

# THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF  
PLEASANT PRAIRIE SOLAR ENERGY LLC  
FOR A CERTIFICATE OF ENVIRONMENTAL  
COMPATIBILITY AND PUBLIC NEED.

CASE NO. 20-1679-EL-BGN

## OPINION, ORDER, AND CERTIFICATE

Entered in the Journal on October 20, 2022

### I. SUMMARY

{¶ 1} The Ohio Power Siting Board approves and adopts the stipulation and recommendation between Pleasant Prairie Solar Energy LLC, the Ohio Farm Bureau Federation, the Board of Trustees of Pleasant Township, the Board of Trustees of Prairie Township, the Board of Park Commissioners of the Columbus and Franklin County Metropolitan Park District, and the Board Staff, and directs that, subject to the conditions set forth in the stipulation and consistent with this Opinion, Order, and Certificate, a certificate be issued to Pleasant Prairie Solar Energy LLC for the construction, operation, and maintenance of a 250 megawatt solar-powered electric generation facility in Pleasant and Prairie townships in Franklin County, Ohio.

### II. PROCEDURAL BACKGROUND

{¶ 2} All proceedings before the Ohio Power Siting Board (Board) are conducted according to the provisions of R.C. Chapter 4906 and Ohio Adm.Code Chapter 4906-1, et seq.

{¶ 3} Pleasant Prairie Solar Energy LLC (Pleasant Prairie or Applicant) is a person defined in R.C. 4906.01. Pleasant Prairie is an affiliate of Invenergy Solar Project Development LLC, which is an affiliate of Invenergy Renewables LLC, an affiliate of Invenergy LLC. According to Applicant, Invenergy LLC is one of the nation's leading independent power generation companies and is now applying its renewable energy experience toward expanding its clean energy portfolio to include solar power generation in the state of Ohio. Invenergy has developed over 25,000 megawatts (MW) of utility-scale

wind, solar, natural gas, and energy storage projects in the U.S., Central and South America, Canada, Europe, and Japan. Three of Invenergy's affiliates (Hardin Solar Energy LLC, Vinton Solar Energy LLC, and Hardin Solar Energy II LLC) are certified in the state of Ohio. (Application at 2, 4.)

{¶ 4} Pursuant to R.C. 4906.04, no person shall construct a major utility facility without first having obtained a certificate from the Board. In seeking a certificate, an applicant must comply with the filing requirements outlined in R.C. 4906.06, as well as Ohio Adm.Code Chapters 4906-2 and 4906-4.

{¶ 5} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies were required to implement procedures consistent with recommendations from the Ohio Department of Health (ODH) to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens were urged to heed the advice of the ODH Health regarding this public health emergency in order to protect their health and safety. The Executive Order was effective immediately and remained in effect until the COVID-19 emergency was lifted on June 2, 2021, pursuant to the May 17, 2021 Order from the Director of the ODH. This Order was intended to align the state of Ohio's health orders with new guidance from the Center of Disease Control. As result, all evidentiary hearings scheduled subsequent to July 1, 2021, were to be held in person.

{¶ 6} On November 12, 2020, Pleasant Prairie filed a motion seeking a limited waiver of Ohio Adm.Code 4906-3-03(B) and requested expedited treatment of such waiver. Specifically, Pleasant Prairie sought to allow for the required public informational meeting to be conducted virtually via the Internet and telephonically instead of in-person in the area in which the project will be located. The motion was granted pursuant to the administrative law judge (ALJ) Entry of November 19, 2020.

{¶ 7} On November 25, 2020, Pleasant Prairie filed a pre-application notification letter with the Board regarding its proposed solar-powered electric generation facility in Pleasant and Prairie townships Franklin County, Ohio with a capacity of 250 MW of electric generating capacity (Project or Facility).

{¶ 8} Due to the restrictions in place during the COVID-19 emergency, Pleasant Prairie held a web-based and telephonic virtual public meeting on December 14, 2020. On November 25, 2020, Pleasant Prairie filed a letter of compliance regarding service of notice to each property owner and affected tenant within the Project area and proof of publication regarding the public informational meeting.

{¶ 9} On February 19, 2021, Pleasant Prairie filed an application with the Board for a certificate of environmental compatibility and public need to construct and operate a 250 MW solar-powered electric generation facility in Franklin County, Ohio. The Project will be located within a 2,400-acre Project area and sited on approximately 1,729 acres and will interconnect to the regional electrical transmission grid via the existing American Electric Power Cole Road Substation at 345 kilovolts (kV). (App. Ex. 1 Cover Letter, 2, 6.)

{¶ 10} On February 19, 2021, Pleasant Prairie filed a motion with the Board seeking waivers from Ohio Adm.Code 4906-4-08(D)(2)-(4) regarding impacts on landmarks, recreation and scenic areas, and the visual impact of the facility. Specifically, Pleasant Prairie requested a waiver to allow for a two-mile focused study area for cultural resources, landmarks, and recreational areas and a five-mile focused study area for the effects on general visual impacts as opposed to the required ten-mile radius. The requested waivers were granted pursuant to the ALJ's Entry of April 13, 2021.

{¶ 11} Along with the motion for waivers, Applicant filed a motion for protective order. The information Applicant sought to protect included the estimated capital and intangible costs, the operation and maintenance costs, and the specified certificate and policy numbers. The motion for protective treatment was granted pursuant to the Entry of April 13, 2021.

{¶ 12} Pursuant to Ohio Adm.Code 4906-3-06, within 60 days of receipt of an application for a major utility facility, the Board must either accept the application as complete and compliant with the content requirements of R.C. 4906.06 and Ohio Adm.Code Chapters 4906-1 through 4906-7 or reject the application as incomplete. By letter dated April 20, 2021, the Board notified Pleasant Prairie that its application, as supplemented, was compliant and provided sufficient information to permit the Board Staff (Staff) to commence its review and investigation. Pursuant to Ohio Adm.Code 4906-3-06 and 4906-3-07, the Board's April 20, 2021 letter directed Applicant to serve appropriate government officials and public agencies with copies of the complete, certified application and to file proof of service with the Board. The letter further instructed Pleasant Prairie to submit its application fee pursuant to R.C. 4906.06(F) and Ohio Adm.Code 4906-3-12.

{¶ 13} On April 21, 2021, Pleasant Prairie filed proof of service of its accepted and complete application as required by Ohio Adm.Code 4906-3-07. On May 4, 2021, Applicant filed proof that it submitted its application fee.

{¶ 14} By Entry issued on May 11, 2021, the ALJ established the effective date of the application as May 11, 2021. The Entry also set forth a procedural schedule directing Staff to file a report of investigation (Staff Report) by July 2, 2021, scheduling a virtual public hearing for July 19, 2021, and setting a virtual adjudicatory hearing to begin on August 16, 2021. The ALJ further directed Pleasant Prairie to issue public notices of the application and hearings pursuant to Ohio Adm.Code 4906-3-9 indicating that petitions to intervene would be accepted by the Board up to 30 days following service of the notice or by June 25, 2021, whichever was later. Finally, the Entry provided deadlines for all parties to file testimony, as well as for the filing of any stipulation, and indicated that the public and adjudicatory hearings would both be held using remote access technology that facilitates participation by telephone and/or live video on the Internet.

{¶ 15} By the Entry of June 28, 2021, the local public hearing and the evidentiary hearing was converted to in-person hearings. The Entry also granted intervention status to

the Board of Park Commissioners of the Columbus and Franklin County Metropolitan Park District (Metro Parks), the Board of Township Trustees Pleasant Township (Pleasant Township), the Board of Township Trustees Prairie Township (Prairie Township), and the Ohio Farm Bureau Federation (Ohio Farm Bureau). No Prairie Solar, LLC (No Prairie Solar) was granted intervention pursuant to the Entry of August 5, 2021.

{¶ 16} On July 1, 2021, Staff filed its Staff Report pursuant to R.C. 4906.07(C).

{¶ 17} The local public hearing was conducted as scheduled on July 19, 2021.

{¶ 18} Pursuant to the Entry of August 2, 2021, the August 16, 2021 adjudicatory hearing was called and continued for the purpose of allowing for additional time to negotiate a stipulation in this proceeding. The remaining procedural schedule deadlines were suspended.

{¶ 19} On October 29, 2021, as supplemented on November 5, 2021, and February 16, 2022, Pleasant Prairie, Pleasant Township, Prairie Township, the Ohio Farm Bureau, and Staff filed a joint stipulation and recommendation (Stipulation). No Prairie Solar is not a signatory party to the Stipulation but agreed not to be a non-opposing party. (August 29, 2022 Tr. at 12; Jt. Ex. 1 at 19.)

{¶ 20} On August 16, 2022, Pleasant Prairie and Staff each filed direct testimony in support of the Stipulation.

{¶ 21} Pursuant to the Entry of August 10, 2022, the ALJs commenced the adjudicatory hearing on August 29, 2022, where the Stipulation was presented for the Board's consideration.

### III. PROJECT DESCRIPTION

{¶ 22} Pleasant Prairie seeks certification to construct a 250 MW solar-powered generating facility in Pleasant and Prairie townships in Franklin County, Ohio. The land use within the Project area is predominantly agricultural. Depending on the exact models

used, the Facility is expected to include over 630,000 modules and produce over 539,000 MW hours per year. The general purpose of the Project is to produce clean, renewable, reliably priced, low-cost electricity to the Ohio bulk power transmission grid operated by PJM Interconnect LLC (PJM) or under a power purchase agreement. (Application at 2, 3.)

{¶ 23} The Project will consist of large solar panels ground-mounted on a tracking rack system. The Project will occupy approximately 2,630 acres of leased land. The Project will include associated facilities such as access roads, an operations and maintenance building, an underground collection system, pyranometers, a collector substation, and potentially a battery energy storage system. The Project will be secured by fencing which will be at least seven-feet tall along the perimeter of the Project area, as well as along internal Project boundaries and accessed through gated entrances. In areas surrounding the panels, Applicant has committed to utilizing “Deer Fencing,” which would be a configuration of woven metal attached to wood posts. The Project substation will have six-foot tall chain link fences with one foot of barbed wire. Solar modules will be setback a minimum of 300 feet from adjacent non-participating residences and at least 100 feet from both non-participating property lines and public roads. Access roads will be approximately 16-feet wide with two-foot shoulders and will be constructed near the center and perimeters of the Facility for access by maintenance vehicles. (App. Ex. 1 at Cover Letter, 6, 11; Staff Ex. 2 at 5, 7.)

