STATE OF IOWA

DEPARTMENT OF COMMERCE

UTILITIES BOARD

IN RE: HAWKEYE SOLAR, LLC	DOCKET NO. GCU-2021-0005
IN RE: HATCHLING SOLAR, LLC	DOCKET NO. GCU-2021-0006

ORDER GRANTING REQUESTS FOR WAIVERS AND APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE, USE AND NECESSITY UNDER IOWA CODE CHAPTER 476A

BACKGROUND

On September 17, 2021, Hawkeye Solar, LLC (Hawkeye), filed with the Utilities Board (Board) a request for an informational meeting. The Board identified Hawkeye's request as Docket No. GCU-2021-0005. On October 1, 2021, Hatchling Solar, LLC (Hatchling), filed a request for an informational meeting to be held jointly with Hawkeye's informational meeting. Hatchling stated its proposed project would be physically adjacent to Hawkeye's proposed project, and both Hawkeye and Hatchling (collectively, the Applicants) requested their cases be consolidated to maintain similar timelines. The Board identified Hatchling's request as Docket No. GCU-2021-0006.

On October 7, 2021, the Board issued a letter scheduling the joint informational meeting and directing the Applicants to file certain information prior to the informational meeting, including a copy of the informational meeting presentation. The Applicants

filed the requested information on October 19, 2021. The Applicants caused notice of the informational meeting to be published in the Clinton Herald on October 19, 2021, and sent notice of the informational meeting to all landowners within 1,000 linear feet of the proposed projects.

On October 27, 2021, the joint informational meeting was held at the Grand Mound Community Center in Grand Mound, Clinton County, Iowa. The informational meeting checklist was filed on October 29, 2021.

On March 4, 2022, Hawkeye filed an application for a certificate of public convenience, use and necessity pursuant to Iowa Code chapter 476A for a proposed 200 megawatt (MW) solar generating facility to be located near Grand Mound, and Hatchling filed an application for a certificate of public convenience, use and necessity pursuant to Iowa Code chapter 476A for a proposed 50 MW solar generating facility to be located adjacent to Hawkeye's proposed facility. With their applications, the Applicants filed requests for waivers, seeking to waive Iowa Code §§ 476A.4 and 467A.5 and 199 Iowa Administrative Code (IAC) 24.6, 24.8, and 24.9, which relate to a hearing requirement and associated requirements regarding the procedural schedule.

On March 24, 2022, the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, filed a response. With respect to the Applicants' request to waive a hearing, OCA stated the Board should defer ruling on the waiver request until after the public had an opportunity to seek intervention and submit objections and comments. Therefore, OCA recommended the Board establish a limited procedural schedule that included deadlines for requesting intervention and for filing comments.

OCA further questioned whether the Applicants' applications substantially complied with the filing requirements set forth in paragraphs 24.4(2)(a) and 24.4(1)(j).

On April 15, 2022, the Board issued initial review orders in Docket Nos. GCU-2021-0005 and GCU-2021-0006, as required by subrule 24.5(1). Subrule 24.5(1) provides that upon the filing of an application for a generating certificate, the Board must "make an initial review thereof to determine if it is in substantial compliance" with the governing statutes and rules. In each order, the Board identified additional information that the Applicants were required to file to create a substantially complete application.

On April 28, 2022, the Applicants sent copies of their waiver requests to all landowners and persons with recorded leases within the projects' boundary and within 1,000 linear feet of the projects' boundaries. The Applicants filed responses with additional information on May 13 and 19, 2022. On June 15, 2022, the Applicants filed a supplement to Exhibit E of their applications, in which they stated the Clinton County Board of Supervisors (BOS) passed a resolution to rezone the project areas to a Renewable Energy Overlay District, which is how Clinton County approves utility-scale solar generation projects.

On June 24, 2022, the Board issued an order finding the applications to be substantially complete and accepted the same pursuant to subrule 24.5(3). The Board further found OCA's March 24, 2022 recommendation to be reasonable and, consequently, deferred consideration of the Applicants' waiver requests until the public had an opportunity to seek intervention and file comments. The Board provided 30 days from the date of the order to file requests for intervention and comments, and provided

37 days from the date of the order to file responses to intervention requests and comments.

No requests to intervene have been filed. While approximately 30 comments, objections, and letters of support have been filed in each docket, no additional comments, objections, or letters specific to the Hawkeye or Hatchling projects were filed in either docket following the Board's June 24, 2022 order.[1]

On August 1, 2022, OCA filed a response, stating that many of the objections raise issues that are not germane to the statutory factors that govern the issuance of a generating certificate. While several objectors questioned whether the construction and operation of a utility-scale solar generating facility is a reasonable use of agricultural land, OCA noted that during the last legislative session, the Iowa Legislature considered, but did not pass, a bill that proposed to restrict the construction of utility-scale solar facilities on agricultural land. OCA opined that absent a statutory restriction, "the use of privately-owned agricultural land for the Hawkeye and Hatchling projects, obtained entirely through voluntary easements, is reasonable and consistent with the statutory factors established at Iowa Code § 476A.6." OCA further stated that the material filed in each docket provided the Board sufficient information to analyze the proposed projects without conducting an evidentiary hearing.

[1] On September 8, 2022, Lynn Brown filed a comment in Docket No. GCU-2021-0005, stating "[a]llow time to contest the county ruling." The nature of the statement appears to concern issues associated with Docket Nos. GCU-2021-0001, GCU-2021-0002, and GCU-2021-0003 and not issues germane to the above-captioned dockets.

