

**BEFORE
THE OHIO POWER SITING BOARD**

| | | |
|--|---|-------------------------|
| In The Matter of The Application of Circleville |) | |
| Solar, LLC for a Certificate of Environmental |) | |
| Compatibility and Public Need For The |) | Case No. 22-0117-EL-BTX |
| Construction of a 138kV Electric Transmission |) | |
| Line in Pickaway County, Ohio |) | |

MOTION FOR WAIVER

Applicant, Circleville Solar, LLC (“Applicant”), pursuant to Ohio Administrative Code (“OAC”) 4906-2-27(C), respectfully moves the Ohio Power Siting Board (“Board”) to grant a waiver from OAC 4906-3-10(A)(2). This rule requires, in part, that “the applicant shall provide proof of the second public notice to the board at least three days before the public hearing . . . providing either a copy of the entire date-marked newspaper page that contains the actual notice or copy of the proof of publication from the newspaper(s) in which the notice was published.”

As discussed in the attached memorandum in support, the Applicant timely published public notice as required under the Board’s rules and the February 10, 2023 administrative law judge entry. However, due to a delay on the part of the newspaper to provide a proof of publication, the Applicant was unable to file the proof of publication at least three days before the local public hearing.

For the reasons set forth in attached memorandum in support, the Applicant respectfully requests that the Board or administrative law judge grant this request for waiver.

Respectfully submitted on behalf of
Circleville Solar, LLC



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MEMORANDUM IN SUPPORT

In accordance with Chapter 4906 of the Ohio Revised Code (“RC”) and Ohio Administrative Code (“OAC”) Chapter 4906-5, the Applicant filed an application for a certificate to construct a transmission line in Pickaway County, Ohio on June 8, 2022.

On February 10, 2023, the administrative law judge issued an entry establishing a procedural schedule, including a local public hearing on April 25, 2023. As required by the Board’s rules and the administrative law judge entry of February 10, 2023, the Applicant properly sent notice and caused to be published newspaper notice of the procedural schedule.

OAC Rule 4906-3-10(A)(2) states:

The applicant shall provide proof of the second public notice to the board at least three days before the public hearing by filing a copy of the notice sent to persons pursuant to rule 4906-3-09 of the Administrative Code and providing either a copy of the entire date-marked newspaper page that contains the actual notice or copy of the proof of publication from the newspaper(s) in which the notice was published.

The requested waiver pertains to the requirement that “either a copy of the entire date-marked newspaper page that contains the actual notice or copy of the proof of publication from the newspaper(s) in which the notice was published” be filed with the Board at least three days prior to the local public hearing.”

The required publication notice of the procedural schedule was first published in the *Circleville Herald* on February 17, 2023. The proof of this notice was filed on February 28, 2023. The second publication notice required under OAC 4906-3-10(A)(2) was published in the *Circleville Herald* on April 11, 2023. However, proof of publication of this newspaper notice was not filed until April 25, 2023, which was the day of the local public hearing and not “at least three days prior to the local public hearing” as required under the rule. The delay in filing the proof of publication was due to a delay in receiving the proof of publication from the newspaper. The Applicant requested that the newspaper provide the proof of publication on multiple instances in early April. However, the Applicant did not receive the proof of publication from the newspaper until April 25, 2023, at which point the Applicant immediately filed the proof of publication. The delayed filing of the proof of publication did not impact the timeliness of the notice itself.

Based on the forgoing, Circleville respectfully requests that the Board or administrative law judge grant this Motion for Waiver.

Respectfully submitted on behalf of
Circleville Solar, LLC



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion was served via electronic mail upon the parties of record listed following parties listed below by electronic mail, this 9th day of May 2023.



Dylan F. Borchers

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Case No(s). 22-0117-EL-BTX

Summary: Motion for Waiver and Memorandum in Support by Circleville Solar, LLC
electronically filed by Teresa Orahoad on behalf of Dylan F. Borchers.