

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of Richwood)
Solar for a Certificate of Environmental)
Compatibility and Public Need to Construct a) Case No. 23-0930-EL-BGN
Solar-Powered Electric Generation Facility)

INITIAL POST-HEARING BRIEF OF THE BEERYS

Dated: September 23, 2024

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TABLE OF CONTENTS

PRELIMINARY STATEMENT 1

FACTS 2

 A. The Beerys Decide to Participate in the Richwood Solar Project 2

 B. The Beerys Testify at the June 25, 2024, Public Hearing..... 3

 C. The Beerys Enter into a Joint Stipulation Adopting Staff’s Conditions for Approval . 5

 D. The Beerys File Written Testimony in Support of the Project 5

STANDARD OF REVIEW 7

ARGUMENT 8

I. The Project Serves the Public Interest, Convenience, and Necessity 9

 A. The Project will provide local economic benefits in the form of jobs, earnings,
 economic output, tax revenue, and lease payments 9

 B. The Project will benefit the local environment..... 12

 C. The Project will protect local agricultural land..... 14

II. The Stipulation Meets the Board’s Reasonableness Test 15

CONCLUSION..... 16

PRELIMINARY STATEMENT

Bruce Beery and his daughter Ashley Beery (“the Beerys”) are participating landowners in the Richwood Solar Project (the “Project”). They intervened in this proceeding to submit testimony in support of the Project, to explain the significant benefits of the Project, and to defend their rights as landowners who have made long-term investments in their property. As Ashley Beery testified at the public hearing, “The farmers who signed up for this project need this to be approved. Without it, the land will be lost, our communities will suffer and stay impoverished, and our state will suffer with loss of industry, jobs, and electricity.” June 25, 2024, Public Hearing Transcript, Tr. at 185:25-186:4.

At a high level, the Project will provide significant economic and environmental benefits to Union County and the State of Ohio at large. In addition, at the individual level, the Project will offer a critical lifeline to landowners like the Beerys. Due to his age and declining health, Bruce Beery is increasingly incapable of farming the land himself. Meanwhile, due to a cancer diagnosis that forced her to leave the workforce, Ashley Beery has had to rely on income from her land, which has not been sufficient to cover her medical bills.

The evidence now before the Ohio Power Siting Board (the “Board”)—including the Beerys’ pre-filed testimony, the public hearing testimony, the Staff Report of Investigation (“Staff Report”), and the Joint Stipulation and Recommendation (the “Stipulation”)—proves that the Project will serve the public interest, convenience, and necessity. This evidence also demonstrates that the Project meets all other certification criteria, including that the Project represents the minimum adverse environmental impact. For the reasons set forth in this Brief, the Board should approve the Stipulation.

FACTS

The Project is proposed to be constructed on approximately 1,435 acres of land in Union County's Claibourne, Leesburg, and Taylor Townships. Staff Report at 6. Bruce Beery and his daughter, Ashley Beery, are two of the participating landowners in the Project. Bruce Beery has agreed to lease 1,077 acres of his land for the Project, while Ashley Beery has agreed to lease twenty-six acres of her land for the Project. Beerys' Ex. 1, Direct Testimony of Mr. Bruce Beery, Tr. at 3:10-11 ("Bruce Beery Tr."); Beerys' Ex. 2, Direct Testimony of Ms. Ashley Beery, Tr. at 2:21-22 ("Ashley Beery Tr."). On May 23, 2024, they moved to intervene in this proceeding in support of the project. On June 13, 2024, the Board approved their motion to intervene.

A. The Beerys Decide to Participate in the Richwood Solar Project

Bruce Beery was raised on his father's farm in Union County and began farming at six years old. Bruce Beery Tr. at 2:9-15. He purchased his first farm in 1978, one year after he graduated from high school, and he continued to invest in farmland throughout his life. *Id.* at 2:10-11, 2:18-20. At various points in time, he has grown crops and raised hogs and cattle on his land. *Id.* at 2:11-12. He also worked as a professional snow plower for Honda from 1990 until his retirement in 2023. *Id.* at 2:6-7. Due to his age and declining health, he is currently in the process of retiring from farming. *Id.* at 4:21-22.