{¶ 24} The solar panels will be attached to metal tracking posts and will be a single axis tracking system driven by the asset of motors powered by the internal site’s AC [alternating current] power distribution system. The solar panel arrays will be grouped in large clusters that will be fenced in with gated entrances. The highest point of each module will not exceed 15 feet and the fence will be at least seven feet tall. The tracking system will be oriented in the north-south direction to allow the system to rotate east and west to follow the sun. The typical post is 10 feet long and its depth is 6 feet below grade. Inverters will be installed throughout the Project area and will convert the DC [direct current] system to AC power which will be transmitted to the Project collector substation or switchyard by the

underground AC collection system. The Facility will include up to 70 inverters. (App. Ex. 1 at 7; Staff Ex. 2 at 5-6.)

{¶ 25} Pleasant Prairie will install an underground collector system consisting of a network of electric and communication lines that will transmit the electric power from the solar arrays to a central location. Pleasant Prairie proposes to install up to 38.4 miles of buried cable. The underground lines will be installed by direct burial method or horizontal directional drilling. The below grade portion of the collector system will be buried at least 36 inches. (Staff Ex. 2 at 5.)

{¶ 26} The Facility collection substation will occupy approximately 2 acres of land and will be located southwest of the intersection of U.S. Route 40 and Murnan Road. It will connect the Project to the switchyard via an approximately 1.5-mile-long transmission line that will be subject to a separate filing with the Board. (Staff Ex. 2 at 6.) The switchyard is an existing AEP Ohio Transmission Company, Inc. facility located off of Cole Road, approximately 0.5 mile north of U.S. Route 40. (Staff Ex. 2 at 6.)

{¶ 27} Applicant proposes to construct approximately 22.1 miles of new access roads for construction, operation, and maintenance of the Facility. The access roads would be approximately 20 feet wide. (Staff Ex. 2 at 6.)

{¶ 28} Applicant proposes to have a graveled laydown area of approximately five to 10 acres or less that would be reclaimed at the end of construction. The laydown area will be used to meet contractor requirements complying with best management practices (BMP). (Staff Ex. 2 at 6.)

{¶ 29} The Project will include up to 13 meteorological towers. Each tower will be approximately 10-feet tall and will include sensors such as an anemometer, a wind vane, a pyranometer, a pressure sensor, and a thermometer. The meteorological towers typically have a concrete foundation and are located next to the inverters. (Staff Ex. 2 at 6.)

{¶ 30} The operations and maintenance building will be single story and approximately 1,500 square feet. It will serve as a workspace for operations personnel. (Staff Ex. 2 at 7.)

{¶ 31} The Project will utilize some safety and security lighting at commonly occupied areas. The lighting will meet residential zone code levels and would be motion activated and downshielded to reduce any impacts. (Staff Ex. 2 at 7.)

{¶ 32} Construction is anticipated to begin in 2022 and is expected to last 16-20 months. According to Applicant, delays could impact Project financing, including the ability to procure solar panel modules and Facility components and resulting in a push back of the in-service date, which may cause significant financial burden. (Staff Ex. 2 at 7.)

#### IV. CERTIFICATION CRITERIA

{¶ 33} Pursuant to R.C. 4906.10(A), the Board shall not grant a certificate for the construction, operation, and maintenance of a major utility facility, either as proposed or as modified by the Board, unless it finds and determines all of the following:

- (1) The basis of the need for the facility if the facility is an electric transmission line or a gas pipeline;
- (2) The nature of the probable environmental impact;
- (3) The facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations;
- (4) In the case of an electric transmission line or generating facility, that the facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems, and that the facility



will serve the interests of electric system economy and reliability;

- (5) The facility will comply with R.C. Chapters 3704, 3734, and 6111, as well as all rules and standards adopted under those chapters and under R.C. 4561.32.
- (6) The facility will serve the public interest, convenience, and necessity;
- (7) The impact of the facility on the viability as agricultural land of any land in an existing agricultural district established under R.C. Chapter 929 that is located within the site and alternate site of any proposed major facility; and,
- (8) The facility incorporates maximum feasible water conservation practices as determined by the Board, considering available technology and the nature and economics of the various alternatives.

## V. SUMMARY OF THE EVIDENCE

{¶ 34} The Board will review the evidence presented with regard to each of the eight criteria by which we are required to evaluate this application. Any evidence not specifically addressed herein has, nevertheless, been considered and weighed by the Board in reaching its final determination.

### A. *Local Public Hearing*

{¶ 35} Twenty-nine individuals testified at the local public hearing that was held on July 19, 2021. Twenty-one witnesses expressed their support for the Project either in whole or with conditions and seven opposed it. One witness did not specifically address the Project. Those in favor of the proposed Project recognized the importance of solar

energy as an alternative, renewable clean energy source, and noted the environmental benefits of the Project, including promoting clean energy and addressing the existing climate crisis and carbon emissions. (July 19, 2021 Tr. at 21-25, 34, 37-38, 40, 64, 79, 86, 99-100, 102-104; 108-109, 117, 135.) Witnesses testified regarding the health benefits of the Project when compared to other uses for the land on which the proposed Project will be built (July 19, 2021 Tr. at 79, 86, 114). As additional support for their position, they noted local legislative efforts calling for the development of local renewable energy projects. (July 19, 2021, Tr. at 23, 103-104.) One witness noted that Franklin County has designated alternate energy zones to assist in the development of solar energy (July 19, 2021 Tr. at 78-79). Witnesses discussed the economic benefits to the community that will result from the Project, including the creation of jobs and the revenue to be received by Franklin County, townships, and school districts as a result of Payment In lieu of Taxes (PILOT) programs. (July 19, 2021 Tr. at 33, 35-36, 38, 40, 63, 77-78, 86, 100, 102-103, 108, 112, 118, 135-136). Witnesses praised Applicant's parent company Invenergy and stated that the company was very responsive to input from the public, community groups, local officials, and government agencies (July 19, 2021 Tr. at 24, 85, 103, 108, 113). An environmental engineer for Franklin County discussed Invenergy's responsiveness to the expressed concerns regarding the Project's impact on drainage systems in the area. He indicated that Invenergy seeks to have all drainage concerns addressed in the road use maintenance agreement (RUMA) to be negotiated with Franklin County. (July 19, 2021 Tr. at 90-91.) Other witnesses stated their opinion that the Project will produce minimal noise and traffic and no hazardous waste. (July 19, 2021 Tr. at 108, 118.)

{¶ 36} Representatives of the Darby Creek Association (DCA) and other witnesses expressed concern that, as proposed, the Project presents a significant threat to the environment and the quality of the Battle Darby Metro Park, which is adjacent to the proposed location. DCA is a volunteer organization that has existed since 1972 with the purpose of protecting the National Scenic River Big Darby Creek and the natural environment in the watershed. DCA seeks a commitment from Applicant for a greener solar

facility that is appropriate and adequate for the setting by reducing the negative impacts of the proposed Facility. Specifically, DCA and other witnesses expressed concerns and seek commitment from Applicant relative to (a) setbacks; (b) fencing; (c) invasive species management; (d) lighting issues; (e) the impact on nesting and bird migration issues; (d) the ability of Metro Parks to conduct controlled burns at the Battelle Darby Metro Park adjacent to the proposed Project; (e) the potential loss of Darby Plains prairie species genotype as Applicant plants non-Darby Plains genotype vegetation; (f) the need for the protection of some wetlands; (g) the adequacy of the Project's proposed wetland and stream buffers; (h) water management to capture and control runoff; (i) the inclusion of a trail connection to conservation land to the east; (j) the need for the Project to maximize groundwater recharge in the Big Darby Creek watershed; (k) the need for Applicant to establish an adequate fund for continuous monitoring of biological conditions within the Facility on adjacent Metro Park's land and other sites; (l) minimizing the disruption to the soil; and (m) the establishment of a permanent conservation easement after the Facility is no longer in operation, including a right of first refusal for the land to be sold to Metro Parks. (July 19, 2021 Tr. at 27-31, 59-60, 69-72; 92-97.)

{¶ 37} Objecting witnesses raised concerns regarding (a) the location for the placement of panels, fences, and night lighting; (b) the lack of commitments regarding the planting of vegetative barriers; (c) the protection of aesthetics; (d) glare; (e) the inadequacy of proposed setbacks and fences; (e) environmental issues regarding stormwater drainage patterns; (f) noise impacts; (g) groundwater and well water contamination; (h) preparedness for emergency events; (i) financial assurances related to decommissioning, fire, flood, tornado, and other events; (j) negative impact on wildlife; and (j) negative impact on property values. Objecting witnesses also submit that there are better locations to build the proposed solar farm that would be less impactful. One witness expressed concern regarding the proposed location of the substation inverters. Specifically, the witness contends that although inverters are normally located in the middle of the Project area in order to be as far from residences so as to mitigate noise and electromagnetic fields, in this case the

proposed location is in the corner of the Project area near multiple residences. (July 19, 2021 Tr. at 43-48, 66-67, 72-75, 82-83, 87-88, 125-130.)

## **B. Staff Report**

{¶ 38} Pursuant to R.C. 4906.07(C), Staff completed an investigation into the application, which included recommended findings regarding R.C. 4906.10(A). The following is a summary of Staff's findings.

### **1. BASIS OF NEED**

{¶ 39} R.C. 4906.10(A)(1) requires an applicant for an electric transmission line or gas pipeline to demonstrate the basis of the need for such a facility. As the Project is a proposed electric generating facility, Staff recommends that the Board find that this consideration is inapplicable to this application (Staff Ex. 2 at 8).

### **2. NATURE OF PROBABLE ENVIRONMENTAL IMPACT**

{¶ 40} R.C. 4906.10(A)(2) requires that the Board determine the nature of the probable environmental impact of the proposed facility. As part of its investigation, Staff reviewed the nature of the probable impact of the Project. The following is a summary of Staff's findings.

#### **a. Community Impacts**

{¶ 41} As part of its land use impact analysis, Applicant studied the Big Darby Accord Watershed Master Plan, the Big Darby Town Center Master Plan, and the Pleasant Township Comprehensive Plan. The central concept of these plans is a strong focus on ecological conservation and managed low-density development along and surrounding the Big Darby watershed. The planned solar facility will be consistent with these master plans, specifically recognizing that conservation land use buffers will remain. According to Staff, the solar facility is not expected to conflict with the existing land use plans. (Staff Ex. 2 at 10.)

{¶ 42} The Facility is expected to support a net-positive effect on regional development by increasing local tax revenues and providing additional school funding. The predominant land use surrounding the Project area is agriculture. Low density residential use is scattered throughout the Project area. Applicant has leased approximately 2,400 acres of agricultural land for the Project, of which approximately 1,880 acres will be converted to solar and ancillary uses. The remaining 22 percent of leased land will provide additional buffers. After construction, all areas outside the Project perimeter fence impacted by construction and not needed for ongoing operations will be reclaimed to the state prior to construction. Additionally, Applicant does not intend to remove any structures to construct and operate the planned Facility. (Staff Report at 11.)

