

From: [Puco ContactOPSB](#)
To: [Puco Docketing](#)
Subject: public comment 20-1605
Date: Monday, September 26, 2022 4:18:29 PM
Attachments: [Birch Solar - Power Siting Board.pdf](#)
[Ohio Chamber Birch Letter Attachment .pdf](#)



September 23, 2022

Jennifer French, Chair
Ohio Power Siting Board
180 E. Broad St.
Columbus, Ohio 43215

Re: Birch Solar 1 Project, OPSB Case No. 20-1605-EL-BGN

Dear Chair French,

We are sending this letter in support of the Birch Solar 1 Project. The Board should also have received letters of support from the local Lima Chamber of Commerce and the Toledo Chamber of Commerce. We agree with our local Chambers' assessments and write to further convey the project's benefits in terms of economic development and opportunity for the local area and state of Ohio.

The Birch Solar Project is consistent with our mission to champion free enterprise, economic competitiveness, and growth for *all* Ohioans. Specifically, the Ohio Chamber notes the myriad of ways that Birch will serve the public interest and provide local, regional, and statewide economic benefits.

The record in this case overwhelmingly demonstrates that the project is in the public interest. Unfortunately, the OPSB Staff has maintained its recommendation to deny the project as not in the "public interest" based solely on vague and disproven concerns raised by one local government entity. The Ohio Chamber believes that Staff's recommendation is not supported by the facts of the proceeding and is inconsistent with Ohio law, including Senate Bill 52.

Accordingly, the Board's decision should reflect the overwhelming evidentiary record supporting approval of the project.

The OPSB Staff testimony identifies no technical concerns with the project. To the contrary, the Staff in its testimony confirms the project meets all of the statutory criteria under R.C. 4906.10(A) except for one: the requirement that the project will serve the "public interest." The record evidence, however, shows the many ways that the project in fact serves the public interest. The public interest benefits demonstrated in expert testimony by the project are far-ranging, including: increasing in-state energy supply which pushes down prices; boosting local biodiversity and fostering wildlife habitat; improving air quality; providing \$500,000 to the counties' community fund; partnering with The Ohio State University on research relating to honey bee foraging in the Ohio agroecosystem; tax revenues to the local community; increased local jobs and wages; productive use of farm fields; and long-term soil health of the project area.

The local governments' concerns have been addressed with uncontroverted evidence.

The local government correspondence in opposition to Birch voice unsubstantiated and vague concerns regarding: aesthetic and visual impacts; health and safety issues; agricultural and residential land uses; drainage and runoff; wildlife and ecological issues; property values; drinking and surface water; decommissioning; and road use. However, the evidence in the record shows exactly how all of these concerns have been addressed. For example, Birch Solar has committed to: 300-foot panel setbacks from Breese Road; solar panel setbacks starting at 300 feet from homes; vegetation and revegetation plans that include extensive evergreen screening; a cedar post farm fence; a decommission plan and performance bond; and using only non-hazardous equipment.

The project has also entered into a Drainage Road Use Agreement with Auglaize County and Logan Township, as well as a Memorandum of Understanding for a Drainage and Road Use Agreement with Allen County.

Denial of the project based solely on unsupported local government opposition is inconsistent with Ohio law and Ohio Senate Bill 52.

The Ohio Chamber actively participated in the process leading to the enactment of Ohio Senate Bill 52. This law provides a county government the opportunity to restrict solar and wind projects before the projects even go before the OPSB. Ultimately, under this law, county governments can block renewable energy projects.

However, as SB 52 makes explicit, these provisions do not apply to projects which have already met milestones within the transmission interconnection process and the OPSB application review process. Under the heavily negotiated terms of SB 52, the Birch Solar Project is grandfathered from being restricted solely by local government opposition to the project.

It is important for local public concerns, including concerns raised by local governments, to be considered by the OPSB. Such concerns must be evaluated as to whether they have merit and are supported by evidence and testimony. In this case, **there is no evidence on the record from intervenors opposing the project.** In fact, there is a group of resident intervenors who provided evidence on the record supporting the project. The resident intervenors that were opposing the project withdrew from the case. And intervenors Auglaize County and Logan Township, while remaining neutral on the whether the certificate should be issued, signed the stipulation supporting the certificate conditions contained therein.

The only basis for the OPSB Staff's recommended denial of the project is the fact that some local opposition *simply exists*. A denial of the project based solely on the existence of some local government correspondence stating concerns or opposition (especially when, as here, other local governmental and citizen groups are not opposing the project) flies in the face of the grandfathering provisions of Senate Bill 52.

OPSB has a long history of objectively and judiciously considering the record in a given case and making its determinations based on the facts on the record. Some have compared the Birch Solar record to that of Republic Wind (OPSB Case No. 17-2295-EL-BGN), claiming that, like Republic Wind, the Birch record does not support approval. However, as shown on the attached chart, the records in these two cases are materially different and the record in Birch Solar supports approval.