Ashley Beery is Bruce Beery's daughter. Like her father, she began farming at a young age, and she has worked on the family farm as needed throughout her life. Ashley Beery Tr. at 2:6-12. She is the third generation of her family to own and manage farmland in Union County. *Id.* at 2:15-18. Ashley Beery previously worked as a records clerk in the Delaware City Police Department until she was diagnosed with cancer in 2021. *Id.* at 2:6-9. Since then, she has been forced to rely on revenue from her farmland, which has not been sufficient to cover her medical

expenses. *Id.* at 3:15-17. In 2023, she needed to sell off a portion of her land to pay medical bills. *Id.* at 4:15-21.

When the Beerys were presented with the opportunity to participate in the Richwood Solar Project, they viewed the Project as a means to generate much-needed income while maintaining ownership of their land. *Id.* at 3:14-20, 4:15-21; Bruce Beery Tr. at 4:20-5:5. They also recognized the efforts that the Applicant was undertaking to preserve the quality of soil and drain tile on land in the Project area, along with the benefits that the Project could bring to other Union County residents. Ashley Beery Tr. at 4:10-11, 5:5-17; Bruce Beery Tr. at 4:15-18, 5:2-15. After months of consideration, the Beerys agreed to lease their land for the project. Ashley Beery Tr. at 3:5-12.

B. The Beerys Testify at the June 25, 2024, Public Hearing

A public hearing for the Project was held on June 25, 2024, in Richwood, Ohio. At the hearing, both Ashley Beery and Bruce Beery testified as intervenors, explaining why they consider the Project to serve the public interest. Public Hearing Tr. at 182:15-186:5, 189:19-192:11. Rebecca Beery—Bruce’s wife and Ashley’s mother—testified at the public hearing as a non-intervenor. *Id.* at 22:1-24:9.

At the public hearing, Ashley Beery provided several reasons why the project was in the interest of Union County and its residents. First, she testified that the project would help meet growing demand for electricity in the region. *Id.* at 183:22-184:3. Second, she testified that project would benefit the county by generating over \$90 million in estimated tax revenue. *Id.* at 184:6-17. Third, she emphasized the importance of “protect[ing] property rights for farmers,” *id.* at 185:15-16, along with the importance of the lease revenue from the project for the participating farmers. As she put it:

The farmers who signed up for this project need this to be approved. Without it, the land will be lost, our communities will suffer and stay impoverished, and our state will suffer with loss of industry, jobs, and electricity.

Id. at 185:25-186:4.

Bruce Beery testified at the public hearing as well. He explained that he and his wife made many sacrifices over the decades that he farmed his land, with the expectation that the sacrifices would pay off in retirement:

One day my wife said we were broke, quit buying ground. I told her this will work, it'd be okay, the hard work will pay off for this ground and this will be our retirement with the ground for what – to do what we want to do with it.

Id. at 190:9-13. Mr. Beery explained that, now that he is in his retirement years, he views the Richwood Solar project as exactly the sort of return that he expected to be able to recover when investing in his land:

I said, “Here it is. This is our retirement.” This dirt was our dream to make sure I could provide for my family and the dream now is put it into solar as that’s the best investment we can make to provide for us and the community.

Id. at 191:6-11.

Finally, Bruce’s wife Rebecca Beery testified at the public hearing as a non-intervenor. She too explained why she considers the opportunity to participate in a project like Richwood to be important to multi-generational farming families like hers:

We have been told by people moving into the area how to farm, when to farm, what to plant. We are tired—mind, body, and soul—and welcome progress so much that we will have solar on all four sides of our home. . . . We need this solar farm if we expect there to be industry and family farms still in our community. We, the landowners and community, need the money this project will bring.

Id. at 23:25-24:9.

Many of the benefits that the Beerys highlighted at the public hearing were echoed by individuals such as Jerome Township Trustee Barry Adler. *Id.* at 89:20-92:5. At the hearing, Mr. Adler testified that “the positive benefits far outweigh those concerns [about the Project],” and

that “the public welfare could be best served by approval of this project.” *Id.* at 92:1-4. His testimony highlighted the benefits that tax revenue from the Project could bring by “potentially transform[ing] local services allowing for major upgrades and improvement for the public safety, including infrastructures [*sic*], schools, parks, fire, EMS, and police services in support of the public welfare.” *Id.* at 91:10-14. He also expressed the view that “[u]nless there are overriding adverse impacts to neighbors and the community, farmers should be able to decide what to do with their land and exercise their property rights.” *Id.* at 91:15-18.