{¶ 43} Construction and operation of the Facility will not physically impact any recreational areas, including parks, rivers, nature preserves, wildlife areas, or trails. Although the Project's infrastructure will be partially visible from three local parks and three conservation areas, Staff expects that Applicant's landscape mitigation plan will provide aesthetic buffering for these areas and that significant adverse aesthetic impacts to recreational land uses are not likely. Additionally, Staff notes that due to the rural nature of the Project vicinity and the light traffic volume on roads throughout the Project area, the number of potential viewers will be limited. (Staff Ex. 2 at 11.)

{¶ 44} The maximum height of the solar panels will be 15 feet above ground level. Anti-glare coating will be applied to the solar panels to maximize the capture of solar energy and to minimize the aesthetic impact. Based on the results of Applicant's five-mile visual resources report, viewshed impacts are generally condensed within a half-mile distance of the panels. Specifically, based upon the viewshed analysis of existing land features and vegetation, 89.9 percent of the panels will be screened from view within the five-mile radius study area. Applicant's landscape mitigation plan proposes the installation of three planting modules along the Facility fence line to soften viewshed impacts and to blend the Facility into the existing vegetation. Staff recommends the incorporation of a landscape and lighting plan to reduce impacts in the areas where adjacent non-participating parcels

contain residences with direct line of sight to the Project's infrastructure. Staff recommends that aesthetic impact mitigation include native vegetative plantings, alternate fencing, good neighbor agreements, or other methods in consultation with affected landowners and subject to Staff review. (Staff Ex. 2 at 11-12.)

{¶ 45} With respect to the aesthetic impacts related to the Project's perimeter fencing, Staff opines that chain-link fences are more aesthetically intrusive and out of character in rural settings. Staff also believes that chain-link fences are less wildlife friendly than fencing options such as deer fences and wooden fences. Staff notes that after consulting with affected landowners and DCA, Applicant has now adopted a deer fence design that addresses wildlife access/crossing and viewshed concerns of the Project. Staff also recommends that Applicant install agricultural perimeter fencing that is both small-wildlife permeable and aesthetically fitting for the rural location. (Staff Report at 12.)

{¶ 46} Applicant conducted a cultural resources literature review to ascertain potential impacts to historical properties and archeological sites in a two-mile radius around the Project. The review initially was based on historic data provided by Ohio Historic Preservation Office's (OHPO) Ohio Historic Inventory, the Ohio Archeological Inventory, and the National Register of Historic Places (NRHP). Applicant also obtained information on historic cemeteries from the Ohio Genealogical Society. Applicant determined, and OHPO agreed, that in order to fully assess the potential for impacts to cultural resources, the Project should undergo further field work surveys. Additional surveys were conducted, and the results were provided to OHPO in January 2020. In April 2021, Applicant filed a supplement to the record which included sites located within the Project area that were determined to be potentially eligible for National Register of Historic Places listing. (Staff Ex. 2 at 12-13.)

{¶ 47} On June 9, 2021, OHPO executed a Memorandum of Understanding (MOU) with Applicant in which Applicant commits to avoid certain identified sites that are potentially eligible for NRHP listing and to also minimize visual impacts to identified

historic resources through the landscape plan for the Project. The MOU also details the steps to be taken if the unanticipated archaeological discoveries are made. Based on the MOU, Staff believes that the overall expected aesthetic impact will be minimal. (Staff Ex. 2 at 13.)

{¶ 48} The Applicant will be responsible for the construction, operation, and maintenance of the proposed project. Applicant has obtained the necessary landowner agreements for the Project. (Staff Ex. 2 at 13.)

{¶ 49} Pleasant Prairie chose to file its estimated capital and intangible costs, estimated operations and maintenance expenses, and estimated delay costs under seal, and filed a motion for protective order to keep the information confidential as discussed above (Staff Ex. 2 at 13).

{¶ 50} According to Applicant, the proposed Project costs, including Operations and Maintenance expenses are similar to the costs of other facilities that it has completed. Staff verified that the reported average cost of the similar facilities is not substantially different from Applicant's estimated costs for the proposed facility. (Staff Ex. 2 at 13, 14.)

{¶ 51} Applicant provided its estimates of the cost of delays in permitting and construction of the proposed facility under seal. Applicant stated that delays could prevent the Project from meeting federal investment credit deadlines, which could result in the loss of those benefits to Applicant. Additionally, the delays could result in penalties to the extent that they would prevent Applicant from meeting delivery deadlines under a potential power purchase agreement. Staff found Applicant's characterization of its estimated cost of delays to be reasonable. (Staff Ex. 2 at 14.)

{¶ 52} Applicant hired a consultant to evaluate the potential economic impacts of the construction and operation of the Facility. The identified economic impacts include direct employment and payroll associated with construction and operation of the Facility, indirect wages related to supply-chain labor, and induced earnings resulting from spending

by persons in the first two categories. Based on the Jobs and Economic Development Impact model utilized, the quantified projected economic benefits of the Project during construction includes 1,067 construction jobs, and 31 long-term operational jobs resulting in \$87.6 million in annual earnings during construction and \$1.8 million in annual earnings during operations. Additionally, it is estimated that the Project will result in \$140 million in local output during construction and \$5.3 million in local annual output during Facility operations. Staff verified that the methodology of the models relied upon for the study were appropriate. (Staff Ex. 2 at 14.) Further, it is estimated that the Project will generate \$1.75 million annually for the Franklin County taxing district. This estimate is based on a potential PILOT plan in which Pleasant Prairie would pay \$7,000/MW annually for a 250 MW facility; however, as of the filing of the Staff Report, Applicant had not entered into a PILOT agreement with Franklin County. (Staff Ex. 2 at 15.)

{¶ 53} Pleasant Prairie hired a consultant to analyze and identify any potential impacts along roads and to nearby residents due to glint and glare resulting from the Project. The consultant utilized software commonly used by solar facility developers to determine the effect of solar glare and found that glare from the Project is not predicted to impact nearby residences or impact drivers along U.S. 40. With respect to the analysis of glare resulting from the Project relative to the flight path into Bolton Field Airport, Pleasant Prairie found that there is a low potential for temporary after-image. With respect to the glare analysis relative to the air traffic control tower for Bolton Field Airport, Pleasant Prairie found that there is a potential for temporary after-image. Staff expressed concerns regarding the inputs for the glare analysis model. (Staff Ex. 2 at 15.)

{¶ 54} According to Staff, Applicant indicated that as the solar facility Project design progresses it would conduct additional studies on potential glare. Staff recommends that Pleasant Prairie provide Staff and Bolton Field Airport with an updated and revised glare analysis report based on a revised solar facility layout that demonstrates no potential for glint or glare in in the airport traffic control tower for Bolton Field. Staff further recommends that Pleasant Prairie obtain written concurrence from the Bolton Field Airport



Authority in the form of either a resolution or signed letter/email stating that its board is willing to accept the impact from glare on the approach flight path(s) and airport traffic control tower. (Staff Ex. 2 at 15-16.)

{¶ 55} Applicant holds land rights to and estimates that the Facility can operate for 25 years or more and has prepared a decommissioning plan with a total decommissioning cost estimate of \$11,625,923. Staff states in its report that it reviewed the decommissioning plan. In the plan, Pleasant Prairie states that at the end of its useful life, the Facility will be decommissioned, and the land will be returned to its current use as agricultural land. Prior to the start of any decommissioning activities, Applicant will apply for and obtain applicable federal, state, and local permits. At the time of decommissioning, panels will be reused, recycled, or properly disposed of in accordance with the regulations in effect at that time. The decommissioning activities consist of, but are not limited to, reinforcing access roads, installing temporary construction fencing, best management practices to protect sensitive environmental resources, de-energizing solar arrays, dismantling panels and racking, removing inverters, removing electrical cables to a depth of at least 36 inches, removing access and internal roads, grading the site, removing the substation, removing the overhead transmission lines, and poles, de-compacting subsoils and revegetating disturbed land to pre-construction conditions, to the extent practicable. Staff recommends that an updated decommissioning plan include a requirement to monitor the site to ensure successful revegetation and rehabilitation. Staff also recommends that the decommissioning plan be amended to require that the majority of equipment be removed within one year. Pleasant Prairie states that it will repurpose, salvage, recycle, or haul offsite to a licensed solid waste disposal facility all solar components. Some of the components are anticipated to have a resale or salvage value and would be sold to offset the decommissioning cost. If the solar modules are to be disposed, Pleasant Prairie intends to conduct the disposal in compliance with federal, state, and local laws and regulations. (Staff Ex. 2 at 16-17.)

{¶ 56} Applicant will provide for financial security to ensure that funds are available for decommissioning/land restoration. Specifically, it will employ a surety bond

active during the life of the Project and renewed annually. Applicant will periodically review the decommissioning plan and costs and provide an updated report to the board every five years after the commercial operations date. These reports will be prepared by an independent, registered professional engineer licensed to practice in the state of Ohio and should estimate the total cost of decommissioning the facility, salvage value, and appropriateness of any contingency amount or percentage. Staff recommends that at least 30 days prior to the preconstruction conference, Applicant should docket an updated decommissioning plan and total decommissioning cost estimate without regard to salvage value. (Staff Ex. 2 at 17.)

{¶ 57} Applicant indicates that the Facility will be designed and installed to withstand and minimize potential damage from high-wind occurrences. Staff found that the components of the proposed Facility are generally not susceptible to damage from high winds except tornado-force winds. (Staff Ex. 2 at 17-18.)

{¶ 58} Applicant has yet to finalize its delivery route, although it is expected that deliveries to the Project site will be by way of U.S. Route 40. Applicant's consultant recommends that US Route 40 and County Roads 140, 11, and 135 be utilized to the maximum extent for access points to the Project site. According to Applicant's Conceptual Traffic and Road Impact and Analysis Report, all bridges are in good condition along the proposed transportation routes. Road surface quality has been determined by Applicant to be predominantly in good condition. No overhead obstructions were identified along the proposed delivery routes. Conventional heavy equipment that does not require special permitting will make up most of the construction traffic. Applicant does not anticipate significant changes in traffic patterns during construction. Post construction and operation, Applicant does not anticipate additional traffic for the Project beyond routine maintenance and no road closures are expected. Applicant anticipates entering into a RUMA as required by Franklin County. Staff recommends that once the transportation process has been completed, Applicant should develop a final transportation management plan, which should include any county required RUMA. Mitigating damages to roadways caused by

the Project should be detailed in agreements and permits with the appropriate regulatory authorities. Any temporary improvements should be removed unless the appropriate regulatory authority requests that they remain in place. (Staff Ex. 2 at 18.)

