

BEFORE THE POWER SITING BOARD OF THE STATE OF OHIO

In the Matter of the Expedited Letter of Notification)
Application of Nottingham Solar, LLC for the)
Nottingham Solar 138 kV Gen-Tie Transmission Line) **Case No. 22-1030-EL-BLN**
Project)

Members of the Board:

Chair, Public Utilities Commission	Ohio House of Representatives
Director, Department of Development	Ohio Senate
Director, Department of Health	
Director, Department of Agriculture	
Director, Environmental Protection Agency	
Director, Department of Natural Resources	
Public Member	

To the Honorable Power Siting Board:

Please review the attached Staff Report of Investigation, which has been filed in accordance with Ohio Power Siting Board (Board) rules. The accelerated certificate application in this case is subject to an automatic approval process as required by Ohio Revised Code (R.C.) 4906.03 and Ohio Administrative Code 4906-6.

Staff recommends the application for automatic approval December 8, 2022, unless suspended by the Board, an administrative law judge, the chairperson or executive director of the Board for good cause shown. If suspended, the Board must render a decision on the application within 90 days from the date of suspension.

Please present any objections you or your designee may have with this case to my office at least four business days prior to December 8, 2022, which is the recommended automatic approval date.

Sincerely,



Theresa White
Executive Director
Ohio Power Siting Board

OPSB STAFF REPORT OF INVESTIGATION

Case Number: 22-1030-EL-BLN
Project Name: Nottingham Solar 138 kV Gen-Tie Transmission Line Project
Project Location: Harrison County
Applicant: Nottingham Solar, LLC
Application Filing Date: November 9, 2022
Filing Type: Expedited Letter of Notification
Inspection Date: November 29, 2022
Report Date: December 1, 2022
Recommended Automatic Approval Date: December 8, 2022
Applicant's Waiver Requests: None
Staff Assigned: A. Holderbaum, T. Crawford

Summary of Staff Recommendations (see discussion below):

Application: ☐ Approval ☐ Disapproval ☒ Approval with Conditions

Waiver: ☐ Approval ☐ Disapproval ☒ Not Applicable

Project Description and Need

The Nottingham Solar, LLC (Applicant) has proposed to build and operate a substation at the location of the proposed Nottingham Solar Facility, and also an overhead single-circuit, gen-tie to connect the Nottingham Solar Facility, an Independent Power Producer (IPP), to the existing American Electric Power (AEP) Nottingham 138 kilovolt (kV) Station. The connection would be approximately 4,060 feet in length, utilizing the popular conductor 795 kcmil 26/7 ACSR, and would involve the installation of 12 wood monopoles of various styles or functions.

The project is needed to connect the IPP solar facility to the bulk electric system interconnection through the AEP 138 kV Nottingham Station. The project would allow the Applicant to meet its obligation to provide connection to the PJM queue ID AE2-290. It would also allow AEP to meet its revenue metering requirements for generation interconnection customers.

Upgrades and modifications to the transmission system are part of PJM Interconnection, LLC's (PJM) Regional Transmission Expansion Planning (RTEP) process.¹ This transmission project was evaluated through PJM's network upgrade process via several network upgrades, which were

1. PJM is the regional transmission organization charged with planning for upgrades to the regional transmission system in Ohio. Significant alterations to the transmission system located in the PJM control area are required to submit planned projects for review of their system impacts.

PJM's RTEP identifies transmission system additions and improvements needed to keep electricity flowing to the millions of customers throughout PJM's region. See PJM Regional Transmission Expansion Plan, <https://www.pjm.com/library/reports-notice/rtep-documents/2020-rtep/2020-rtep-book-1.ashx>, (Accessed November 17, 2022).

assigned following PJM's execution of the Interconnection Service Agreement for the solar facility in the PJM queue ID AE2-290.² Network upgrades would be modifications or additions to transmission-related facilities that are integrated with and support the transmission provider's overall transmission system for the general benefit of all users of such transmission system.³ For the attachment facilities, including revenue metering and the first structure outside the Nottingham 138 kV Station, PJM assigned the network upgrade n7452, and for the non-direct connection network upgrades, including expanding the existing AEP Nottingham 138 kV Substation, adding circuit 138 kV breakers, 138 kV line risers, and SCADA equipment, PJM assigned the network upgrade n7453. For upgrading the conductor on the FirstEnergy Nottingham-Yager 138 kV line to a larger capacity conductor PJM assigned the network upgrade n5473.