C. The Beerys Enter into a Joint Stipulation Adopting Staff’s Conditions for Approval

On July 12, 2024, the Applicant filed a Stipulation for approval of the Project, subject to certain conditions. *See* Joint Ex. 1 (“Stipulation”). The Stipulation was signed by the Applicant, Bruce Beery, Ashley Beery, the Ohio Chamber of Commerce, and the Ohio Farm Bureau Federation.¹ The conditions were essentially the same as those set out in the Staff Report, with minor modifications.

D. The Beerys File Written Testimony in Support of the Project

On July 19, 2024, in advance of the Project’s evidentiary hearing, Bruce Beery and Ashley Beery filed testimony in support of the Project. In her pre-filed testimony, Ashley Beery explained that she has worked on the family farm as needed throughout her life and that she purchased her own plot of farmland in 2010, “intending that the land would serve as a personal investment like [her] parents’ and grandparents’ land had been for them.” Ashley Beery Tr. at 2:12, 2:16-18. Ms. Beery also testified that she was diagnosed with cancer in 2021, which has prevented her from retaining full-time employment. *Id.* at 2:6-9. She explained that, since her

¹ The Ohio Farm Bureau Federation endorsed the conditions set out in the Stipulation but took no position on statutory findings of fact and conclusions of law contained in Part III of the Stipulation. *See* Stipulation at 3 n.2.

cancer diagnosis, “farming has not proven sufficient to cover [her] medical expenses.” *Id.* at 3:15-17. In fact, “[she] had to sell off some of [her] land in 2023 to pay [her] medical bills.” *Id.* at 4:19-20.

She further explained that “[l]ease income from Richwood Solar would mean that [she] would not have to sell any more of [her] land to cover these expenses.” *Id.* at 4:20-21. In addition to providing lease income and allowing her to pay her medical bills without selling her land, Ms. Beery highlighted several other benefits from the project, including that “[t]he project will also bring significant tax revenue to Union County and add much-needed energy to our grid.” *Id.* at 4:10-11.

Importantly, Ms. Beery testified that her decision to participate in the project was based on the Applicant’s strong commitment to preserving the soil and drain tile on her family’s land:

My parents and I entered into lease agreements for Richwood Solar because we are confident that the project developers will take care of the land and make sure that it can be returned to agricultural use in the future. We previously had the opportunity to lease our land for other projects, but we chose to lease our land to Samsung because of Samsung’s commitment to preserving our land’s future viability as farmland. For example, Samsung has committed to make best efforts to locate all drain tiles prior to construction, repair any drain tiles damaged by the project, and ensure that the land can be returned to agricultural use after the project is decommissioned.

Id. at 5:3-10. Ms. Beery testified that, if she were forced to sell her land for housing development rather than lease it for solar, her land would likely never be suitable for growing crops again. *Id.* at 5:12-17.

Bruce Beery highlighted similar benefits from the project in his testimony. He testified to benefits to his farmland: “It is an investment in my farm because it will allow us to return the ground to farming once the lease term has ended, thanks to the strong drain tile and soil protections in the lease.” Bruce Beery Tr. at 3:17-19. He also testified to the financial security the Project would provide to his family: “It is an investment in my family because it will allow us to

earn a steady income, and it will provide for my needs and my wife's needs through retirement.” *Id.* at 3:19-21. Finally, he testified to benefits that all of Union County would receive: “[I]t is an investment in our community, because it will preserve farmland for future generations—preventing the land from being converted to housing or other permanent forms of development—while generating energy for Ohio.” *Id.* at 3:21-4:2.