{¶ 59} Noise impacts from the construction activities will include site clearing, installation of mechanical and electrical equipment, and commissioning and testing of equipment. Many of the construction activities will generate significant noise levels during the 16-20 months of construction. The adverse impact of construction noise will be temporary and intermittent, will occur away from most residential structures, and will be limited to daytime working hours. Applicant will use mitigation practices such as limiting construction activities to daylight hours, keeping equipment in good working conditions, and establishing a complaint resolution process. Operational noise impact will be relatively minor and will occur only during the day. Noise sources will include inverters and tracking motors. The noise study conducted by Applicant relative to operational noise impacts for non-participating receptors indicated that operational noise impacts would be less than ambient noise levels during both daytime and nighttime. Therefore, Applicant contends that the Project is expected to have minimal adverse noise impacts on the adjacent community. Staff recommends that if an inverter or transformer model different than those proposed is chosen, Applicant should submit a noise report confirming that no non-participating receptors were modeled to receive noise impacts greater than the daytime ambient noise level plus 5 dBA. (Staff Report at 19.)

{¶ 60} The Project area lies within the glaciated margin of the state and includes Wisconsin-age glacial features, which include hummocky ground moraine and several indistinct recessional moraines. The Project area consists of relatively flat to gently undulating topography. The uppermost bedrock unit in the Project area is the carbonate Columbus Limestone, which makes up a large portion of the northern section of the Project area. Underlying the Columbus Limestone is the Salina Undifferentiated, which is the primary uppermost bedrock in the southern portion of the Project area. These carbonate rocks are prone to produce karst features. Based on Ohio Department of Natural Resources

(ODNR) records, there are approximately 20 known or probable karst features existing to the west within 2 miles of the Project area. Due to the glacial drift thickness within the Project area ranges, the development of karst features at the proposed construction site is unlikely. (Staff Ex. 2 at 19-20.) Two plugged and abandoned oil and gas wells are located within the Project area and no active mining is occurring within the Project area. (Staff Ex. 2 at 20-21.)

{¶ 61} ODNR records indicate no known seismic activity has occurred within 15 miles of the Project area and Applicant has indicated that blasting is not anticipated for the Facility. The Project area consists primarily of soils derived from glacial till, outwash, and alluvium. (Staff Ex. 2 at 21.)

{¶ 62} According to Staff, based on its assessment and the implementation of its recommended conditions, there appears to be no particular geological features within the Project area that are incompatible with construction and operation of the proposed Facility (Staff Ex. 2 at 22).

*b. Ecological Impacts*

{¶ 63} Staff states that there are 22 wells within the Project area. Applicant has identified 16 of the wells as water wells, five are monitoring wells, and one is a livestock water well. The nearest private water well and monitoring wells are within the area for the proposed solar components (Staff Ex. 2 at 22. Applicant has indicated that it does not anticipate adverse impacts to the nearest water wells because the well depths are deeper than the structural support pile driving. Additionally, Applicant will adhere to a setback to homes where the water wells are generally located. (Staff Ex 1 at 22.)

{¶ 64} Staff indicates that it conferred with the ODH concerning private water wells near the Project area. According to ODH, the nearest solar components should be farther than the minimum isolation distances outlined in Ohio Adm.Code 3701-28-7 between potential contamination sources and private water wells. Staff recommends that Applicant

indicate whether the nearest Facility components to each water well within the Project area meet or exceed any applicable minimum isolation distances required by Ohio Adm.Code 3701-28-7. Staff specifically recommends for the identified water well that is within the proposed area of the solar equipment, Applicant should relocate the equipment to at least 50 feet from the well or seal and abandon the well per the ODH regulations if it is used as a potable water source. For the monitoring wells, Staff recommends that Applicant revise its layout so that access to the wells is maintained in order that monitoring can be continued. Specifically, if the well is for nonpotable use, Staff recommends that Applicant relocate the solar equipment at least 10 feet from the well or seal and abandon the water well in accordance with Ohio Environmental Protection Agency (OEPA) guidelines. (Staff Ex. 2 at 22-23.)

{¶ 65} There are two public drinking water source protection areas (SWPA) located within the Project area. Applicant does not anticipate any impacts to one of the SWPAs because the impacted well is setback from the Project area. With respect to the other SWPA, while it is in the Project area, it is outside the fence line of the Facility. Applicant will develop and implement a Stormwater Pollution Prevention Plan (SWPPP), a spill control and countermeasure plan, and a horizontal directional drilling (HDD) inadvertent release of drilling fluid contingency plan during construction to minimize and prevent potential discharges to surface waters in the Project area and surrounding area. (Staff Ex. 2 at 23.) Staff recommends that at least 30 days prior to the preconstruction conference, Applicant should submit its final emergency response plan and that the plan include provisions to keep the affected SWPA designees informed of the status of any spills, significant panel damage, and repair/cleanup schedule. Staff also recommends that at least 30 days prior to the preconstruction conference that Applicant submit the spill prevention control and counter measure plan to Staff and demonstrate that its solar and substation equipment is outside the protection zones to the two identified SWPAs. (Staff Ex. 2 at 23.)

{¶ 66} Applicant delineated one intermittent stream segment and one pond within the Project area. Applicant has designed the Project to avoid all streams and ponds during

and after construction. No impacts to streams are anticipated. If it should become necessary to cross a stream with an underground collection line prior to the end of construction, Applicant will utilize HDD for any stream crossing. (Staff Ex. 2 at 23.)

{¶ 67} Applicant delineated 15 wetlands, including one Category 2 wetland and 14 Category 1 wetlands within the Project area. No impacts to wetlands will occur. (Staff Ex. 2 at 24.)

{¶ 68} Applicant states that the boundaries of streams and wetlands within and immediately adjacent to the construction limits of disturbance will be flagged, staked, or fenced prior to construction. Further, these sensitive areas will be depicted on all construction drawings, and all contractors and subcontractors will be provided with training to understand the significance of the types of flagging used and the importance of staying within the defined limits of work areas. (Staff Ex. 2 at 24.)

{¶ 69} The Project is located within the watershed of the Big Darby Creek State and National Scenic River. The Big Darby Creek provides habitat to the greatest diversity of freshwater mussels of any river of its size in the Midwest, including federally endangered species. The Ohio Scenic River Program (OSRP), along with a coalition of private and public partners, including ODNR, have invested approximately \$120 million in habitat protection, land use planning, restoration, and ongoing resource management for the watershed. (Staff Ex. 2 at 24.)

{¶ 70} OSRP provided recommendations on Project siting, native prairie flower and grass plantings, the SWPPP, and a request to be notified during each phase of the Project. Applicant has committed to coordinating with OSRP regarding the Project and any further design input. Additionally, Applicant committed to implementing nearly all of the recommendations that OSRP requested, including the use of deer fencing and to leave a portion of the Project boundary open in the central portion of the Project to allow Metro Parks access to utilize the opening as a trail. Applicant also committed to coordinating with Metro Parks regarding buffer vegetation and coordinating with DCA in order to provide

them and other local stakeholders with planning information and the construction schedule for the Project. (Staff Ex. 2 at 24.)

{¶ 71} Specifics regarding how surface waters will be protected from indirect construction stormwater impacts using erosion and sedimentation controls will be outlined in Applicant's SWPPP. Applicant will obtain an Ohio National Pollutant Discharge Elimination System (NPDES) construction stormwater general permit through the OEPA prior to the start of construction. Applicant will implement OEPA published Guidance on Post-Construction Storm Water Control for Solar Panel Arrays to Project construction and operation. Applicant has committed to complying with the Big Darby Creek Watershed total maximum daily loads to ensure surface waters in the vicinity of the Project are not impacted. The Project will not impact a 100-year floodplain. (Staff Ex. 2 at 24.)

{¶ 72} The Project is within the range of the state and federally endangered Indiana bat, the state and federally threatened northern long-eared bat, the state endangered little brown bat, and the state endangered tricolored bat. Since presence of the Indiana bat, the northern long-eared bat, and the little brown bat have already been established in the Project area, Staff recommends that Applicant adhere to seasonal tree cutting dates of October 1 through March 31 for all trees three inches or greater in diameter, unless coordination efforts with ODNR and United States Fish and Wildlife Services (USFWS) reflect a different course of action. According to Staff, the Project will not impact any hibernacula. (Staff Ex. 2 at 28.)

{¶ 73} The Project area is also within the range of the state endangered upland sandpiper. ODNR recommends construction in the upland sandpiper preferred nesting habitats be avoided during the species' nesting period of April 15 through July 31. The Project is also within the range of the state endangered northern harrier. Staff recommends that construction in the northern harrier preferred nesting habitat types be avoided during the nesting period of May 15 through August 1, unless coordination with ODNR allows for a different course of action. Applicant has committed to mowing and conducting site

preparation in pasture and grasslands outside of the species' nesting period. (Staff Ex. 2 at 28.)

{¶ 74} Permanent vegetative impacts will occur primarily with agricultural lands. Forestland impact is estimated to be approximately seven acres and would be limited to isolated woodlots and narrow tree lines between fields. Applicant has developed a vegetation management plan in which it will incorporate pollinator-friendly habitat in accordance with the recommendations of the Ohio Pollinator Habitat Initiative. Applicant has committed to prevent the spread of noxious weeds during implementation of any pollinator-friendly plantings. Staff and ODNR recommend that Applicant utilize low-growing grass and forbs species for permanent ground cover. ODNR recommends that routine mowing for the Project area not commence until after July 15th during the growing season three years after the construction is completed. (Staff Ex. 2 at 29.)

{¶ 75} Staff recommends that the Board find that Applicant has determined the nature of the probable environmental impact for the proposed Facility and, therefore, complies with the requirements specified in R.C. 4906.10(A)(2) provided that the certificate issued by the Board includes the conditions specified in the Staff Report (Staff Ex. 2 at 29).

### **3. MINIMUM ADVERSE ENVIRONMENTAL IMPACT**

{¶ 76} Pursuant to R.C. 4906.10(A)(3), the proposed facility must represent the minimum environmental impact, considering the state of available technology and the nature of the various alternatives, along with other pertinent considerations.

{¶ 77} Applicant's site selection process focused on the following criteria: access to the electric transmission system, competitive analysis, compatible land use, landowner interest, impacts to ecological and cultural resources, and geotechnical conditions. In preparing the application, Pleasant Prairie engaged local officials and the public. Local governmental guidance and public input have been incorporated into the Project design where feasible. (Staff Ex. 2 at 30.)



{¶ 78} The OHPO and Applicant signed a MOU detailing avoidance of archaeological sites identified in OHPO's initial correspondence received by Staff. Pleasant Prairie and OHPO identified specific visual mitigation to address adverse effects to historical and cultural resources. (Staff Ex. 2 at 30.)

{¶ 79} Staff states that the Project will have an overall positive impact on the state and local economy due to the increase in construction spending, wages, purchasing of goods and services, annual lease payments to local landowners, increased tax revenues, and PILOT revenue (Staff Ex. 2 at 30).

{¶ 80} Staff states that the geology of the Project site does not present conditions that would limit or negatively impact the construction or later operation of the proposed Facility. Staff recommends that the final detailed engineering drawings of the final Project design account for geological features. (Staff Ex. 2 at 30.)

