

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of)
Eastern Cottontail Solar LLC for a) Case No. 24-495-EL-BGN
Certificate of Environmental)
Compatibility and Public Need)

ALLEN TURNBULL AND BETSY ALT’S PETITION FOR LEAVE TO INTERVENE

Allen Turnbull and Betsy Alt (the “Petitioners”) are participating landowners in the Eastern Cottontail Solar Project (the “Project”). Petitioners support the Project because it will provide financial security for their families while providing economic benefits and environmental benefits to the local community. Because Petitioners will be deprived of lease income and thus materially affected if the Project does not proceed, they respectfully petition to intervene in the above-captioned proceeding.

Pursuant to Ohio Administrative Code Section 4906-2-12, the Ohio Power Siting Board (“Board”) should grant the Petition because each landowner has a real and substantial interest in the outcome of this case that is distinct from those of the existing parties. Further, their contribution will lead to a just and expeditious resolution of the issues involved in the proceeding without causing undue delay. This Petition is timely, as it is filed by the intervention deadline set by the Board. *See Entry, In the Matter of the Application of Eastern Cottontail Solar LLC*, Case No. Case No. 24-495-EL-BGN (Nov. 6, 2024) ¶ 16. The Petitioners’ basis for standing, reasons for intervention, and arguments as to why the Board should grant their Petition are set out in the accompanying Memorandum in Support.

Dated: November 8, 2024

Respectfully submitted,

/s/ Trent Dougherty

Trent Dougherty (Bar No. 0079817)

HUBAY DOUGHERTY

1391 Grandview Ave. #12460

Columbus, Ohio 43212

Telephone: (614) 330-6752

trent@hubaydougherty.com

(Willing to accept service by email)

Counsel for Allen Turnbull and Betsy Alt

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of)
Eastern Cottontail Solar LLC for a) Case No. 24-495-EL-BGN
Certificate of Environmental)
Compatibility and Public Need)

**MEMORANDUM IN SUPPORT OF ALLEN TURNBULL AND BETSY ALT’S
PETITION FOR LEAVE TO INTERVENE**

I. Ohio Law Permits Intervention of Parties in Cases Before the Ohio Power Siting Board.

The Ohio Power Siting Board (“Board”) may grant petitions to intervene “upon a showing of good cause.” Ohio Admin. Code § 4906-2-12(B). The Administrative Code provides that, in ruling on a petition to intervene, the Board must consider the following factors:

- (a) The nature and extent of the person’s interest.
- (b) The extent to which the person’s interest is represented by existing parties.
- (c) The person’s potential contribution to a just and expeditious resolution of the issues involved in the proceeding.
- (d) Whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice an existing party.

Id. § 4906-2-12(B)(1). As described in the next section, all four of these factors support a finding that there is good cause to permit intervention by the Petitioners.

II. The Ohio Power Siting Board Should Grant the Petition to Intervene.

Allen Turnbull and Betsy Alt (together, “Petitioners”) are participating landowners in the Eastern Cottontail Solar Project (the “Project”) proposed by Eastern Cottontail Solar LLC (“Eastern Cottontail” or the “Applicant”), a subsidiary of EDF Renewables North America.

Allen Turnbull, 82 years old, is a permanent resident of Walnut Township. He and his wife live together on a 121-acre farm that they purchased together 53 years ago in 1971. Mr. Turnbull has entered into an agreement with the Applicant to lease out 110 acres of the 121-acre property to the Project, leaving the rest of the property for himself and his wife to reside on. The lease payments that Mr. Turnbull will receive if the Project is approved will help him to pay for the Alzheimer's care that his wife needs and to keep her in the house that she loves; without these lease payments, Mr. Turnbull may be forced to sell the property and find a placement for his wife in an assisted living facility. Mr. Turnbull dedicated his career to public service, including by working for 31 years at the U.S. Department of Agriculture. In his retirement, he served for 5 years on the Walnut Township Zoning Commission and served as the Chairman of the Commission for one year.