STANDARD OF REVIEW

To grant a Certificate pursuant to R.C. 4906.10(A), the Board must find and determine the following:

1. The basis of the need for the facility if the facility is an electric transmission line or gas pipeline;
2. The nature of the probable environmental impact;
3. That the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations;
4. In the case of an electric transmission line or generating facility, that the facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems and that the facility will serve the interests of electric system economy and reliability;
5. That the facility will comply with Chapters 3704., 3734., and 6111. of the Revised Code and all rules and standards adopted under those chapters and under section 4561.32 of the Revised Code. . . . ;
6. That the facility will serve the public interest, convenience, and necessity;
7. In addition to the provisions contained in divisions (A)(1) to (6) of this section and rules adopted under those divisions, what its impact will be on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929 of the Revised Code that is located within the site and alternative site of the proposed major utility facility. . . . ;
8. That the facility incorporates maximum feasible water conservation practices as determined by the board, considering available technology and the nature and economics of the various alternatives.

Where, as here, the Board is reviewing a contested stipulation, the Board may place substantial weight on the terms of the stipulation, provided the stipulation is reasonable. O.A.C. Rule 4906-2-24(D); *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 126 (1992). To determine whether a stipulation is reasonable, the Board considers: (1) whether the settlement is a product of serious bargaining among capable, knowledgeable parties; (2) whether the settlement, as a package, benefits customers and the public interest; and (3) whether the settlement package violates any important regulatory principle or practice. *Consumers' Counsel*, 64 Ohio St.3d at 126.

ARGUMENT

As participating landowners who are depending on the Project to be able to maintain ownership of their land, the Beerys have testified to many benefits of the Project. For Bruce Beery, these benefits include a stable income as he and his wife enter retirement. Bruce Beery Tr. at 3:19-21. For Ashley Beery, these benefits include being able to pay for substantial medical expenses associated with her cancer treatment without having to sell her land. Ashley Beery Tr. at 3:14-20. But the Project's benefits extend beyond benefits to participating landowners like the Beerys. The Project will provide economic benefits to Union County and all of Ohio through job creation, tax revenue, earnings, and economic output. The Project will also deliver local environmental benefits while preserving farmland for future agricultural use. These benefits— together with the many stringent conditions that the Applicant has stipulated to—make clear that the Project will serve the public interest, convenience, and necessity, along with representing the minimum adverse environmental impact. The Board should therefore adopt the Stipulation and grant a Certificate of Environmental Compatibility and Public Need for the Project.

I. The Project Serves the Public Interest, Convenience, and Necessity

The Project will serve the public interest, convenience, and necessity by generating local economic and environmental benefits and protecting the land for future agricultural activities. These benefits and protections support a finding that the project serves the public interest, convenience, and necessity. *See* Opinion, Order and Certificate, *In re* Application of Firelands Wind, LLC, Case No. 18-1607-EL-BGN ¶ 179 (June 24, 2021) (“While we acknowledge the concerns raised in opposition to the project, we conclude that the project strikes a reasonable balance of the competing local interests in terms of protecting public safety, environmental concerns, landowner rights, renewable energy, and local governmental financial concerns. Thus, we determine that, overall, the project will benefit ratepayers and the public interest.”).

A. The Project will provide local economic benefits in the form of jobs, earnings, economic output, tax revenue, and lease payments

If approved, the Project will generate significant benefits related to jobs, earnings, and economic output for Ohio. These benefits will accrue during both the construction and operations phase of the project. The project will also generate significant tax revenue and will help support participating landowners through lease payments. As Rebecca Beery testified at the public hearing for the Project: “We, the landowners and community, need the money this project will bring.” Public Hearing Tr. at 23:25-24:9.

Project construction alone is projected to generate approximately \$49.6 million of earnings and \$81.7 million of economic output. *See* Application, Exhibit E: Socioeconomic Report (December 2023) at 16 (“Socioeconomic Report”); Staff Report at 17-18. During the construction phase, the Project is also projected to create 466 on-site construction-related and project development-related jobs, 100 module installation and supply chain-related jobs, and 108 jobs resulting from additional household income spending for the State of Ohio. Socioeconomic

Report at 16; Staff Report at 17. These jobs will directly benefit Ohio workers. As David Russell, Jr., of the International Union of Operating Engineers testified, the union’s agreement to work on the project will “provid[e] [its] membership with numerous employment opportunities which in turn will produce high-paying wages, healthcare benefits, pension benefits, and [its] apprenticeship programs that continue to grow because of the solar industry.” Public Hearing Tr. at 27:2-6. In addition, as Paris Walker of Laborers’ International Union of North America testified: “the project is committed to creating good jobs that pay family-sustaining wages to our members.” *Id.* at 50:10-12. These substantial benefits are contingent on approval of the Project.