{¶ 81} No impacts are proposed to wetlands and significant impacts to surface waters are not anticipated. Impacts to any state or federal listed species can be avoided by following seasonal restrictions for construction in certain habitats as detailed by USFWS and ODNR. Applicant did not identify any listed plant or animal species during field surveys. (Staff Ex. 2 at 30.)

{¶ 82} Noise impacts would be temporary, intermittent, limited to construction activities, and would occur away from most residential structures. Staff recommends that Applicant limit hours of construction to address potential concerns from any nearby residents. No non-participating receptors were modeled to receive noise impacts greater than the daytime ambient noise level during the Facility operation. If Applicant chooses an inverter or transformer model with a higher sound output, Staff recommends that Applicant submit an updated noise study to confirm that sound levels will not exceed the daytime ambient level plus five dBA at any non-participating receptor. According to Staff, Applicant has developed a complaint resolution plan which will be implemented throughout construction and operation. (Staff Ex. 2 at 30.)

{¶ 83} Staff states that during the construction period, roads will experience a temporary increase in truck traffic. Due to the location of the Project, Applicant anticipates that most components for the entire Project will be delivered by using flatbed or tractor-trailer vehicles and multi-axle dump trucks. A transportation management plan will be finalized once the engineering layout is determined. A final delivery route plan will be developed through discussions with local officials. Applicant intends to enter a RUMA with the County Engineer. (Staff Ex. 2 at 31.)

{¶ 84} Due to the low profile of the Project, combined with the existing vegetation in the area, the visual impacts will be most prominent to landowners in the immediate vicinity of the infrastructure itself. Staff recommends that Applicant develop a final landscape and lighting plan in order to address potential impacts to the traveling public, nearby communities, and recreationalists. Staff also recommends a perimeter fencing condition to minimize overall aesthetic concerns and to provide more wildlife friendly access for small animals. (Staff Ex. 2 at 31.)

{¶ 85} Applicant has committed to taking steps to address potential impacts to farmland and to restore temporarily impacted land to its original use. In order to avoid impacts to drain tiles, Applicant will locate tiles as accurately as possible prior to construction. Applicant has committed to promptly repairing any drain tile damaged by the Project during its operational life. Further, following decommissioning of the Facility, land can be restored for agricultural use. (Staff Ex. 2 at 31.)

{¶ 86} According to Staff, Applicant has prepared a decommissioning plan for the facility. Applicant will provide financial security to ensure that funds are available for decommissioning and land restoration. Applicant will restore land significantly to its original topography to allow resumption of agricultural use. Staff recommends that the draft decommissioning plan be updated to include improved financial assurance and a decommissioning cost estimate. (Staff Ex. 2 at 31.)

{¶ 87} Staff concludes that the proposed Project will result in both temporary and permanent impacts to the Project area and surrounding areas. The Project is unlikely to pose a significant adverse impact to existing land use, cultural resources, recreational resources, or wildlife. With its recommended conditions to further mitigate potential impacts, Staff concludes that the Project represents the minimum adverse environmental impact. (Staff Ex. 2 at 31.)

{¶ 88} Staff recommends that the Board find that the proposed Facility represents the minimum adverse environmental impact, and therefore complies with the requirements specified in R.C. 4906.10(A)(3), provided that any certificate issued by the Board include the conditions specified in the section of the Staff Report entitled “Recommended Conditions of Certificate” (Staff Ex. 2 at 31).

#### 4. ELECTRIC POWER GRID

{¶ 89} Pursuant to R.C. 4906.10(A)(4), the Board must determine that the proposed facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems. Under the same authority, the Board must also determine that the proposed facility will serve the interest of the electric system economy and reliability.

{¶ 90} The North American Electric Reliability Corporation (NERC) is responsible for the development and enforcement of the federal government’s approved reliability standards, which are applicable to all owners, operators, and users of the bulk power system (BPS). As an owner, operator, and/or user of the BPS, Applicant is subject to compliance with various NERC reliability standards. NERC reliability standards are included as part of the system evaluations conducted by PJM Interconnection, LLC (PJM). PJM is the regional transmission organization charged with planning for upgrades and administering the generation queue for the regional transmission system in Ohio. PJM reviews applications for expansions and upgrades of the PJM transmission system to ensure compliance with reliability criteria. (Staff Ex. 2 at 33.)

{¶ 91} PJM analyzed the bulk electric system, with the Facility interconnected to the BPS. The PJM studies indicate no reliability violations or overloading concerns.

{¶ 92} Staff recommends that the Board find that the Facility complies with the requirements of R.C. 4906.10(A)(4) provided any certificate issued for the proposed facility includes the conditions specified in the Staff Report (Staff Ex. 2 at 33-35).

## 5. AIR, WATER, SOLID WASTE, AND AVIATION

{¶ 93} Pursuant to R.C. 4906.10(A)(5), the facility must comply with Ohio law regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous wastes, and air navigation.

{¶ 94} Air quality permits are not required for construction of the proposed Facility due to the fact that the Facility will not include any stationary sources of air emissions. Applicant will comply with fugitive dust rules by use of water to wet soil to minimize dust during periods of high heat as outlined by ODNR. The Project will not include any stationary sources of air emissions and, therefore, will not require air pollution control equipment. (Staff Ex. 2 at 36.)

{¶ 95} With respect to water quality impacts, Applicant anticipates obtaining environmental permits if and where necessary. The applicable permits could include Ohio NPDES construction storm water general permits from OEPA with the submittal of a notice of intent and development and implementation of a SWPPP. Applicant will develop a spill prevention control and counter measure plan to manage the storage and mitigate the unlikely release of hazardous substances. (Staff Ex. 2 at 36.)

{¶ 96} Staff opines that with these measures, the construction and operation of the Facility would comply with the requirements of R.C. Chapter 6111, and the rules and laws adopted under that chapter (Staff Ex. 2 at 37).

{¶ 97} Regarding solid waste, debris generated from construction will include items such as plastic, wood, cardboard and metal packing materials, construction debris, and general refuse. Construction-related debris will be disposed of at an authorized solid waste disposal facility. Operation of the Project will not require acquisition of waste generation, storage, treatment, transportation, and/or disposal licenses or permits. Minimal non-hazardous waste generated will be accumulated in small amounts in appropriate trash receptacles and disposed of at an authorized solid waste disposal facility. No hazardous waste will be generated as part of the Project's operations. Applicant's solid waste disposal plans will comply with solid waste disposal requirements set forth in R.C. 3734. (Staff Ex. 2 at 37.)

{¶ 98} The tallest above-ground structures will be the lightning protection structures at the collection substation, which will be approximately 100-feet tall. That height is under the height requirement from the Federal Aviation Administration (FAA), pursuant to 14 C.F.R. Part 77.9(a), for filing a Form 7460-1. Additionally, the FAA performed an aeronautical study and issued determinations of no hazard to air navigation. (Staff Ex. 2 at 37.) The abandoned Columbus Southwest airport is currently being decommissioned as an airport and has solar panels proposed on it as part of the proposed development of the Facility in this case. The proposed Facility also encompasses the former privately owned private use Darby Dan Airfield. The landowner is also participating in the Project with Applicant and solar equipment is proposed to be located on the airstrip. Darby Dan will no longer receive air traffic as it would be decommissioned as part of the development of the solar facility. The closest public-use airports are the Bolton Field and Ohio State University airports which are between two and ten miles from the proposed Project collector substation. The nearest heliport is the ODOT heliport which is approximately seven miles from the proposed substation. Staff contacted the FAA and learned that the glare analysis was not considered and is outside its scope of review. To address this potential issue, Staff recommends that Applicant obtain written concurrence from the Bolton Field Airport Authority (Authority) stating that the board of the Authority is willing to accept the impact

from glare on the approach flight paths and airport traffic control tower. (Staff Ex. 2 at 37-38.)

{¶ 99} In accordance with R.C. 4906.10(A)(5), Staff contacted the ODOT Office of Aviation and the Columbus Regional Airport Authority in order to coordinate review of potential impacts of the Facility on local airports. As of the date of the Staff Report, no such concerns were identified. (Staff Ex. 2 at 38.)

{¶ 100} Staff recommends that the Board find that the proposed Facility complies with the requirements specified in R.C. 4906.10(A)(5) provided that any certificate issued by the Board for the proposed facility include the conditions specified in the Staff Report (Staff Ex. 2 at 38).

#### **6. PUBLIC INTEREST, CONVENIENCE, AND NECESSITY**

{¶ 101} Pursuant to R.C. 4906.10(A)(6), the Board must determine that the facility will serve the public interest, convenience, and necessity.

{¶ 102} Applicant stated that it will use reliable and certified equipment compliant with the applicable standards of the Underwriters Laboratories, Institute of Electrical and Electronics Engineers, National Electrical Code, National Electrical Safety Code (NESC), and the American National Standards Institute (Staff Ex. 2 at 39).

{¶ 103} Applicant intends to use warning signs, fencing, and gates to restrict access to potential hazards within the Project area. Additionally, Applicant intends to design the Facility with setbacks to non-participating sensitive receptors, non-participating properties, and public roads. Specifically, the setbacks will be the greater of 100 feet from the fence line to a property line of any non-participating parcel or 300 feet from the fence line to a non-participating home. Additionally, Applicant will implement a 100-foot setback along the Kuhlwein and Murman Road corridors. (Staff Ex. 2 at 39.)

{¶ 104} Applicant intends to restrict public access to the Facility by enclosing the Project area with fencing that complies with the NESC requirements. Applicant proposes installation of a seven-foot-tall woven wire and wooden posts fence that is aesthetically fitting for a rural area and incorporates small animal crossings. Prior to construction, Applicant also intends to develop and implement an emergency response plan and engage in further consultation with potentially affected local and regional emergency response personnel. (Staff Ex. 2 at 39.)

{¶ 105} Applicant hosted a virtual public informational meeting regarding the Project where attendees were given the opportunity to ask questions and provide feedback. According to Applicant, the primary concern expressed by attendees was the negative impacts that the Project will have on area property values. Applicant commissioned a property value impact study which concluded that the Facility will have no negative impact on the value of adjoining or abutting property. (Staff Ex. 2 at 39-40.)

{¶ 106} Applicant has drafted a complaint resolution plan to handle complaints during the construction and operation of the Facility. Staff recommends that a final version of the plan be filed in the docket no later than 30 days prior to the start of construction. Applicant commits to notifying affected property owners and tenants about the Project at least seven days prior to the start of construction and again at least seven days prior to the start of the Facility operation. Staff also recommends Applicant submit to Staff a quarterly complaint summary report during construction and in each of the first five years of operation of the Facility. (Staff Ex. 2 at 40.)

