

FILE

THE OHIO POWER SITING BOARD

**IN THE MATTER OF THE APPLICATION OF
SPRINGWATER SOLAR, LLC, FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED TO
CONSTRUCT A SOLAR-POWERED
ELECTRIC GENERATION FACILITY IN
FRANKLIN AND MADISON COUNTIES,
OHIO.**

CASE NO. 22-94-EL-BGN

ENTRY NUNC PRO TUNC

Entered in the Journal on January 19, 2023

[¶ 1] 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.

[¶ 2] Springwater Solar, LLC (Springwater or Applicant) is a person as defined in R.C. 4906.01. The Applicant is an indirectly owned subsidiary of Apex Clean Energy Holdings, LLC, and is licensed to do business in the state of Ohio.

[¶ 3] R.C. 4906.04 provides that no person shall construct a major utility facility without first having obtained a certificate from the Board.

[¶ 4] On April 22, 2022, as supplemented on August 2, and September 2, 2022, and supported by Applicant's filed responses to various Staff data requests, Springwater filed an application with the Board for a certificate of environmental capability and public need to construct, own, operate, and maintain a 155 megawatt solar-powered electric generating facility and an up to 75 megawatt battery energy storage system in Fairfield Township, Madison County and Pleasant Township, Franklin County, Ohio.

[¶ 5] On September 8, 2022, the Ohio Farm Bureau Federation (OFBF) timely filed a motion to intervene in this proceeding. The motion was granted on September 26, 2022.

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{¶ 6} On September 26, 2022, Staff filed its report of investigation (Staff Report). In addition to making various findings, Staff recommended that 47 conditions be made part of any certificate issued by the Board for the proposed facility.

{¶ 7} On October 26, 2022, a Joint Stipulation and Recommendation (Stipulation) executed by Applicant, OBFB, and Staff was filed. With some differences, the recommended conditions found within the Staff Report were adopted and re-enumerated in the Stipulation.¹

{¶ 8} The adjudicatory hearing was scheduled for and held on November 2, 2022.

{¶ 9} By Opinion and Order (Order) issued December 15, 2022, the Board adopted and approved Springwater's application, pursuant to the Stipulation, to construct, operate, and maintain the proposed facility, subject to conditions set forth in the Stipulation and consistent with the Order.

{¶ 10} On January 4, 2023, Springwater filed a motion for an Entry Nunc Pro Tunc and request for an expedited ruling. By this motion, Springwater seeks to have the Board correct and clarify that, within Paragraph 115 of the Order, the Board, in summarizing Condition 46 of the Stipulation, inadvertently cited language from Condition 45 of the Staff Report which the Board did not intend to cite, and which the parties, by then, did not intend for the Board to adopt.

{¶ 11} Both recommended Condition 45 contained in the Staff Report (Staff Report Condition 45) and recommended Condition 46 contained in the Stipulation (Stipulation Condition 46) are addressed to the same topic, namely, certain recommended setback and vegetative screening requirements which should apply to the proposed facility, if approved.

¹ Of note, while only 47 conditions were identified in the Staff Report, there are 48 conditions contained in the Stipulation. This occurs because each of the two paragraphs of the Staff Report's Condition 38 were, when incorporated into the Stipulation, separated from each other to become separately numbered Stipulation Condition 38 and Stipulation Condition 39. Beginning at Stipulation Condition 38, then, each recommended stipulation condition is, sequentially, one number higher than the manner of its collateral listing in the earlier-filed Staff Report.

The signatory parties to the Stipulation, in submitting the Stipulation, intended that the language of Stipulation Condition 46 should substantively differ from the earlier-filed language of Staff Report Condition 45. At Paragraph 115 of the Order, the Board summarizes each of the proposed 48 certificate conditions contained within the Stipulation. There, in summarizing Stipulation Condition 46, the Board incorrectly, and through inadvertence, cited to earlier-filed language of Staff Report Condition 45, rather than to language the Board intended to cite, namely, language fully incorporating all provisions of Stipulation Condition 46.

{¶ 12} The Board hereby revises its December 15, 2022 Opinion and Order, nunc pro tunc, so as to clarify and correct its summary of Stipulation Condition 46, contained with Paragraph 115 of the Order, in a manner which would replace any reference to the language of Staff Report Condition 45 with, instead, full adoption of the language of Stipulation Condition 46, as filed in this case on October 26, 2022.

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That the December 15, 2022 Opinion and Order be revised, nunc pro tunc, to clarify and direct that the certificate approved pursuant to the Order be issued subject to Stipulation Condition 46. It is, further,

{¶ 15} ORDERED, That a copy of this Entry Nunc Pro Tunc be served upon all parties and interested persons of record.

BOARD MEMBERS:

Approving:

Jenifer French, Chair
Public Utilities Commission of Ohio

Damian Sikora, 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 Anne Vogel, Director
Ohio Environmental Protection Agency

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

Gregory Slone
Public Member

Mark Forrest, Madison County Commissioner

DEF/dmh