Importantly, in addition to construction-related employment benefits, the Project’s operations also will create annual earnings, economic output, and long-term jobs. Once construction is complete, the Project’s annual operations are projected to sustain roughly fifteen full-time jobs statewide. Socioeconomic Report at 16; Staff Report at 17. This includes six on-site operations and maintenance jobs; three jobs in the supply chain; and six jobs induced through increased household spending. Socioeconomic Report at 17. The Project is also projected to generate roughly \$2.2 million in annual output and \$0.8 million in annual earnings. *Id.*

Furthermore, across the Project’s projected forty-year lifespan, it is expected to generate approximately \$90 million in property tax revenue for Union County. Socioeconomic Report at 18; Staff Report at 18. These tax revenues would be allocated to taxing jurisdictions across Union County, including local school districts, the public library, the county health district, and the Claibourne Fire District. Socioeconomic Report at 18; Staff Report at 18. As Jerome Township Trustee Barry Adler highlighted at the public hearing, new jobs and increased revenue to local authorities will make a difference in community members’ lives. *See* Public Hearing Tr.

at 91:8-14 (“The potential to add about [an] estimated \$93 million in tax revenues for local support should be an overriding benefit. This is a significant amount that can potentially transform local services allowing for major upgrades and improvement for the public safety, including infrastructures [*sic*], schools, parks, fire, EMS, and police services in support of the public welfare.”)²; *see also* Ashley Beery Tr. at 4:10-11 (“[t]he project will also bring significant tax revenue to Union County and add much-needed energy to our grid.”).

Finally, the Project will provide annual lease payments to participating landowners. Socioeconomic Report at 17. These payments provide much-needed income to farming families, including some who have recently struggled to make a living through agriculture. As Bruce Beery testified, “[w]ithout this project, our farms will likely be lost forever because the current agricultural use of the land is not providing sufficient income.” Bruce Beery Tr. at 4:20-21. Ashley Beery further testified that, “since being diagnosed with cancer in 2021, farming has not proven sufficient to cover [her] medical expenses,” and that “Richwood Solar will help [her] provide for and take care of [her] needs in the future, along with [her] parents’ needs.” Ashley Beery Tr. at 3:14-20. Importantly, landowners like the Beerys chose to invest in their land in the first place with the expectation that they would have the right to benefit from their investments down the line. *See* Public Hearing Tr. at 190:9-13 (Testimony of Bruce Beery) (“I told her this will work, it’d be okay, the hard work will pay off for this ground and this will be our retirement with the ground for what – to do what we want to do with it.”); Ashley Beery Tr. at 2:16-18 (“I purchased my plot of farmland in 2010, intending that the land would serve as a personal investment like my parents’ and grandparents’ land had been for them.”). The Project’s economic

² In the Staff Report, Staff stated that “[l]ocal elected officials have been unanimous in their opposition.” Staff Report at 49. However, Mr. Adler’s public hearing testimony demonstrates that such is not the case, as certain officials within Union County do recognize the public benefits that the Project would bring.

boost to the local community—including its role in sustaining local farmers and affirming their landowner rights—will serve the public interest, convenience and necessity. *See In re Application of Firelands Wind, LLC*, at ¶ 179 (acknowledging landowner rights as one factor supporting the conclusion that a project would serve the public interest).

B. The Project will benefit the local environment

The Project’s significant public benefits are not limited to economic benefits. The Project will also deliver environmental benefits, including reduced erosion, sedimentation, and pesticide application. Staff Report at 32. As Staff concluded, “[t]his project would be expected to represent a reduced environmental impact when compared to the current land use of agricultural plant production.” *Id.* Staff further concluded that “the project is unlikely to pose a significant adverse impact to existing land use, cultural resources, recreational resources, or wildlife.” *Id.* at 37. Staff’s analysis directly supported its conclusion that “the project represents the minimum adverse environmental impact” under R.C. 4906.10(A)(3). *Id.* These local environmental benefits also support the conclusion that the project serves the public interest.