{¶ 107} Based on the 19 public comments summarized in the Staff Report, commenters expressed concerns regarding public health, wildlife, property value, agriculture, aesthetics, setbacks, fencing, streams and wetlands, hydrology, and parks and recreation. Those commenters in support of the Project stressed the potential benefits to the environment and the economy. (Staff Ex. 2 at 40.)

{¶ 108} Staff recommends that the Board find that the proposed Facility will serve the public interest, convenience, and necessity, and, therefore, complies with the enumerated requirements specified in R.C. 4906.10(A)(6), provided that any certificate issued by the Board includes the conditions specified in the Staff Report (Staff Ex. 2 at 40).

## 7. AGRICULTURAL DISTRICTS

{¶ 109} Pursuant to R.C. 4906.10(A)(7), the Board must determine the facility's impact on the agricultural viability of any land in an existing agricultural district within the project area of the proposed utility facility. Agricultural district land is exempt from sewer, water, or electrical service tax assessments (Staff Ex. 2 at 41).

{¶ 110} Agricultural land can be classified as an agricultural district through an application and approval process that is administered through the local county auditor's office. Eligible land must be devoted exclusively to agricultural production or be qualified for compensation under a land conservation program for the preceding three calendar years. Furthermore, eligible land must be at least 10 acres or produce a minimum average gross annual income of \$2,500. (Staff Ex. 2 at 41.)

{¶ 111} Approximately 1,880 acres of agricultural land will be disturbed by the proposed Project. The repurposed land could be restored for agricultural use when the Project is decommissioned. No land with the agricultural district designation would be impacted. (Staff Ex. 2 at 41, App. Ex. 1 at 89, 95, App. Ex. 5 at 1-2.)

{¶ 112} The construction and operation of the proposed Facility would disturb the existing soil and could lead to broken drain tiles. The locating and avoidance of damaging drain tile mains can help prevent the pooling of water on Project parcels and adjacent parcels according to Staff. Applicant has consulted landowners and county officials to collect data on existing drain tiles within the Project area. Applicant has supplied a Drain Tile Mitigation Plan with its application. Applicant has committed to promptly repairing any drain tile found to be damaged by the Project during its operational life. (Staff Ex. 2 at 41.)



{¶ 113} No agricultural structures are expected to be impacted by the proposed Project. Applicant has committed to take steps to address potential impacts to farmland, including repairing drain tiles, restoring temporarily impacted land to its original use, and restoring original topsoil separated during construction. (Staff Ex. 2 at 41.)

{¶ 114} Staff recommends that the Board find that the impact of the proposed Facility on the viability of existing agricultural land in an agricultural district has been determined and, therefore, complies with the requirements of R.C. 4906.10(A)(7), provided that any certificate issued by the Board includes the conditions specified in the Staff Report (Staff Ex. 2 at 41).

#### 8. WATER CONSERVATION PRACTICE

{¶ 115} Pursuant to R.C. 4906.10(A)(8), the proposed facility must incorporate maximum feasible water conservation practices, considering available technology and the nature and economics of the various alternatives.

{¶ 116} Construction of the proposed Facility would not require the use of significant amounts of water. Water may be utilized for dust suppression and control on construction access roads or unpaved transportation routes as needed during periods of high heat. (Staff Ex. 2 at 42.) Operation of the proposed Facility will not require the use of significant amounts of water. The Operations and Maintenance building will have water use and wastewater discharge comparable to a small business office and will have modern, efficient water fixtures installed. Additionally, Applicant states that it does not anticipate the need to clean the solar panels with water because of sufficient rainfall in the area. (Staff Ex. 2 at 42.)

{¶ 117} Staff recommends that the Board find that the proposed Facility would incorporate maximum feasible water conservation practices, and, therefore, complies with the requirements specified in R.C. 4906.10(A)(8). Staff further recommends that any

certificate issued by the Board for the certification of the proposed Facility include the conditions specified in the Staff Report. (Staff Ex. 2 at 42.)

## 9. RECOMMENDATIONS

{¶ 118} In addition to making various findings throughout its report, Staff recommended that 32 conditions be made part of any certificate issued by the Board for the proposed Facility (Staff Ex. 2 at 43-49).

## VI. STIPULATION AND CONDITIONS

{¶ 119} At the August 29, 2022 adjudicatory hearing, counsel for Pleasant Prairie presented the Stipulation entered into by Applicant, the Ohio Farm Bureau, Pleasant Township, Prairie Township, Metro Parks, and Staff (Jt. Ex. 1; August 29, 2022 Tr. at 15). Pursuant to the Stipulation, the signatory parties agree that the Board issue the Certificate of Environmental Compatibility and Public Need, as requested by Pleasant Prairie, subject to the 35 listed conditions.

{¶ 120} The following is a summary of the conditions agreed to by the parties and is not intended to replace or supersede the actual Stipulation. The parties agree as follows:

- (1) Applicant shall install the Facility, utilize equipment and construction practices, and implement mitigation measures as described in the application and as modified and/or clarified by supplemental filing, replies to data requests, and the recommendations in the Staff Report.
- (2) Applicant shall conduct a preconstruction conference prior to the start of any construction activities. Staff, Applicant, and representatives of the primary contractor and all subcontractors for the Project shall attend the preconstruction conference. The conference shall include a presentation of the measures to be taken by Applicant and contractors to ensure compliance with all conditions of the certificate, and discussion of the

procedures for on-site investigations by Staff during construction. Prior to the conference, Applicant shall provide a proposed conference agenda for Staff review and shall file a copy of the agenda on the case docket and serve a copy on the parties. One representative of each Signatory Party and Non-opposing Party may attend the preconstruction conference. Applicant may conduct separate preconstruction meetings for each stage of construction.

- (3) Within 60 days after the commencement of commercial operation, Applicant shall submit to Staff a copy of the as-built specifications for the entire Facility. If Applicant demonstrates that good cause prevents it from submitting a copy of the as-built specifications for the entire Facility within 60 days after commencement of commercial operation, it may request an extension of time for the filing of such as-built specifications. Applicant shall use reasonable efforts to provide as-built drawings in both hard copy and as geographically referenced electronic data.
- (4) Separate preconstruction conferences may be held for the different phases of civil construction and equipment installation. At least 30 days prior to the preconstruction conference, Applicant shall submit to Staff, for review and acceptance, one set of detailed engineering drawings of the final Project design and mapping in the form of PDF, which Applicant shall also file on the docket of this case, and geographically referenced data (such as shapefiles or KMZ files) based on final engineering drawings to confirm that the final design is in conformance with the certificate. Mapping shall include the limits of disturbance, permanent and temporary infrastructure locations, areas of vegetation removal and vegetative restoration as applicable, and specifically denote any adjustments made from siting detailed in the application. The detailed engineering drawings of the final Project design shall account for

geological features and include the identity of the registered professional engineers(s), or engineering firm(s), licensed to practice engineering in the state of Ohio who reviewed and approved the designs. All applicable geotechnical study results shall be included in the final submission of the final Project design to Staff.

- (5) At least 30 days prior to the preconstruction conference, Applicant shall provide Staff, for review and acceptance, the final geotechnical engineering report, including a summary statement addressing both the geologic and soil suitability.
- (6) The certificate shall become invalid if Applicant has not commenced a continuous course of construction of the proposed Facility within five years of the date of journalization of the certificate unless the Board grants a request for waiver or an extension of time.
- (7) As the information becomes known, Applicant shall promptly file in this proceeding, the date on which construction will begin, the date on which the construction was completed, and the date on which the Facility begins commercial operation.
- (8) Prior to the commencement of construction activities in areas that require permits or authorizations by federal or state laws and regulations, Applicant shall obtain and comply with such permits or authorizations. Applicant shall provide copies of permits and authorizations, including all supporting documentation to Staff within seven days of issuance or receipt by Applicant and shall file such permits or authorizations on the public docket. Applicant shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference.

- (9) The certificate authority provided in this case shall not exempt the facility from any other applicable and lawful local, state, or federal rules or regulations, nor be used to affect the exercise of discretion of any other local, state, or federal permitting or licensing authority with regard to areas subject to their supervision or control.
- (10) At least 30 days prior to the start of construction, Applicant shall file a copy of the final complaint resolution plan on the public docket. At least seven days prior to the start of construction and at least seven days prior to the start of Facility operations Applicant shall notify via mail affected property owners and tenants including those individuals who were provided notice of the public informational meeting, residences located within one mile of the Project area, parties to this case, county commissioners, township trustees, and emergency responders, airports, schools and libraries, as well as anyone who requested updates regarding the Project. The notices shall provide information about the Project, including contact information, and a copy of the complaint resolution plan. The start of construction notice shall include a timeline for construction and restoration activities. The start of Facility operations notice shall include written confirmation that Applicant has complied with all preconstruction-related conditions of the certificate, as well as a timeline for construction and restoration activities. The start of Facility operations notice shall include written confirmation that Applicant has complied with all construction related conditions of the certificate, as well as a timeline for the start of operations. Applicant shall file a copy of these notices on the public docket. During construction and operation of the Facility, Applicant shall submit to Staff a complaint summary report by the 15th day of April, July, October, and January of each year for the first five years of operation. The report shall include a list of all

complaints received through Applicant's complaint resolution process, a description of the actions taken toward the resolution of each complaint, and a status update if the complaint has yet to be resolved.

- (11) At least 30 days prior to the preconstruction conference, Applicant shall file in the docket and provide Staff, for review and acceptance, its emergency response plan.
- (12) The Facility shall be operated in such a way as to assure that no more than 250 megawatts will be injected into the bulk power system at any time.
- (13) Applicant shall not commence any construction of the facility until it has executed an Interconnection Service Agreement and Interconnection Construction Service Agreement with PJM Interconnection, which includes construction, operation, and maintenance of system upgrades necessary to integrate the proposed generating Facility into the regional transmission system reliably and safely. Applicant shall docket either a letter stating that each agreement has been signed or an executed copy of each agreement.
- (14) Prior to commencement of construction, Applicant shall prepare a landscape and lighting plan in consultation with a landscape architect licensed by the Ohio Landscape Architect Board that addresses the aesthetic and lighting impacts of the Facility with an emphasis on any locations where an adjacent non-participating parcel contains a residence with a direct line of sight to the Project area and potential aesthetic impacts to nearby communities, the traveling public, and recreationalists. Applicant shall maintain vegetative screening for the life of the Facility and shall replace failed plantings in accordance with the Stipulation. Applicant shall maintain all fencing along the perimeter of the Project in

good repair for the term of the Project and shall promptly repair any damage as needed to restore the aesthetics and effective characteristics. Applicant shall file the plan on the public docket and provide the plan to Staff for review and confirmation that it complies with the conditions set forth in the Stipulation. The plan shall also address glare impacts through planting of vegetative screening across US 40.