In response to a data request, the Applicant stated that the question of including the project in a Long-Term Forecast Report (LTFR) to the Public Utilities Commission of Ohio did not apply to Nottingham Solar, LLC. The LTFR is applicable to utility-owned transmission projects constructed for reliability purposes and does not include transmission projects constructed as part of the PJM generation interconnection process.

The Applicant proposes to begin construction in March 2023 and expects to place the project in service in December 2024. The capital cost estimate of the line extension is approximately \$930,000 using a Class 4 estimate, and would be the responsibility of Nottingham Solar, LLC.

Nature of Impacts

Land Use

The proposed project would occur within the Applicant's existing easements and three new easements from adjacent property owners in Athens Township in Harrison County. The surrounding land use is made up of old field, grassland, woodlots, and developed land. No agricultural district lands are located within the project area. No residences schools, parks, churches or cemeteries are located within 1,000 feet of the proposed project. The project is approximately three miles from the Harrison County Airport. Staff recommends the Applicant file in this docket a copy of the FAA Determination of No Hazard letters and/or the FAA temporary construction permit for the project. A portion of the proposed transmission line would be constructed on previously mined land. Staff recommends the Applicant determine if mine voids are present and if the subsurface may not support the proposed structures. The Applicant shall develop a subsidence mitigation plan in coordination with ODNR if this is determined.

Cultural Resources

The Applicant's cultural resources consultant performed a literature review for the area of potential effects. From the literature review, the consultant identified five previously identified historic structures within the project area. One of the historic structures, the McLaughlin House (HAS0041514), was determined to require more information to make a final determination of eligibility for listing in the National Register of Historic Places. The findings were submitted to the Ohio Historic Preservation Office (OHPO) on November 4, 2022. The OHPO responded on November 21, 2022, that the McLaughlin House would not be impacted by the proposed project as it is located near the edge of the 2-mile radius and has no view of the project location, and

2. https://www.pjm.com/pub/planning/project-queues/isa/ae2_290_isa.pdf, (Accessed November 14, 2022).

3. PJM Manual 14C: Generation and Transmission Interconnection Facility Construction, Rev. 14, Effective Date: January 27, 2021, (Accessed November 14, 2022).

therefore no effects on historic properties would occur. The OHPO stated in its letter that no further coordination is required. Staff concurs with OHPO's conclusion.

*Surface Waters*⁴

No streams or ponds were identified within the project area. One Category 1 wetland was identified within the proposed project right-of-way. The wetland would be aerially spanned by the proposed transmission line. No structures would be placed within the wetland boundaries. This project does not overlap with any Federal Emergency Management Agency 100-year floodplain. The Applicant would file a Notice of Intent with the Ohio EPA for authorization of construction stormwater discharges under General Permit OHC000005 as over one acre of ground disturbance would occur.

*Threatened and Endangered Species*⁵

The project is within range of the federal and state endangered Indiana bat (*Myotis 3odalist*), the federal threatened and state endangered northern long-eared bat (*Myotis septentrionalis*), the state endangered little brown bat (*Myotis lucifugus*), and the state endangered tricolored bat (*Perimyotis subflavus*). To avoid impacts to these listed bat species, the Ohio Department of Natural Resources (ODNR) and the U.S. Fish and Wildlife Service (USFWS) recommend seasonal tree cutting dates of October 1 through March 31 for all trees that are three inches or greater in diameter. The Applicant states one acre of tree clearing would be required for this project. The Applicant has

4. The Ohio EPA website states: "The Division of Surface Water ensures compliance with the federal Clean Water Act and works to increase the number of water bodies that can be safely used for swimming and fishing. The division issues permits to regulate wastewater treatment plants, factories and storm water runoff; develops comprehensive watershed plans aimed at improving polluted streams; and samples streams, lakes and wetlands — including fish, aquatic insects and plants — to determine the health of Ohio's water bodies." (Ohio EPA, About Us: Surface Water, <https://www.epa.ohio.gov/About#127147228-surface-water>); The U.S. Army Corps of Engineers website states: "The U.S. Army Corps of Engineers (USACE) Regulatory Program involves the regulating of discharges of dredged or fill material into waters of the United States and structures or work in navigable waters of the United States, under section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act of 1899." (USACE, Obtain a Permit, [https://www.usace.army.mil/Missions/Civil-Works/Regulatory\[1\]Program-and-Permits/Obtain-a-Permit/](https://www.usace.army.mil/Missions/Civil-Works/Regulatory[1]Program-and-Permits/Obtain-a-Permit/)); The Ohio Department of Natural Resources (ODNR) website states: "The Division of Water Resources manages statewide oversight of dams & levees, floodplains, and the collection and management of data related to the state's water resources." (ODNR, Division of Water Resources, [https://ohiodnr.gov/wps/portal/gov/odnr/discover-and-learn/safety-conservation/about-odnr/water-resources/water\[1\]resources](https://ohiodnr.gov/wps/portal/gov/odnr/discover-and-learn/safety-conservation/about-odnr/water-resources/water[1]resources)).