One way in which the Project will have a net positive impact on the local environment is by temporarily shifting the primary use of the land from its current agricultural use to solar generation. As explained in the Staff Report, this will result in a “reduction of [the] tilling [that is currently] leading to erosion and sedimentation,” as well as the “reduc[tion] [of] fertilizer and pesticide application.” Staff Report at 32. The Project also contains design features that will benefit the local ecosystem. For example, the Applicant’s vegetation management plan will “incorporate pollinator plantings across disturbed areas of the project,” with a goal of “planting a minimum of 70 percent of the developed area in beneficial vegetation.” *Id.* As Staff concluded, “[t]his habitat would enhance the visual appeal of the project, enrich local wildlife habitat,

benefit the local farming community, increase plant diversity, and discourage invasive species.”
Id. These benefits are all in the public interest.

In contrast to the environmental benefits from the Project—which are substantial—any adverse environmental impacts from the Project would be minimal. Crucially, after assessing the relevant impacts and analysis, Staff concluded that “the project is unlikely to pose a significant adverse impact to existing land use, cultural resources, recreational resources, or wildlife.” *Id.* at 37. For example, “no permanent or temporary impacts would be anticipated to wetlands within the project area.” *Id.* at 27. Furthermore, only “approximately 0.018-acre of temporary stream impacts would occur from the workspaces for fence line crossings and a temporary workspace,” and only “[a]pproximately 0.002-acre of permanent impacts would be anticipated from the installation of an access road crossing.” *Id.* at 26-27. Regarding species impacts, Staff concluded that “[i]mpacts to listed species can be avoided by following seasonal restrictions for construction in certain habitat types.” *Id.* at 35-36.

The Applicant has agreed to numerous conditions in the Stipulation to ensure that these local environmental benefits are realized and any environmental harms are minimized. For example, the Applicant has agreed to “plant[] a minimum of 70 percent of the impacted project area in beneficial vegetation,” using plant species recommended by the Ohio Department of Natural Resources (ODNR) or otherwise approved by ODNR. Stipulation, Condition 29. The Stipulation further provides that the vegetation management plan “shall follow the Ohio Solar Site Pollinator Habitat Planning and Assessment Form with a minimum score of 80 point,” thus ensuring that the Project supports beneficial insect species. *Id.* The Stipulation also includes stringent restrictions on construction in certain species habitat types, including seasonal restrictions on construction near northern harrier, loggerhead shrike, and bald eagle nesting

habitats. *Id.* at Conditions 13-15.³ The public interest is served by local environmental benefits such as those that the Stipulation guarantees the Project would provide.

C. The Project will protect local agricultural land

The Project's strong environmental protections extend to the protection of farmland. As Staff noted, "[t]he applicant has committed to take steps to address potential impacts to farmland, including repairing drainage tiles damaged during construction and operation and restoring temporarily impacted land to its original use." Staff Report at 51; *see* Stipulation, Condition 26. Specifically, the Applicant has stipulated that any "[d]amaged field tile systems shall be promptly repaired and rerouted to at least original conditions or modern equivalent at the Applicant's expense to ensure proper drainage." Stipulation, Condition 26(d). The Stipulation also commits the Applicant to "minimize grading to the extent practicable and economically feasible," including by setting a goal of grading no more than 5% of agricultural lands within the project area, and a firm limit of grading no more than 20% of those lands. *Id.* at Condition 27(b). At the end of the Project's life, "[s]oil restoration activities shall be performed as necessary to return soil conditions to at least baseline conditions." *Id.* at Condition 27(a).

