

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: DUANE ARNOLD SOLAR, LLC, DUANE ARNOLD SOLAR II, LLC	DOCKET NOS. GCU-2021-0002, GCU-2021-0003
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**ORDER ACCEPTING FILINGS, SETTING PROCEDURAL SCHEDULE,
AND SETTING INTERVENTION DEADLINE**

PROCEDURAL BACKGROUND

On November 2, 2021, Duane Arnold Solar, LLC (Duane Arnold Solar I), filed an application with the Utilities Board (Board) for a certificate of public convenience, use and necessity pursuant to Iowa Code chapter 476A. The application, identified as Docket No. GCU-2021-0002, is for a proposed 50 MW alternating current solar photovoltaic electric generating facility to be located in Linn County, Iowa.

Also on November 2, 2021, Duane Arnold Solar II, LLC (Duane Arnold Solar II), filed an application with the Board for a certificate of public convenience, use and necessity for a proposed 150 MW alternating current solar photovoltaic electric generating facility and a 75 MW (300 MWh) battery energy storage system (BESS) to be located in Linn County, Iowa. The application is identified as Docket No. GCU-2021-0003.

In their applications, both Duane Arnold Solar I and Duane Arnold Solar II (collectively, Applicants) requested the Board waive certain provisions of Iowa Code

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§§ 476A.4 and 476A.5 and Board rules 199 Iowa Administrative Code (IAC) 24.6, 24.8, and 24.9.

Duane Arnold Solar I states that its proposed project site consists of approximately 316 acres of agricultural land within an 857-acre area project site. Duane Arnold Solar I further states the project will utilize solar photovoltaic modules mounted on single-axis trackers. Duane Arnold Solar I anticipates commencing construction in March or April 2023, with a projected commercial operation date of December 2023.

Duane Arnold Solar II states that its proposed project site consists of approximately 815 acres of largely agricultural land within a 1,780-acre area project site. Duane Arnold Solar II further states the project will utilize solar photovoltaic modules mounted on single-axis trackers, and the BESS will include 88 containers and be located approximately 0.5 miles from the project substation. Duane Arnold Solar II anticipates commencing construction in March or April 2023, with a projected commercial operation date of December 2024.

Neither applicant seeks to exercise the power of eminent domain.

On November 22, 2021, the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, filed responses in both above-captioned dockets, which will be discussed in greater detail below.

On December 10, 2021, the Board issued an order directing Duane Arnold Solar I to file additional information. On December 14, 2021, the Board issued an order directing Duane Arnold Solar II to file additional information. On January 10, 2022, the Applicants filed the additional information in response to the Board's orders and, on January 28, 2022, the Applicants filed supplemental information.

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On December 14, 2021, an informational meeting covering each docket was held at the Hawkeye Downs Expo Center in Cedar Rapids, Linn County, Iowa. Prior to the informational meeting, on November 23, 2021, the Applicants filed a copy of their informational meeting presentation in the respective dockets. The Applicants published notice of the informational meeting in The Gazette, The Linn News, and The Sun.¹ The published notice explained what the projects are, contained project site maps, and explained how the public could file comments or objections to the projects with the Board.

The Applicants further state that on or about November 19, 2021, they mailed certified letters that provided notice of the informational meeting to all landowners subject to notice under applicable statutes and rules, and that the letter included maps of the project sites and copies of the Board's electronic filing instructions.² A transcript of the December 14, 2021 informational meeting was uploaded in the Board's electronic filing system on January 12, 2022.

BOARD ACCEPTANCE OF THE APPLICATIONS

Subrule 24.5(1) provides that following the filing of an application for a generating certificate, the Board is to conduct an initial review to determine if the application is in

¹ On December 3, 2021, the Applicants filed proof of publication from the three publications. The Proof of Publication for The Gazette provides that it is a daily newspaper of general circulation in Linn and Johnson counties and that the notice was published November 30, 2021. The Publisher's Certificate for The Sun provides that the newspaper is issued weekly at Mount Vernon and Lisbon in Linn County and that the notice was published in the November 25, 2021 issue. The Proof of Publication for The Linn News provides it is a newspaper of general circulation published in the city of Central City in Linn County and that the notice was published in the newspaper on November 25, 2021.

² The Applicants filed a copy of the certified letter, project maps, and the Board's electronic filing instructions in the docket on November 2, 2021.

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substantial compliance with the requirements of rule 24.5. If deficiencies are identified, the Board is required to advise the applicant and permit the applicant to cure the deficiencies.

