

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
OAK RUN SOLAR PROJECT, LLC FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED TO
CONSTRUCT A SOLAR-POWERED
ELECTRIC GENERATION FACILITY.

CASE NO. 22-549-EL-BGN

IN THE MATTER OF THE APPLICATION OF
OAK RUN SOLAR PROJECT, LLC FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED TO
CONSTRUCT A TRANSMISSION LINE.

CASE NO. 22-550-EL-BTX

ENTRY

Entered in the Journal on April 7, 2023

{¶ 1} Oak Run Solar Project, LLC (Applicant or Oak Run) is a person as defined in R.C. 4906.01.

{¶ 2} R.C. 4906.04 provides that no person shall construct a major utility facility in the state without first obtaining a certificate for the facility from the Ohio Power Siting Board (Board).

{¶ 3} On May 26, 2022, Applicant filed a motion for waiver and request to file a joint generation and transmission application. Applicant stated in the accompanying memorandum in support that it intends to file an application with the Board for a certificate to construct a solar-powered electric generation facility with a generating capacity of up to 800 megawatts (MW) alternating current, up to 300 MW of battery storage facilities, substations, and associated 230 kilovolt (kV) transmission lines of approximately 3.5 miles in Monroe, Somerford, and Deercreek Townships, Madison County, Ohio (collectively, the Project or Facility).

{¶ 4} On June 7, 2022, Applicant filed a preapplication notification letter for the Project.

{¶ 5} By Entry issued June 24, 2022, the administrative law judge (ALJ) granted the motion for waiver to allow the standard generation and associated electric transmission certificate applications to be filed jointly.

{¶ 6} On July 18, 2022, Applicant filed a second preapplication notification letter for the Project.

{¶ 7} On September 2, 2022, Applicant filed an application for a certificate of environmental compatibility and public need to develop, construct, and operate the Facility.

{¶ 8} Also on September 2, 2022, Applicant filed three separate motions. First, Applicant filed a motion for protective order, pursuant to which Applicant seeks protective treatment of certain portions of the application which it believes contain trade secret and confidential information. Second, Applicant filed a motion for waiver from Ohio Adm.Code 4906-4-08(D)(2)-(4) to allow for a reduced study area regarding the review of cultural resources, landmarks, and visual impacts. Finally, Applicant filed a motion for waiver from certain requirements pertaining to the alternate transmission line route.

{¶ 9} On November 14, 2022, Applicant filed a certificate of service of its accepted and complete application and notice that it submitted its application fee to the Treasurer of the State of Ohio.

{¶ 10} On November 21, 2022, Applicant filed a supplement to the application to attach its Phase I archaeology survey to the application.

{¶ 11} By Entry issued on January 20, 2023, the effective date of the Application was established as January 20, 2023. In the same Entry, the local public hearing in this matter was scheduled to be held on April 11, 2023, and the evidentiary hearing was scheduled to commence on May 15, 2023. The Entry also set forth additional deadlines, including that petitions to intervene in this proceeding will be accepted by the Board up to 30 days following the service of the notice required by Ohio Adm.Code 4906-3-09 or by March 7,

2023, whichever is later. Further, the Entry granted Oak Run's motion for protective order and motions for waivers.

A. *Motions to Intervene*

{¶ 12} On various dates, motions to intervene were timely filed by the Board of Trustees of Somerford Township (Somerford Township); Board of Trustees of Deercreek Township (Deercreek Township); Board of Trustees of Monroe Township (Monroe Township); Board of County Commissioners of Madison County (County Commissioners); Madison County Soil and Water Conservation District (Soil and Water); Ohio Farm Bureau Federation (OFBF); International Brotherhood of Electrical Workers, Local Union 683 (IBEW); Ohio Environmental Council (OEC); Dr. John Boeckl (Dr. Boeckl); and the Ohio Partners for Affordable Energy (OPAE). No memoranda contra the motions to intervene were filed. The ALJ finds that the motions are reasonable and should be granted.

B. *Motions to Appear Pro Hac Vice*

{¶ 13} Gov.Bar.R XII(2)(A) provides rules governing eligibility to practice pro hac vice in Ohio. Pursuant to Gov.Bar.R XII(2)(A)(7), motions for admission pro hac vice must be accompanied by a certificate of pro hac vice registration furnished by the Supreme Court Office of Attorney Services.