- (15) Consistent with the Stipulation, prior to commencement of construction, Applicant shall submit to Staff for approval a solar panel perimeter fence type that is both small-wildlife permeable and aesthetically fitting for a rural location and meets all electrical codes. No barbed wire shall be incorporated into the fencing, except at the substation. Following Staff approval, Applicant shall file details of this solar panel perimeter fence on the public docket.
- (16) General construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. or until dusk when sunset occurs after 7:00 p.m. Construction and decommissioning activities that can be heard on non-participating parcels shall not occur on Saturdays, Sunday, or federal holidays. Impact pile driving may occur between 9:00 a.m. and 7:00 p.m. Hoe ram operations, if required, shall be limited to hours between 10:00 a.m. and 4:00 p.m., Monday through Friday. Horizontal directional drilling operations if started during general construction activities hours may continue until completion of the activity. Consistent with Ohio Adm.Code 4906-3-03(B)(2), Applicant shall notify property owners or affected tenants of the upcoming construction activities, including the potential for nighttime construction.
- (17) Applicant shall operate the proposed Facility in a manner that limits sound levels emitted to non-participating receptors and non-

participating landowners' property to no higher than the closest long-term monitoring station's area ambient Leq level plus five decibels as referenced in the application. If the proposed facility is found to be above these limits, Applicant shall install additional noise mitigation measures to maintain compliance with this provision.

- (18) Consistent with the Stipulation, at least 60 days prior to the preconstruction conference, Applicant shall provide to Staff and the Bolton Field Airport Authority, and file on the public docket, an updated glare analysis.
- (19) At least 30 days prior to the preconstruction conference, Applicant shall submit written concurrence from the Bolton Field Airport Authority or other authorized representative designated by the Airport Authority in the form of either a resolution from the Airport Authority's board or signed letter/email stating that the Bolton Field Airport Authority is willing to accept any discovered impact from glare on its approach flight path(s) and airport traffic control tower.
- (20) In regard to drainage infrastructure not under the jurisdiction of the county via easement, Applicant shall avoid, where possible, or minimize to the extent practicable, any damage to functioning field tile drainage systems and soils resulting from the construction, operation, and/or maintenance of the Facility in agricultural areas. Damaged field tile systems shall be promptly repaired to at least original conditions or modern equivalent at Applicant's expense unless specified in the Stipulation. Applicant shall have a state licensed civil engineer design the Project's drainage attributes under the appropriate standard of care in regard to civil design. Applicant shall provide the proposed civil construction drawings to the county engineer for review and comment



prior to construction. In regard to publicly maintained, protected, or managed drainage infrastructure under the authority of the county via easement, Applicant shall coordinate with the county drainage engineer to ensure that this infrastructure that crosses over multiple landowners' properties is properly coordinated with the Facility infrastructure as detailed further in a RUMA.

- (21) Applicant shall adhere to seasonal cutting dates of October 1 through March 31 for the removal of trees three inches or greater in diameter to avoid impacts to Indiana bats, northern long-eared bats, little brown bats, and tricolored bats unless coordination with the ODNR and the USFWS allows a different course of action. If coordination with these agencies allows for clearing between April 1 and September 30, Applicant shall docket proof of completed coordination prior to clearing trees.
- (22) To the extent that Applicant plans to apply pesticides in the Project area, it must do so consistent with the Stipulation.
- (23) Applicant shall have a Staff-approved environmental specialist on site during construction activities that may affect sensitive areas, as mutually agreed upon between Applicant and Staff. Sensitive areas which would be impacted during construction shall be identified on a map provided to Staff, and may include, but are not limited to, wetlands and streams, and locations of threatened or endangered species. The environmental specialist shall be familiar with water quality protection issues and potential threatened or endangered species of plants and animals that may be encountered during Project construction. The environmental specialist shall have the authority to stop construction to assure that unforeseen environmental impacts do not progress and recommend procedures to resolve the impact. A map shall be provided to Staff

showing sensitive areas which would be impacted during construction with information on when the environmental specialist will be present.

- (24) Applicant shall notify Staff, ODNR, and USFWS within 24 hours if state or federal listed species are encountered during construction activities. Construction activities that could adversely impact the identified plants or animals shall be immediately halted until an appropriate course of action has been agreed upon by Applicant, Staff, and the appropriate agencies. Applicant shall also notify Staff and ODNR Division of Wildlife in writing within 24 hours if any mortality, injury, or entrapment of a state or federal threatened and endangered listed species is discovered in the proposed facility during operation.
- (25) Construction in upland sandpiper preferred nesting habitat types shall be avoided during the species' nesting period of April 15 through July 31, unless coordination with ODNR allows for a different course of action. If present, mapping of these habitat areas shall be provided to the construction contractor along with instructions to avoid these areas during the restricted areas. If coordination with ODNR allows construction between April 15 and July 31, Applicant shall docket proof of completed coordination on the case docket prior to construction activities.
- (26) Construction in northern harrier preferred nesting habitat types shall be avoided during May 15 through August 1 unless coordination by Applicant with ODNR allows an alternate course of action. If coordination with ODNR allows for clearing between May 15 and August 1, Applicant shall file proof of such coordination on the docket.
- (27) If Applicant encounters any new state or federal threatened and endangered listed plant or animal species or suitable habitat of these

species prior to construction, Applicant shall include the location in the final engineering drawings and associated mapping consistent with the Stipulation. Applicant shall avoid impacts to these species and explain how impacts would be avoided during construction.

- (28) Applicant shall utilize the low growing grass and forbs species and planting configurations proposed in the supplemented application and incorporate grasses, trees, and flowering plants native to the Darby Plains for permanent ground cover in the solar fields and setback areas unless the landowner chooses not to utilize the undeveloped property that remains under lease after commercial operations. Mowing of the Project site shall not occur between April 30 and July 15 after construction is completed, except in limited identified scenarios set forth in the Stipulation.
- (29) Prior to commencement of construction activities that require transportation permits, Applicant shall obtain all such permits. Applicant shall coordinate with the appropriate authority regarding any temporary road closures, road use agreements, driveway permits, lane closures, road access restrictions, and traffic control necessary for construction and operation of the Facility. Coordination shall include, but not be limited to, the county engineer, the Ohio Department of Transportation, local law enforcement, and health and safety officials, and the Townships. Applicant shall detail this coordination as part of a final transportation management plan submitted to Staff prior to the preconstruction conference for review and confirmation by Staff that it complies with this condition. The final transportation management plan shall include a RUMA between Applicant and the county. The RUMA shall include roads or infrastructure under the maintenance jurisdiction of the Townships as directed by the PILOT referenced in the Stipulation.

Any damaged public roads, culverts, and bridges shall be repaired promptly by Applicant under the guidance of the appropriate regulatory authority to their previous or better condition.

- (30) At least 30 days prior to the preconstruction conference, Applicant shall provide the status (i.e., avoidance, mitigation measures, or capping) of each water well within the Project area. Applicant shall indicate to Staff whether the nearest solar components to each uncapped well within the Project area meets or exceeds any applicable minimum isolation distances outlined in Ohio Adm.Code 3701-28-7. For ODNR Water Well ID 962816, Applicant shall relocate as necessary any solar equipment at least 50 feet from the location of that water well. Alternatively, relocation of the solar equipment shall not be required if Applicant can demonstrate that the well is for nonpotable use, or seal and abandon the water well. For ODNR monitoring Water Wells ID 2033569 through 2033573, Applicant shall relocate the solar equipment at least 10 feet from the wells or seal and abandon the monitoring wells.
- (31) Consistent with the Stipulation, at least 30 days prior to the preconstruction conference, Applicant shall submit on the public docket an updated decommissioning plan, and total decommissioning cost estimate without regard to salvage value.
- (32) At least 30 days prior to the preconstruction conference, Applicant shall demonstrate that its solar and substation equipment is outside the protection zones for the Hope Baptist Church and Ten Mile Inn.
- (33) Applicant shall prevent the establishment and propagation of noxious weeds identified in Ohio Adm.Code Chapter 901:5-37 in the Project, including its setback areas, during construction, operation, and decommissioning consistent with the vegetation plan.

- (34) Unless an alternate configuration is agreed to by Applicant and landowners, the setbacks shall be those specified in the Stipulation.
- (35) All plans, notices, and other documents submitted to Staff pursuant to the conditions of the Certificate shall be filed on the public docket within 48 hours of the submittal to Staff.

## VII. CONSIDERATION OF THE STIPULATION

{¶ 121} Ohio Adm.Code 4906-2-24 authorizes parties to Board proceedings to enter into stipulations concerning issues of fact, the authenticity of documents, or the proposed resolution of some or all of the issues in a proceeding. Although not binding on the Board, pursuant to Ohio Adm.Code 4906-2-24(D), the terms of such an agreement are accorded substantial weight. The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Board proceedings. *See, e.g., In re Northwest Ohio Wind Energy, LLC*, Case No. 13-197-EL-BGN (Dec. 16, 2013); *In re American Transm. Systems Inc.*, Case No. 12-1727-EL-BSB (Mar. 11, 2013); *In re Rolling Hills Generating LLC*, Case No. 12-1669-EL-BGA (May 1, 2013); *In re AEP Transm. Co., Inc.*, Case No. 12-1361-EL-BSB (Sept. 13, 2013); *In re Hardin Wind LLC*, Case No. 13-1177-EL-BGN (Mar. 17, 2014). The ultimate issue for the Board's consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of a stipulation, the Board has used the following criteria:

- (1) Is the settlement a product of serious bargaining among capable, knowledgeable, parties?
- (2) Does the settlement, as a package, benefit ratepayers and the public interest?
- (3) Does the settlement package violate any important regulatory principle or practice?

{¶ 122} Pleasant Prairie witness Josh Hreha testified that the Project is comprised of up to 250 MW of alternating current solar photovoltaic generation and that the proposed Facility will inject up to 250 MWs into the grid via the existing American Electric Power Cole Road 345 kV substation (App. Ex. 19 at 4, 5). Witness Hreha also testified that the Stipulation meets the criteria for Board approval. The witness testified that the Stipulation is a product of serious bargaining that resulted from serious negotiations among capable, knowledgeable parties and that it will benefit the public interest by resulting in the minimum adverse environmental impact relative to both construction and operations, considering the state of available technology and the nature and economics of the various alternatives, as well as other pertinent considerations. (App. Ex. 19 at 11.) Witness Hreha stated that the construction and operation of the Project will provide benefits to the public interest via employment of approximately 800 workers at peak construction and 4 full-time employees during operations (App. Ex. 19 at 11). According to witness Hreha, the Project represents a just and reasonable investment that balances landowner rights, while addressing many of the questions and concerns voiced by the community. These include representation of many leading best practices in land stewardship and conservation via diverse native plantings and elimination of annual tilling and fertilizer use. (App. Ex. 19 at 11.) Witness Hreha also avers that the Project represents an investment in clean energy infrastructure, which he believes is in the public interest as a means of mitigating the effects of climate change (App. Ex. 19 at 11). Witness Hreha opined that the Stipulation does not violate any regulatory principle or practice (Applicant Ex. 19 at 11). Staff supports the approval of the application, subject to the conditions that are presented in the Stipulation (Staff Ex. 1 at 2).