Betsy Alt, 69 years old, is a permanent resident of Liberty Township. She lives approximately 5-6 miles away from the 78-acre parcel that she is planning to lease out for the Project. For many years, Mrs. Alt and her husband were livestock farmers. Mrs. Alt has also served as a township trustee, president of the Fairfield County Regional Planning Commission, a member of the local fire board, and an employee of the local school system. She has also been on the board of the Liberty Township Community Chest for 40 years. In 1996, Mrs. Alt and her husband purchased a 78-acre tract of land in Walnut Township to help their son get started in the business of growing crops. At the time, the land was in grass and not being put to any productive use. For 28 years, with help from their son, they have used the land to grow corn and soybeans. However, the family's needs have changed over time, and they recently agreed to lease out the land for the Project. The Project will help Mrs. Alt and her husband to pay for their retirement, while also helping to serve the economic needs and environmental needs of the County.

Petitioners request that the Board grant their Petition to Intervene (the “Petition”) in the Board’s review of Eastern Cottontail Solar LLC’s Application for a Certificate of Environmental Compatibility and Public Need to construct a solar-powered electric generation facility. All four of the factors set out under Section 4906-2-12(B)(1) of the Ohio Administrative Code support a finding of good cause for intervention: (a) Petitioners have a real and substantial interest in the Project as participating landowners; (b) Petitioners’ interest in the Project is distinct from those of other parties and intervenors, none of whom are participating landowners; (c) given their distinct interests, Petitioners’ participation will contribute to a just and expeditious resolution of the issues; and (d) because the petition is timely filed, Petitioners’ participation will not unduly delay or prejudice any party.

a. The Petitioners have a real and substantial interest in the Project.

In assessing the nature and extent of the person’s interest, the Board considers whether the petitioner has a “real and substantial interest” in the matter. *See* Ohio Adm. Code § 4906-2-12(D)(1)(a). The Board has found that this requirement is met when “an individual, direct interest is at stake in the outcome of a proceeding.” Order Partially Granting Motions for Intervention, *In re Republic Wind, LLC*, Case No. 17-2295-EL-BGN at ¶ 20 (Aug. 21, 2018). The Board has found, for example, that owning property inside or abutting a project area is sufficient to establish a real and substantial interest for purposes of intervention. *Id.*

Both Mr. Turnbull and Mrs. Alt have an individual, direct interest at stake in the outcome of this proceeding. As participating landowners, each will receive income from the lease agreements they entered into with the Applicant if the Project is completed. Neither will receive this stream of income if the application is denied. Relatedly, they each have an interest in protecting their right as landowners to make productive and zoning-compliant use of their property, a right that is protected by the Ohio Constitution. *See* OH Const. Art. I, § 1 (“All

men . . . have certain inalienable rights, among which are those of . . . acquiring, possessing, and protecting property.”).

b. The Petitioners’ interests differ from those of existing parties.

Mr. Turnbull and Mrs. Alt have interests that are not shared by any existing party or intervenor. None of the existing parties are participating landowners. Nor can the Applicant itself represent their interests. While Petitioners share the Applicant’s interest in seeing the project approved, they have a distinct interest in the long-term health and condition of their land, as well as a distinct interest in any conditions applicable to the long-term care and stewardship of their land.

c. The Petitioners’ participation will contribute to a just and expeditious resolution of the issues involved in the proceeding and to full development and equitable resolution of factual issues in this case.

Mr. Turnbull and Mrs. Alt’s intervention in this proceeding will contribute to a just and expeditious resolution of the relevant issues and contribute to a full development of the factual record. Their testimony may help the Board to find and determine the information necessary to grant a Certificate of Environmental Compatibility and Public Need, including the extent to which the Project will: “serve the public interest, convenience and necessity,” *see* Ohio Rev. Code § 4906.10(A)(6); “impact the viability of farmland,” *id.* § 4906.10(A)(7); and “represent[] the minimum adverse environmental impact,” *id.* § 4906.10(A)(3). Specifically, as participating landowners, they can provide a first-hand perspective on: (1) the economic opportunity that the Project presents to participating landowners; and (2) other economic and environmental benefits that the Project will deliver to the community.