Regarding the question of whether the project is in the “public interest” under R.C. 4906.10(A), the OPSB Staff identified no technical or substantive concern with the project. And the record is replete with supported evidence as to how the project will bring a variety of benefits to the general public at a local, regional, and statewide level. As a result, the project’s permit application should be approved.

Ohio’s ability to attract business will be harmed if renewable energy projects are subject to an unpredictable administrative process.

While legitimate local concerns should be carefully evaluated, local opposition based on hyperbole and allegations without supporting evidence and testimony should not dictate the outcome of the OPSB permitting process. Allowing it to do so undermines the fundamental purpose of the OPSB to balance a variety of interests when siting important energy infrastructure.

Ohio is in a constant race against other states to attract business. Those businesses are increasingly demanding renewable energy—especially affordable solar energy—from the states in which they choose to locate. Ohio will miss out on those opportunities if renewable energy projects are subject to an unpredictable administrative process that gives deference to opposition that is not otherwise supported by fact or evidence—and contrary to the clear intent of recently enacted Senate Bill 52. The OPSB should defer to the General Assembly’s grandfathering provisions contained in Senate Bill 52, which were clearly enacted to ensure projects that advanced to a certain point would not be impacted by a new regulatory framework.

The Ohio Chamber strongly reiterates its support for the Birch Solar project and urges the Board to approve its certificate application.

Respectfully,



Steve Stivers
President/CEO
Ohio Chamber of Commerce

cc: Director Mary Mertz
Director Bruce Vanderhoff, M.D.
Director Laurie Stevenson
Director Lydia Mihalik
Director Dorothy Pelanda
Senator Jay Hottinger
Representative Dick Stein
Senator Dale B. Martin
Representative Jeffrey Crossman

Birch Solar: Materially Different from Republic Wind

Project Issue	Birch	Republic
Project Description	300 MW Solar facility - 2,345 acres	200 MW Wind facility - 24,000 acres
Stipulation in case	Yes – signed by: <ul style="list-style-type: none"> • Applicant • Auglaize Co. and Logan Twp. agreed with conditions and no position on certificate • Ohio Farm Bureau Federation (OFBF) • International Brotherhood of Electric Workers Local Union 32 (IBEW) • Proponent Residents 	No stipulation
Staff	<ul style="list-style-type: none"> • Did not sign stipulation • <u>RC 4906.10(A)(6)</u> alleged public interest not met - “overwhelming opposition” - local government official opposition 	No stipulation
Board Decision	<ul style="list-style-type: none"> • Not yet issued • Any valid concerns filed on docket by residents and officials resolved by commitments in Stipulation 	Board stated Application “ <u>cannot be remedied</u> ” by certificate conditions: <ul style="list-style-type: none"> • Not sufficient evidence to find serves public interest and that Project can be built on karst without adversely affecting environment (21 of 50 turbines located on karst) • Local water concerns could have major impact on public health and wellbeing of residents • No reliable remedy
Opponent Residents	<u>Intervenors:</u> <ul style="list-style-type: none"> • Entered into Good Neighbor Agreement with Birch • Withdrew from case before hearing so no cross examination or briefs 	<u>Intervenors:</u> <ul style="list-style-type: none"> • Cross examined witnesses at hearing • Filed brief and reply brief stating opposition to project <u>Did not intervene:</u> <ul style="list-style-type: none"> • Petition with 3,000 signatures
Local Government Involvement	<u>Intervenors:</u> <ul style="list-style-type: none"> • Auglaize Co. and Logan Twp. – signed stipulation - agreed with conditions and no position on certificate - signed a Drainage and Road Use and Agreement (DRUMA) with Birch • Shawnee Twp. – no cross examination or briefing <u>Did not intervene:</u> <ul style="list-style-type: none"> • Allen Co. - signed memorandum of understanding for a DRUMA with Birch - comments stating concerns filed in the non-record portion of the docket, but did <u>not</u> state opposition to the project 	<u>Intervenors:</u> <ul style="list-style-type: none"> • Seneca Co. (passed resolution voiding RUMA), Seneca Co. Park District, Adams Twp., Reed Twp., Scipio Twp. • Cross examined witnesses at hearing • Filed brief stating opposition to project • No DRUMA or MOU for a DRUMA <u>Did not intervene:</u> <ul style="list-style-type: none"> • Thompson Township filed resolution in opposition.
Proponent Residents	<u>Intervenors:</u> <ul style="list-style-type: none"> • Signed stipulation • Presented 5 witnesses at the evidentiary hearing no one cross examined • Filed brief in support 	No proponent resident intervenors
Ohio Farm Bureau Federation	<ul style="list-style-type: none"> • Signed stipulation recommending approval 	No stipulation
IBEW	<ul style="list-style-type: none"> • Signed stipulation recommending approval 	Not a party

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

9/26/2022 5:24:11 PM

in

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

Summary: Public Comment filed by Steve Stivers on behalf of the Ohio Chamber of
Commerce, via website, electronically filed by Docketing Staff on behalf of
Docketing