Following its initial review, the Board issued an order on December 10, 2021, that directed Duane Arnold Solar I to submit additional information. On December 14, 2021, the Board issued an order requiring the same of Duane Arnold Solar II. In response to these orders, on January 10, 2022, the Applicants filed additional information and, on January 28, 2022, the Applicants filed supplemental information.

Based on the additional information filed by the Applicants, and given no party or person has filed an objection to the Board accepting the applications, the Board finds the applications to be substantially complete and accepts each pursuant to subrule 24.5(3).

REQUEST FOR WAIVERS

The Applicants request the Board waive the provisions of Iowa Code §§ 476A.4 and 476A.5 that relate to the requirements of a contested case hearing: rule 24.6, which relates to the establishment of a procedural schedule; rule 24.8, which sets forth the hearing procedures, and rule 24.9, which concerns separate hearings on separate issues. In support of their requests, the Applicants state the projects will be sited on 100% voluntary easements and they will not be seeking eminent domain.

Consequently, the Applicants state that waiver of the hearing and contested case procedures would not adversely affect the public interest. Further, the Applicants assert their applications and supplemental filings are thorough and demonstrate compliance

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with the Iowa Code § 476A.6 factors. Therefore, according to the Applicants, a hearing would not provide further assistance to the Board in its consideration of whether the statutory elements have been established.

OCA notes that eminent domain is not implicated because the Applicants have obtained all required voluntary easements and because many of the comments and objections do not raise issues germane to the statutory factors. OCA states that the “material filed by the Applicants appears to contain sufficient information to allow the Board to analyze the proposed project under the factors of Iowa Code § 476A.6 without conducting a contested case proceeding.” However, OCA suggests the Board should defer adjudicating Applicants’ waiver requests until affected landowners and other members of the public have had an opportunity to seek intervention and file additional comments. OCA recommends the Board follow an approach similar to that taken in *In re: Coggon Solar LLC*, Docket No. GCU-2021-0001.

In re: Coggon Solar LLC also involved an application for a generating certificate with a request for the Board to waive the hearing requirements. After the Board accepted the application as being substantially complete, the Board set deadlines for the submission of intervention requests and comments. The Board further deferred consideration of the waiver request until after the expiration of the comment deadline.

The Board finds that OCA’s recommendation is reasonable and will follow procedures similar to those used in Docket No. GCU-2021-0001 and will defer consideration of the Applicants’ waiver requests until the comment deadline established in this order has passed.

PROCEDURAL SCHEDULE

The Board will set a limited procedural schedule to allow interested persons time to file for intervention and to file objections or comments to the Applicants' applications and waiver requests. The Board will serve notice upon regulatory agencies consistent with Iowa Code § 476A.3 and 199 IAC 24.6(2)(a)-(c). Petitions to intervene and other comments or objections will be required to be filed on or before March 25, 2022. Any response to an objection or comment will be required to be filed on or before April 1, 2022.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The application for a certificate of public convenience, use and necessity filed by Duane Arnold Solar, LLC, on November 2, 2021, as supplemented on January 10 and 28, 2022, is accepted pursuant to 199 Iowa Administrative Code 24.5 and docketed for investigation.
2. The application for a certificate of public convenience, use and necessity filed by Duane Arnold Solar II, LLC, on November 2, 2021, as supplemented on January 10 and 28, 2022, is accepted pursuant to 199 Iowa Administrative Code 24.5 and docketed for investigation.
3. The Utilities Board shall provide notice of the proceeding and this order, which contains the limited procedural schedule, to regulatory agencies and county authorities within ten days of this order.

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4. Comments or objections, including comments regarding the waiver requests filed by Duane Arnold Solar, LLC, and Duane Arnold Solar II, LLC, shall be filed on or before April 7, 2022.

5. Requests to intervene in these proceedings shall be filed on or before April 7, 2022.

6. Responses to any filed comment or objection and responses to any filed request to intervene shall be filed on or before April 14, 2022.

UTILITIES BOARD

Geri Huser Date: 2022.03.17
16:26:50 -05'00'

Richard Lozier Date: 2022.03.17
17:38:30 -05'00'

ATTEST:

Kerrilyn Russ Digitally signed by Kerrilyn Russ
Date: 2022.03.18 08:09:35
-05'00'

Joshua J Byrnes Date: 2022.03.17
16:46:51 -05'00'

Dated at Des Moines, Iowa, this 18th day of March, 2022.