{¶ 123} Upon review, the Board finds that, as a package, the Stipulation appears to be the product of serious bargaining among capable, knowledgeable parties. The Board recognizes that the general purpose of the Project is to produce clean, renewable, reliably priced, low-cost electricity to the Ohio bulk power transmission grid operated by PJM or under a power purchase agreement (App. Ex. 1 at 2, 3). Additionally, the Project will have

a positive effect on the Ohio economy through the creation of jobs and a significant positive impact on the local tax base, including local school districts and other taxing districts that serve the Project, due to the increase in construction spending, wages, purchasing of goods and services, annual lease payments to local landowners, increased tax revenues, and potential PILOT revenue (Staff Ex. 2 at 14, 15, 30; App. Ex. 19 at 11). Further, the Stipulation requires Applicant to take steps and meet certain requirements during the construction and operation in order to minimize the impacts of the Project. The Board also finds that the Stipulation does not violate any important regulatory principle or practice.

{¶ 124} Applicant must provide various updates during the construction process and file numerous plans for Staff's review. These include a landscape and lighting plan, an emergency response plan, a decommissioning plan, and a complaint resolution plan (Jt. Ex. 1 at 4, 5, 11). In particular, the Board highlights that the landscape and lighting plan will include measures such as the planting of vegetative screening designed to enhance the view from a non-participating adjacent residence and to address potential aesthetic impacts to nearby communities, the traveling public, and recreationalists (Jt. Ex. 1 at 6). The Stipulation reached in this case sets forth provisions for Applicant to continue to maintain the vegetative screening and fencing around the perimeter of the Project (Jt. Ex. 1 at Condition 14). Finally, unless an alternate configuration is agreed to by Applicant and a landowner that is near or adjacent to the Project area, the setbacks of the Project fence line shall be at least the greater of: (a) 400 feet from residential dwelling building structures; (b) 50 feet from public rights-of-way boundary lines; or (c) 100 feet from adjacent nonparticipating boundary lines.

{¶ 125} In conclusion, and based upon the record in these proceedings, the Board finds that all of the criteria established in accordance with R.C. Chapter 4906 are satisfied for the construction, operation, and maintenance of the Facility as described in the application filed in this case, subject to the conditions set forth in the Stipulation, as amended, and this Opinion, Order, and Certificate. Accordingly, based upon all of the above, the Board approves and adopts the Stipulation, as amended, and hereby issues a certificate to Pleasant Prairie in accordance with R.C. Chapter 4906.

### VIII. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 126} Pleasant Prairie is a person under R.C. 4906.01(A) and is licensed to do business in the state of Ohio.

{¶ 127} The proposed electric generation facility is a major utility facility, as defined in R.C. 4906.01(B).

{¶ 128} On November 12, 2020, Applicant filed a motion for waiver of the requirement to conduct an in-person public informational meeting. The motion was granted on November 19, 2020.

{¶ 129} On November 25, 2020, Pleasant Prairie filed a pre-application notification letter regarding its proposed Project.

{¶ 130} On December 9, 2020, in accordance with Ohio Adm.Code 4906-3-03, Pleasant Prairie filed proof that legal notice was published in the *Columbus Dispatch*, a newspaper of general circulation in Franklin County on November 15, 2020, regarding the public informational meeting on its application.

{¶ 131} Applicant held web-based and phone-based public information meetings to discuss the Project with interested persons and landowners on December 14, 2020.

{¶ 132} On February 19, 2021, Pleasant Prairie filed an application to construct and operate a new solar-powered electric generation facility and a motion for protective order to keep portions of the application confidential. The motion for protective order was granted in part on April 13, 2021.

{¶ 133} Also, on February 19, 2021, Pleasant Prairie filed a motion for waiver of Ohio Adm.Code 4906-4-08(D)(2) and (D)(4) to allow for a reduced study area regarding the impact on landmarks and visual impact of the facility. The motion was granted on April 13, 2021.



{¶ 134} By letter filed on April 20, 2021, the Board notified Pleasant Prairie that its application had been found to be sufficiently complete pursuant to Ohio Adm.Code 4906-1, et seq.

{¶ 135} On May 4, 2021, Applicant filed correspondence indicating that the application fee was paid and on April 21, 2021, proof of service, indicating that a copy of its accepted, complete application was served upon the appropriate government officials and local libraries in accordance with Ohio Adm.Code 4906-3-07.

{¶ 136} On May 11, 2021, the ALJ issued a procedural Entry scheduling a virtual local public hearing for July 19, 2021, a virtual adjudicatory hearing for August 16, 2021, and found the effective date of the filing of the application to be May 11, 2021. By Entry of June 28, 2021, the local public hearing and the evidentiary hearing was converted to in-person hearings.

{¶ 137} The Prairie and Pleasant townships filed notices of intervention on May 7, 2021, and May 12, 2021, respectively. Metro Parks, the Ohio Farm Bureau, and No Prairie Solar filed a motion to intervene on May 3, 2022, June 22, 2021, and June 25, 2021, respectively. Pursuant to the Entry of June 28, 2021, intervention status was granted to the Metro Parks, Pleasant Township, Prairie Township, and the Ohio Farm Bureau. No Prairie Solar, LLC was granted intervention pursuant to the Entry of August 5, 2021.

{¶ 138} On July 1, 2021, Staff filed a Report of Investigation regarding the Project proposed in the application.

{¶ 139} In compliance with Ohio Adm.Code 4906-3-09, on June 2, 2021, Pleasant Prairie filed proof of publication showing that notice was published in the *Columbus Dispatch*, a newspaper of general circulation in Franklin County.

{¶ 140} A local public hearing was held on July 19, 2021, at which 29 witnesses testified.

{¶ 141} On July 30, 2021, Applicant, Staff, Metro Parks, Pleasant Township, Prairie Township, No Prairie Solar, the Ohio Farm Bureau filed a joint motion to call and continue the adjudicatory hearing and requesting a suspension of the deadlines for the filing of the parties' testimony.

{¶ 142} Pursuant to the Entry of August 2, 2021, joint motion of July 30, 2021, was granted.

{¶ 143} On October 29, 2021, as amended on November 5, 2021, and February 16, 2022, Pleasant Prairie, Pleasant Township, Prairie Township, the Ohio Farm Bureau, and Staff filed a Stipulation resolving issues in this proceeding.

{¶ 144} On August 16, 2022, Pleasant Prairie and Staff filed the direct testimony of their respective witnesses.

{¶ 145} Pursuant to the Entry of August 10, 2022, the ALJs commenced the adjudicatory hearing on August 29, 2022, where the Stipulation was presented for the Board's consideration.

{¶ 146} Adequate data on the proposed generation facility has been provided to make the applicable determination required by R.C. 4906.10(A). The record evidence in this matter provides sufficient factual data to enable the Board to make an informed decision.

{¶ 147} The record establishes that the Facility is not an electric transmission line or gas pipeline and, therefore, R.C. 4906.10(A)(1) is not applicable.

{¶ 148} The record establishes the nature of the probable environmental impact from construction, operation, and maintenance of the facility, consistent with R.C. 4906.10(A)(2).

{¶ 149} The record establishes that the Facility, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate, represents the minimum adverse environmental impact, considering the available technology and nature

and economics of the various alternatives, and other pertinent considerations, consistent with R.C. 4906.10(A)(3).

{¶ 150} The record establishes that the Facility, an electric generation facility, is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems and that the Facility will serve the interests of electric system economy and reliability consistent with R.C. 4906.10(A)(4).

{¶ 151} The record establishes that the Facility, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate, will comply with R.C. Chapters 3704, 3734, and 6111; R.C. 4561.32; and all rules and regulations thereunder, to the extent applicable, consistent with R.C. 4906.10(A)(5).

{¶ 152} The record establishes that the Facility, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate, will serve the public interest, convenience, and necessity, consistent with R.C. 4906.10(A)(6).

{¶ 153} The record establishes the impact of the Facility on agricultural lands and agricultural district land consistent with the requirements of R.C. 4906.10(A)(7).

{¶ 154} The record establishes that the Facility will not require significant amounts of water, nearly no water or wastewater discharge, and incorporates maximum feasible water conservation practices. Accordingly, the facility meets the requirements of R.C. 4906.10(A)(8).

{¶ 155} The evidence supports a finding that all of the criteria in R.C. 4906.10(A) are satisfied for the construction, operation, and maintenance of the Facility as proposed by Applicant, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate.

{¶ 156} Based on the record, the Board finds that Pleasant Prairie's application should be approved, and a certificate should be issued, pursuant to R.C. Chapter 4906, for

the construction, operation, and maintenance of the electric generation facility, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate.

#### IX. ORDER

{¶ 157} It is, therefore,

{¶ 158} ORDERED, That the Stipulation be approved and adopted. It is, further,

{¶ 159} ORDERED, That a certificate be issued to Pleasant Prairie for the construction, operation, and maintenance of the electric generation facility, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate. It is, further,

{¶ 160} ORDERED, That all required submissions to Staff shall also be filed on the docket in this case. It is, further,

{¶ 161} ORDERED, That a copy of this Opinion, Order, and Certificate be served upon all parties of record.

BOARD MEMBERS:

*Approving:*

Jenifer French, Chair  
Public Utilities Commission of Ohio

Markee Osborne, Designee for Lydia Mihalik, Director  
Ohio Department of Development

Brittney Colvin, Designee for Mary Mertz, Director  
Ohio Department of Natural Resources

W. Gene Phillips, Designee for Bruce T. Vanderhoff, M.D., Director  
Ohio Department of Health

Drew Bergman, Designee for Laurie Stevenson, Director  
Ohio Environmental Protection Agency

Sarah Huffman, Designee for Dorothy Pelanda, Director  
Ohio Department of Agriculture

Gregory Slone  
Public Member

JSA/DMH/dmh

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**in**

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

Summary: Opinion & Order approving and adopting the stipulation and recommendation between Pleasant Prairie Solar Energy LLC, the Ohio Farm Bureau Federation, the Board of Trustees of Pleasant Township, the Board of Trustees of Prairie Township, the Board of Park Commissioners of the Columbus and Franklin County Metropolitan Park District, and the Board Staff, and directs that, subject to the conditions set forth in the stipulation and consistent with this Opinion, Order, and Certificate, a certificate be issued to Pleasant Prairie Solar Energy LLC for the construction, operation, and maintenance of a 250 megawatt solar-powered electric generation facility in Pleasant and Prairie townships in Franklin County, Ohio. electronically filed by Ms. Mary E. Fischer on behalf of Ohio Power Siting Board