5. Based on agency coordination with the USFWS and ODNR, identified species of concern are, in general, defined as those species that are protected under the federal Endangered Species Act of 1973, as amended (16 U.S.C. §§ 1531-1544) and/or according to the Conservation of Natural Resources within R.C. 1518.01-1518.99; 1531.25; and 1531.99. See also e.g., R.C. 1531.08 states, in part: "In conformity with Section 36 of Article II, Ohio Constitution, providing for the passage of laws for the conservation of the natural resources of the state, including streams, lakes, submerged lands, and swamplands, and in conformity with this chapter and Chapter 1533. of the Revised Code, the chief of the division of wildlife has authority and control in all matters pertaining to the protection, preservation, propagation, possession, and management of wild animals and may adopt rules under section 1531.10 of the Revised Code for the management of wild animals." One of the missions of the ODNR is to "conserve and improve the fish and wildlife resources and their habitats and promote their use and appreciation by the public so that these resources continue to enhance the quality of life for all Ohioans." In carrying out this mission, the ODNR considers the "status of native wildlife species [to be] very important" and therefore lists wildlife species needing protection. (ODNR, State Listed Species, [tps://ohiodnr.gov/wps/portal/gov/odnr/discover-and-learn/safety-conservation/about-ODNR/wildlife/state-listed\[1\]species](https://ohiodnr.gov/wps/portal/gov/odnr/discover-and-learn/safety-conservation/about-ODNR/wildlife/state-listed[1]species)). In addition to endangered species, those species classified as "threatened" are considered during OPSB project planning and approval because these species are those "whose survival in Ohio is not in immediate jeopardy, but to which a threat exists. Continued or increased stress will result in its becoming endangered." Id.

committed to abiding by the seasonal clearing restrictions to avoid impacts to these species. No winter hibernacula were observed within 0.25 mile of the project area.

The Applicant is currently coordinating with the ODNR for any additional state-listed species and/or suitable habitat that may be found in the project area. The Applicant stated that it would provide Staff with any comments from the ODNR review of the project and continue coordination with the ODNR and Staff to assure compliance on the ODNR comments.

Conclusion

Staff's review of the application included consideration of the requirements listed in R.C. 4906.10. Based on Staff's review, the application meets the necessary criteria for granting a certificate. Staff recommends approval of this application on December 8, 2022, subject to the following conditions. Staff notes that its recommendation for approval of this application should not be construed as a recommendation for approval of cost recovery in any ratemaking proceeding.

Conditions

- (1) 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.
- (2) Prior to the commencement of construction activities in areas that require permits or authorizations by federal, state, or local laws and regulations, the Applicant shall obtain and comply with such permits or authorizations. The Applicant shall provide copies of permits and authorizations, including all supporting documentation, on the case docket prior to commencement of construction. Any permit violation received by the Applicant from the permitting agency shall be provided on the case docket within seven days of receipt.
- (3) Prior to the commencement of construction, the Applicant shall obtain a coordination letter from the ODNR regarding impacts to state listed species and/or their suitable habitat and shall coordinate with the ODNR and with Staff regarding compliance with the letter.
- (4) The Applicant shall adhere to seasonal cutting dates of October 1 through March 31 for removal of any trees greater than or equal to three inches in diameter unless coordination efforts with the ODNR and the USFWS allows a different course of action. If coordination with these agencies allows clearing between April 1 and September 30, the Applicant shall docket proof of completed coordination on the case docket prior to clearing trees.
- (5) At least 30 days prior to the commencement of construction, the Applicant shall file in this docket a copy of the FAA Determination of No Hazard letters and/or the FAA temporary construction permit, where applicable, for the electric transmission line towers, substation lightning masts, and any construction cranes.
- (6) If the Applicant determines that mine voids are present and the subsurface may not support the proposed structures, the Applicant shall develop a subsidence mitigation plan in coordination with ODNR. The mitigation plan shall consider the potential risk for induced subsidence.

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Case No(s). 22-1030-EL-BLN

Summary: Staff Report of Investigation electronically filed by Robert A Holderbaum
on behalf of PUCO Staff