In fact, the Applicant's strong commitment to preserving the soil and drain tile on the project site was a primary reason why the Beerys decided to participate in the Project. As Ashley Beery testified:

³ Specifically, these include the requirements that [c]onstruction in northern harrier preferred nesting habitat types shall be avoided during the species' nesting period of May 15 through August 1"; that "[c]onstruction in loggerhead shrike preferred nesting habitat types shall be avoided during the species' nesting period of April 1 through August 1"; that "[w]ork within 660 feet of a bald eagle nest or within the direct line-of-site of a nest shall not occur from January 15 through July 31"; and that "no tree clearing shall occur within 660 feet of a bald eagle nest or within any woodlot supporting a nest tree unless coordination with the U.S. Fish and Wildlife Service ("USFWS") reflects a different course of action." *Id.*

I eventually agreed to the project because I concluded that it would do more to preserve the health of the soil and the potential for the land to be returned to agricultural use in the future than any of the likely alternatives. . . . We previously had the opportunity to lease our land for other projects, but we chose to lease our land to Samsung because of Samsung’s commitment to preserving our land’s future viability as farmland.

Ashley Beery Tr. at 3:8-10, 5:5-7. Bruce Beery likewise testified that the Project “is an investment in [his] farm because it will allow [the Beerys] to return the ground to farming once the lease term has ended, thanks to the strong drain tile and soil protections in the lease.” Bruce Beery Tr. at 3:17-19.

Furthermore, lease income from the Project could help participating landowners such as the Beerys retain ownership of their land rather than having to pursue other means to generate revenue, such as selling the land to a real estate developer. As Ashley Beery put it: “if I had sold the land for housing development, it is very unlikely that the land could ever be used as farmland again.” Ashley Beery Tr. at 3:5-12. Bruce Beery also explained that the Project “will preserve farmland for future generations—preventing the land from being converted to housing or other permanent forms of development.” Bruce Beery Tr. at 3:22-4:2. The Beerys are not alone in viewing the Richwood Solar Project as a means to protect farmland from such permanent forms of development. *See* Public Hearing Tr. at 90:5-7 (“Temporary loss of farmland is more desirable to me than permanent loss due to residential and commercial development.”) (testimony of Jerome Township Trustee Barry Adler).

II. The Stipulation Meets the Board’s Reasonableness Test

The Board should adopt the Stipulation, which recommends that the Project be approved, subject to certain conditions. When reviewing a contested stipulation, the Board “may place substantial weight on the terms of the stipulation.” *Consumers’ Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 126 (1992). To determine whether a stipulation is reasonable and should be

given substantial weight, the Board considers: (1) whether the settlement is a product of serious bargaining among capable, knowledgeable parties; (2) whether the settlement, as a package, benefits customers and the public interest; and (3) whether the settlement package violates any important regulatory principle or practice. *Id.*

Here, the Stipulation meets the Board's reasonableness test. First, it is the product of serious bargaining among capable, knowledgeable parties, who were represented by counsel throughout the process. This includes the Applicant, the Beerys, the Ohio Chamber of Commerce, and the Ohio Farm Bureau Federation. Second, for the reasons discussed in this brief, the Stipulation will benefit customers and the public interest. It will bring immense economic benefits to Union County through job creation, local taxes, economic output, and lease payments. It will also deliver net positive local environmental benefits, and the conditions set out in the Stipulation will mitigate any of the minimal adverse impacts from the Project. Third, the Stipulation does not violate any important regulatory principle or practice. It simply recommends that the Board approve the project, subject to conditions based on Staff's recommendations with minor modifications.

CONCLUSION

The Richwood Solar Project will bring significant benefits to Union County and the State of Ohio and will in turn serve the public interest, convenience, and necessity. By creating jobs and generating significant tax revenue, it will support the livelihoods of residents throughout the county and state. It will also provide lease income to individuals like Bruce and Ashley Beery, which will help them to retain ownership of their land while supporting Mr. Beery's retirement and Ms. Beery's medical expenses. In addition to these economic benefits, the Project will have a net positive effect on the local environment and will preserve farmland for use by future

generations of Union County residents. For the foregoing reasons, the Board should adopt the Stipulation and grant the Project a Certificate of Environmental Compatibility and Public Need.

Dated: September 23, 2024

Respectfully submitted,

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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: September 23, 2024

/s/ Jacob Elkin _____

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Case No(s). 23-0930-EL-BGN

Summary: Brief of Bruce Beery and Ashley Beery electronically filed by Mr. Jacob Elkin on behalf of Beery, Bruce and Beery, Ashley.