At this point in
19 time, Ms. Pirik, do you care to move for the
20 admission of your exhibits?

21 MS. PIRIK: Yes, your Honor. We
22 move the admission of Applicant Exhibits 1
23 through 19.

24 ALJ AGRANOFF: Any objection?
25 Hearing none, the aforementioned exhibits shall

1 be admitted as part of the record at this time.

2 (EXHIBITS ADMITTED INTO EVIDENCE)

3 ALJ AGRANOFF: And on behalf of
4 Staff.

5 MR. EUBANKS: Thank you, your Honor.
6 On behalf of Staff I would like to have
7 premarked, or marked, as Staff's Exhibit 1, the
8 pre-filed testimony of Grant Zeto which was
9 docketed on August 16, 2022.

10 ALJ AGRANOFF: It shall be so
11 marked. And that was Exhibit --

12 MR. EUBANKS: Staff's Exhibit No. 1.

13 (EXHIBIT MARKED FOR THE PURPOSE OF
14 IDENTIFICATION)

15 MR. EUBANKS: As Staff's Exhibit No.
16 2, Staff Report which was docketed on July 1st,
17 2022.

18 ALJ AGRANOFF: That shall be so
19 marked a well.

20 (EXHIBIT MARKED FOR THE PURPOSE OF
21 IDENTIFICATION)

22 MR. EUBANKS: Also the parties have
23 agreed to waive cross-examination of Grant Zeto,
24 and also the exhibits of Staff. So I would like
25 to have Staff's Exhibit 1 and Staff's Exhibit 2

1 moved into evidence.

2 ALJ AGRANOFF: Any objections?

3 MS. PIRIK: No, Your Honor.

4 ALJ AGRANOFF: The aforementioned
5 exhibits shall be entered as part of the record.

6 (EXHIBITS ADMITTED INTO EVIDENCE)

7 MS. PIRIK: Your Honor, we don't
8 have any objections, but I believe the date of
9 the Staff Report was July, 2021. Right?

10 MR. EUBANKS: I thought I said July
11 1st --

12 MS. PIRIK: You said 2022. I just
13 want to be sure the record is clear.

14 MR. EUBANKS: I am sorry. Yes.
15 2021, that's correct.

16 ALJ AGRANOFF: I think I had just
17 previously ruled that both Exhibits Staff
18 Exhibit 1 and Staff Exhibit 2 shall be admitted
19 as part of the record.

20 MR. EUBANKS: Staff also recognizes
21 Joint Exhibit 1 as the Stipulation and concurs
22 with the -- or requests the admission of Joint
23 Exhibit 1 into evidence.

24 ALJ AGRANOFF: Any objection to the
25 admission of Joint Exhibit 1?

1 There being none, Joint Exhibit 1
2 shall be admitted as part of the record at this
3 time.

4 (EXHIBIT HEREBY ADMITTED INTO
5 EVIDENCE)

6 ALJ AGRANOFF: Is there anything
7 else that we need to deal with?

8 MR. EUBANKS: Your Honor, I didn't
9 know if you had any questions of our witness, if
10 not, then Staff rests.

11 ALJ AGRANOFF: I think we dealt with
12 all the exhibits, all the testimony, and if
13 there is nothing further we are adjourned.
14 Thank you.

15 (At 10:20 A.M. the hearing was
16 concluded)

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CERTIFICATE

I do hereby certify that the foregoing
is a true and correct transcript of the
proceedings taken by me in this matter on August
29, 2022, and carefully compared with my
original stenographic notes.

Michael O. Spencer,
Registered Professional
Reporter.

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

Case No(s). 20-1679-EL-BGN

Summary: Transcript August 29th 2022 In the Matter of the Application of Pleasant Prairie Solar Energy, LLC for a Certificate of Environmental Compatibility and Public Need. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Spencer, Michael O. Mr.