

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
SCIOTO FARMS SOLAR PROJECT, LLC
FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED.

CASE NO. 21-868-EL-BGN

ENTRY

Entered in the Journal on January 18, 2024

I. SUMMARY

{¶ 1} The Ohio Power Siting Board grants the request of Scioto Farms Solar Project, LLC to withdraw its application for a certificate of environmental compatibility and public need for the construction, operation, and maintenance of a proposed major utility facility.

II. DISCUSSION

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

{¶ 3} Pursuant to R.C. 4906.04, a certificate issued by the Board is required prior to the commencement of construction of a major utility facility. R.C. 4906.04 further provides that a certificate may only be issued pursuant to R.C. Chapter 4906. Pursuant to R.C. 4906.06(B), an application for a certificate is required to be filed with the Board and a copy of the application must be served on the chief executive officer of each municipal corporation and county, as well as the head of each public agency charged with environmental protection or land use planning in the area in which the facility is proposed to be located. Further, pursuant to R.C. 4906.06(C), public notice of such application by newspaper publication is required to be given to persons residing in the municipal corporations and counties in which the facility is proposed to be located.

{¶ 4} Upon receipt of an application in compliance with R.C. 4906.06, the Board is required to schedule a public hearing within a certain time frame and the chairperson is required to cause the application to be investigated and a report submitted to the Board, Applicant, and any person upon request, in accordance with R.C. 4906.07(A) and 4906.07(C).

{¶ 5} Scioto Farms is a person as defined in R.C. 4906.01. Scioto Farms is a limited liability company that is a wholly owned subsidiary of Naturgy Candela Devco, LLC, which in turn is a wholly owned subsidiary of Candela Renewables, Inc.

{¶ 6} 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, applicants must comply with the filing requirements outlined in R.C. 4906.06, as well as Ohio Adm.Code Chapters 4906-2 and 4906-4.

{¶ 7} On August 30, 2021, Scioto Farms filed a pre-application letter with the Board regarding its proposed solar-powered electric generating facility with up to 110 megawatts (MW) of electric generating capacity in Wayne Township, Pickaway County, Ohio (Project or Facility).

{¶ 8} On September 14, 2021, the Applicant held a public informational meeting for the Project (Staff Ex. 1 at 6).

{¶ 9} On December 13, 2021, Scioto Farms filed an application with the Board for a certificate of environmental compatibility and public need to construct the Project. Pursuant to Ohio Adm.Code 4906-3-06, within 60 days of receipt of an application for a major utility facility, the Board Chair 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.

{¶ 10} On December 13, 2021, Scioto Farms also filed a motion for protective order regarding certain information provided with the application.

{¶ 11} On February 11, 2022, the Board notified Scioto Farms that its application was found to be sufficiently compliant with the requirements of Ohio Adm.Code Chapters 4906- 01, et seq., and provided sufficient information to permit Staff to commence its review and investigation. Pursuant to Ohio Adm.Code 4906-3-06 and 4906-3-07, the Board's letter instructed Scioto Farms 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 the Applicant to submit its application fee pursuant to R.C. 4906.06(F) and Ohio Adm.Code 4906-3-12.

{¶ 12} On February 22, 2022, Scioto Farms filed proof of service of its accepted and complete application on local officials and the main public library as required by Ohio Adm.Code 4906-3-07(A).

{¶ 13} On March 7, 2022, Applicant also filed, pursuant to Ohio Adm.Code 4906-3--07(A)(5), proof of submission of its application fee.

{¶ 14} On March 10, 2022, the Pickaway County Board of Commissioners filed Resolution No. PC-030822-24, appointing Commissioner Jay Wippel to the Board as an ad hoc voting member, pursuant to R.C. 4906.021.

{¶ 15} On March 11, 2022, the Board of Trustees of Wayne Township, Pickaway County (Wayne Township), filed Resolution No. 3-2-22, appointing Chris Mullins to the Board as an ad hoc voting member, pursuant to R.C. 4906.021. On that same day, Wayne Township filed a notice of intervention, pursuant to Ohio Adm.Code 4906-2-12(A)(1).

{¶ 16} Further, on March 11, 2022, Thomas E. and Scarlett Ebenhack, Wesley and Suzannah M. Ebenhack,¹ and Thomas J. Ebenhack (collectively, Ebenhack Family) filed a

¹ Wesley and Suzannah Ebenhack's residence is located within the Project area.

motion to intervene in this proceeding, pursuant to R.C. 4906.08(A)(3) and Ohio Adm.Code 4906-2-12(A)(2).

{¶ 17} Ohio Adm.Code 4906-3-08(A) states that, once the applicant has complied with Ohio Adm.Code 4906-3-07, the Board or the administrative law judge (ALJ) shall file an entry indicating the date on which the accepted, complete application is deemed filed. Additionally, once the effective date is established, the ALJ must promptly fix the dates for public hearings. R.C. 4906.07(A) directs that the public hearing be held not less than 60 nor more than 90 days after the effective date.