First, Mr. Turnbull and Mrs. Alt can testify as to how the project presents a meaningful economic opportunity to participating landowners like themselves and how each concluded that the lease agreement would be in the best interest of their families. For example, Mr. Turnbull can

testify as to the immense financial burden of his wife's Alzheimer's condition and the challenge of paying for that care while maintaining the farmhouse they have owned together for 53 years. He can explain in his testimony how leasing out a portion of his property for the Project will provide sufficient income for the two of them to continue living in the farmhouse on the other part of the property, where he and his wife are most comfortable.

Second, Mr. Turnbull and Mrs. Alt can testify as to the many local benefits this Project will have for Fairfield County, including by increasing tax revenues and sending a positive signal to the business community that the county is open to economic development. In addition to being participating landowners, Mr. Turnbull and Mrs. Alt both have experience in local government: Mr. Turnbull served as Chairman of the Walnut Township Zoning Commission, while Mrs. Alt served as President of the Fairfield County Regional Planning Commission. Mr. Turnbull and Mrs. Alt can draw on these experiences to provide informed testimony about the economic considerations of the Project at a local level. Further, their participation will help to ensure that the Board hears the perspectives of community members who view the Project as an opportunity for economic revitalization.

d. The Petitioners' intervention will not cause undue delay of the Board's review of the Project.

This Petition is timely, as it is filed by the intervention deadline set by the Board. *See* Entry, *In the Matter of the Application of Eastern Cottontail Solar LLC*, Case No. Case No. 24-495-EL-BGN (Nov. 6, 2024) ¶ 16 (providing the petitions to intervene will be accepted until December 20, 2024 or later). Because this Petition is timely filed, Petitioners' involvement will not cause undue delay of the Board's review. In addition, Petitioners are motivated to see the process go as smoothly as possible, as they would like to see the Project approved and completed expeditiously and without any delay. Finally, allowing Petitioners to intervene jointly due to their

shared interests and perspectives will provide the Board the opportunity to consider their views and interests more efficiently and expeditiously.

III. Conclusion

For the reasons stated in this Memorandum in Support, the Board should grant Petitioners' Petition to Intervene in this proceeding concerning Eastern Cottontail Solar LLC's Application for a Certificate of Environmental Compatibility and Public Need to construct a solar-powered electric generation facility. Mr. Turnbull and Mrs. Alt have a real and substantial interest in the Project; they have different interests from those of the existing parties; their participation will contribute to a just and expeditious resolution of the issues involved in the proceeding; and their intervention will not cause undue delay of the Board's review of the Project.

Dated: November 8, 2024

Respectfully submitted,

/s/ Trent Dougherty

Trent Dougherty (Bar No. 0079817)
HUBAY DOUGHERTY
1391 Grandview Ave. #12460
Columbus, Ohio 43212
Telephone: (614) 330-6752
trent@hubaydougherty.com
(Willing to accept service by email)

Counsel for Allen Turnbull and Betsy Alt

CERTIFICATE OF SERVICE

I hereby certify that a copy of this filing will be electronically served via the Ohio Power Siting Board's e-filing system and via electronic mail on all parties referenced in the service list of the docket.

Dated: November 8, 2024

/s/ Trent Dougherty
Trent Dougherty

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

11/8/2024 1:43:12 PM

in

Case No(s). 24-0495-EL-BGN

Summary: Petition ALLEN TURNBULL AND BETSY ALT'S PETITION FOR LEAVE
TO INTERVENE electronically filed by Mr. Trent A. Dougherty on behalf of Allen
Turnbull and Betsy Alt.