{¶ 14} On March 7, 2023, a motion to appear pro hac vice and a certificate of pro hac vice registration were filed by Trent A. Dougherty (Mr. Dougherty) on behalf of Daniel Loud to represent the IBEW Local Union 683 and on behalf of Michael Gerrard to represent Dr. Boeckl. Additionally, on March 15, 2023, Mr. Dougherty filed a motion to appear pro hac vice and a certificate of pro hac vice registration on behalf of Matthew Eisenson to represent Dr. Boeckl. No memoranda contra the motions were filed. The ALJ finds that the motions are reasonable, comply with applicable requirements, and should be granted.

C. *Motion to Withdraw*

{¶ 15} On March 14, 2023, Nick Adkins (Mr. Adkins) filed a motion to withdraw as the attorney of record on behalf of Somerford Township, Deercreek Township, and Monroe Township. The ALJ finds Mr. Adkins's motion to be reasonable and grants it.

D. *Staff's Motion to Late File*

{¶ 16} On March 28, 2023, the Board Staff (Staff) filed a motion to late-file its Staff Report of Investigation (Staff Report), and on the same day, Staff filed its Staff Report.

{¶ 17} In its motion, Staff reiterates the ALJ's directive by Entry on January 20, 2023 to file its Report on or before March 27, 2023. Staff notes that although the Staff Report was filed on March 27, 2023, it was not filed with the Board's Docketing Division until 6:04 p.m., due to unanticipated difficulties. Staff acknowledges that any document received after 5:30 p.m. by the Docketing Division is considered as officially filed the next business day. However, Staff contends that it acted in substantial compliance with the ALJ's January 20, 2023 Entry and with Ohio Adm.Code 4901-3-06. Further, Staff submits that Ohio Adm.Code 4906-3-06(C)(4) provides that copies of the Staff Report shall be provided to the Board, the ALJ, the Applicant, and all parties to the proceeding. Staff notes that all of the aforementioned entities were served electronically once the Staff Report was processed by the Docketing Division on March 28, 2023. Even so, Staff affirms that counsel for the Applicant was served with a copy of the Staff Report on March 27, 2023. Moreover, Staff asserts that the delay was an inadvertent error, due to internal miscommunication, and that no party was prejudiced by the late filing.

{¶ 18} The ALJ grants the motion noting, however, that the period for an opportunity to file a memorandum contra has not concluded at the time of the issuance of this Entry. In support of this ruling, the ALJ determines that Staff has complied with the substance of Ohio Adm.Code 4901-3-06, in which the Staff Report was filed with the Board on March 27, 2023. The ALJ believes that the late filing of the Staff Report was an inadvertent and harmless

error. Regarding Ohio Adm.Code 4901-3-06(C)(4)'s directive for the Board, the ALJ, and all parties to the proceeding to be served when Staff files its Staff Report, the ALJ concludes that no party or entity to the proceeding was prejudiced by service of the Staff Report on the following business day.

{¶ 19} It is, therefore,

{¶ 20} ORDERED, That the requests to intervene in this proceeding filed by Somerford Township; Deercreek Township; Monroe Township; County Commissioners; Soil and Water; OFBF; IBEW; OEC; Dr. Boeckl; and the OPAC be granted. It is, further,

{¶ 21} ORDERED, That Mr. Adkins's motion to withdraw as counsel for Somerford Township, Deercreek Township, and Monroe Township be granted. It is, further,

{¶ 22} ORDERED, That the motions to appear pro hac vice of Daniel Loud, Michael Gerrard, and Matthew Eisenson be granted. It is, further,

{¶ 23} ORDERED, That Staff's motion to late file its Staff Report be granted. It is, further,

{¶ 24} ORDERED, That a copy of this Entry be served upon all interested persons of record.

THE OHIO POWER SITING BOARD

/s/Isabel M. Marcelletti

By: Isabel M. Marcelletti
Administrative Law Judge

JSA/dr

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

Case No(s). 22-0549-EL-BGN, 22-0550-EL-BTX

Summary: Administrative Law Judge Entry granting the motions to intervene of Somerford Township, Deercreek Township, Monroe Township, County Commissioners, Soil and Water, OFBF, IBEW, OEC, Dr. Boeckl and OP&E; granting Mr. Adkins's motion to withdraw; granting the motions to appear pro hac vice of Daniel Loud, Michael Gerrard and Matthew Eisenson; and granting Staff's motion to late file its Staff Report electronically filed by Debbie S. Ryan on behalf of Isabel W. Marcelletti, Administrative Law Judge, Ohio Power Siting Board.