{¶ 18} By Entry issued March 31, 2022, the effective date of the application was established as March 25, 2022, the local public hearing was scheduled for May 25, 2022, and the adjudicatory hearing was scheduled to commence on June 13, 2022. The Entry also granted the Ebenhack Family and Wayne Township intervention status.

{¶ 19} By Entry issued April 6, 2022, the adjudicatory hearing was rescheduled to commence on July 11, 2022, at the offices of the Public Utilities Commission of Ohio.

{¶ 20} On April 29, 2022, motions to intervene were filed by the Ohio Farm Bureau Federation (OFBF), the International Brotherhood of Electrical Workers Local 575 (IBEW), and Ohio Partners for Affordable Energy (OPAE).

{¶ 21} On May 10, 2022, Staff filed its Staff Report, pursuant to R.C. 4906.07(C), recommending denial of a certificate of environmental compatibility and public need to construct the Project. Namely, Staff recommended that the Board find that the proposed Project would not serve the public interest, convenience, and necessity, as required by R.C. 4906.10(A)(6).

{¶ 22} On May 23, 2022, Applicant, IBEW, the Ebenhack Family, OPAE, and OFBF filed a joint motion to suspend the procedural schedule.

{¶ 23} The local public hearing occurred, as scheduled, on May 25, 2022, pursuant to R.C. 4906.08(C).

{¶ 24} By Entry issued May 26, 2022, the ALJ granted the joint motion to suspend the procedural schedule and converted the adjudicatory hearing scheduled for July 11, 2022, as a call and continue hearing, as well as a status conference to discuss a new procedural schedule. The ALJ also granted the unopposed motions to intervene filed by OFBF, IBEW, and OP AE.

{¶ 25} At the hearing on July 11, 2022, the record in the case was opened, counsel for attending parties entered appearances, and then discussions were had concerning the setting of a new procedural schedule and hearing date.

{¶ 26} By Entry issued November 10, 2022, the adjudicatory hearing was scheduled to reconvene on February 27, 2023.

{¶ 27} On February 23, 2023, a joint stipulation and recommendation (Stipulation) was filed by Applicant, OFBF, OP AE, and IBEW. Scioto Farms also filed the supplemental direct testimony of Jim Woodruff, sponsoring the Stipulation. As part of the Stipulation, some of Staff's recommended conditions were adopted in full and/or in part.

{¶ 28} The adjudicatory hearing reconvened, as scheduled, on February 27, 2023, and concluded on March 2, 2023.

{¶ 29} Initial and reply briefs were timely filed by the Ebenhack Family/Wayne Township, Scioto Farms, Staff, and IBEW/OP AE on April 20, 2023, and May 12, 2023, respectively.

{¶ 30} On October 17, 2023, Scioto Farms filed notice of its request for rehearing of a decision issued by the Federal Energy Regulatory Commission (FERC) on September 8, 2023, noting that it was actively seeking rehearing of the FERC decision. In that decision, FERC affirmed the termination of Scioto Farms' Interconnection Service Agreement,

effective June 21, 2023, after it failed to timely pay the deferred security payment pursuant to Section 212.4(c) of the PJM Interconnection, LLC Open Access Transmission Tariff. *Scioto Farms Solar Project, LLC*, 184 FERC ¶ 61,153 (2023).

{¶ 31} On October 20, 2023, the Ebenhack Family and Wayne Township jointly filed a response to the notice filed by Scioto Farms, arguing that the Board should find Scioto Farms' failure to satisfy R.C. 4906.10(A)(4) as an additional reason to deny the application.

{¶ 32} On December 22, 2023, Scioto Farms filed a request to withdraw its application in this matter.

{¶ 33} The Board finds that Scioto Farms' request to withdraw its application should be granted, and this case should be dismissed, without prejudice, and closed of record.

III. ORDER

{¶ 34} It is, therefore,

{¶ 35} ORDERED, That Scioto Farms' request to withdraw its application be granted. It is, further,

{¶ 36} ORDERED, That this case be dismissed, without prejudice, and closed of record. It is, further,

{¶ 37} ORDERED, That a copy of this Entry be served upon each party of record and any other interested persons of record.

BOARD MEMBERS:

Approving:

Jenifer French, Chair
Public Utilities Commission of Ohio

Matt McClellan, Designee for Lydia Mihalik, Director
Ohio Department of Development

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 Brian Baldrige, Director
Ohio Department of Agriculture

Gregory Slone
Public Member

Tim McGinnis, Ad Hoc Member
Pickaway County Board of County Commissioners

Chris Mullins, Ad Hoc Member
Wayne Township Trustees

MJA/dr

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Case No(s). 21-0868-EL-BGN

Summary: Entry granting the request of Scioto Farms Solar Project, LLC to withdraw its application for a certificate of environmental compatibility and public need for the construction, operation, and maintenance of a proposed major utility facility. electronically filed by Ms. Mary E. Fischer on behalf of Ohio Power Siting Board.