DESCRIPTION OF PROJECTS

The Applicants are Delaware limited liability companies authorized to do business in Iowa. Ranger Power, LLC (Ranger), a solar energy development company with a current development portfolio of approximately 6 gigawatts of utility-scale solar projects through the Midwest, is developing the proposed projects on behalf of the Applicants.[2] The Applicants intend to construct and operate the proposed projects and sell the electrical output to customers pursuant to power purchase agreements. Depending on circumstances, however, the Applicants may sell all or a portion of the projects to one or more public utilities.

Hawkeye requests a generating certificate for a proposed 200 MW alternating current photovoltaic (PV) solar energy facility located in Clinton County. The proposed project will be located on approximately 1,200 acres of agricultural land located within an 1,817-acre project site. Hatchling requests a generating certificate for a proposed 50 MW alternating current PV solar generating facility located adjacent to the Hawkeye project. Hatchling's proposed project will be located on approximately 300 acres of agricultural land located within a 462-acre project site.

Both projects will utilize high-efficiency PV solar panels mounted to steel racking systems and foundations. The Applicants expect to have single-axis trackers that will rotate along a north-south axis to shift the angle of the panels throughout the day to track the movement of the sun. The panels will be connected to centrally located inverters that will convert the direct current power generated by the solar panels to

[2] Both Applicants are wholly owned by Headwater Renewables LLC (Headwater). Ranger is a corporate affiliate of, and provides development services for, Headwater.

alternating current power. Gathering lines will connect the inverters to the project substations, which will step up the voltage for interconnection to the transmission grid. Hawkeye states its transmission tie line between its project substation and the interconnection substation is expected to be approximately 500 feet, and Hatchling states its transmission tie line is expected to be approximately 250 feet.[3]

The Applicants state the primary materials used for the projects will be steel, aluminum, copper, glass, and silicon, and that other than minimal normal office waste and packaging materials for delivery of spare parts, no wastes will be created in the energy production process. The projects will produce no air emissions, no water emissions, and no combustion byproducts. Because the projects will cause no sulfur dioxide emissions, allowances to offset such emissions are not needed.

The Applicants state that the solar panels will be warranted by their manufacturer to perform at approximately 85 percent of installed capacity at year 30 of operations. Because of the low degradation rate, the Applicants indicate the projects could operate for 40 years.

Subject to receipt of all necessary permits, agency approvals, and other development activities, the Applicants anticipate construction could begin for both projects during the fourth quarter of 2022 or the first quarter of 2023, with a planned commercial operation date in the fourth quarter of 2024.

[3] The Applicants state the location for the projects was selected, in part, because of the proximities to existing transmission infrastructure. Hawkeye intends to interconnect at the existing Calamus East 161 kV substation, and Hatchling intends to interconnect at the existing Olive 69 kV substation. Both substations are located in the project area.

REQUESTS FOR WAIVER

The Applicants request the Board waive the procedural schedule and hearing provisions in Iowa Code §§ 476A.4 and 476A.5. The Applicants also request the Board waive the following administrative rules:

- **Rule 24.6**: Rule 24.6 requires the issuance of a procedural schedule, including a hearing, once the Board accepts an application.
- **Rule 24.8**: Rule 24.8 sets forth the hearing procedures.
- **Rule 24.9**: Rule 24.9 provides the option for separate hearings on separate issues.

The Applicants state that as with other similar renewable generation projects that have come before the Board, their waivers are necessary to accommodate timelines dictated by commercial and financial factors. The Applicants contend that waiving the hearing requirement and associated procedural schedule will not adversely affect the public interest and that, absent the waiver, the Applicants would suffer undue hardship.

Iowa Code § 476A.15 provides the Board with the authority to waive any of the requirements of Iowa Code chapter 476A "if it determines that the public interest will not be adversely affected . . .". Similarly, rule 24.15 provides that the Board may waive any provision of chapter 24 "if it determines that the public interest would not be adversely affected . . .". In determining whether the waiver would adversely affect the public interest, the Board may consider the purpose and type of facility, whether the facility is for the applicant's own needs, the facility's effect on existing transmission systems, and any other relevant factors. *Id.*

A. Public Interest. With respect to the public interest, rule 24.15 provides several factors the Board may consider when determining whether the issuance of a waiver will adversely affect the public interest. The Board is to consider the purpose of

the facility, the type of facility, how the produced energy is used, and the effects of the facility on the existing transmission system. Additionally, because the waiver concerns the hearing requirement, the Board must consider whether a hearing would assist in its consideration of whether to issue a generating certificate.

Iowa Code § 476A.6 provides that the Board "shall"[4] issue a generating certificate if the Board finds the following elements: (1) the facility's services and operation are consistent with the legislative intent expressed in § 476.53 and the state's economic development policies, and will not be detrimental to the provision of adequate and reliable electric service; (2) the applicant is willing to construct, operate, and maintain the facility pursuant to the provisions that are included in the certificate and Iowa Code chapter 476A, subchapter I; and (3) the construction, operation, and maintenance of the facility will be consistent with reasonable land use and environmental policies. In determining whether the "consistent with reasonable land use and environmental policies" factor is met, the Board may consider whether any adverse impacts caused by the construction, operation, and maintenance of the facility are reduced to a reasonably acceptable level, whether the proposed site represents a reasonable choice, and whether the proposed facility complies with local zoning requirements. 199 IAC 24.10(2)(b). If these elements are established, a "certificate ***shall be issued*** to the applicant . . .". Iowa Code § 476A.6 (emphasis added).

[4] According to Iowa Code § 4.1(30)(a), as used in the Iowa Code, the term "shall" imposes a duty. The Iowa Supreme Court has further "interpreted the term 'shall' in a statute to create a mandatory duty, not discretion." *State v. Klawonn*, 609 N.W.2d 515, 521-22 (Iowa 2000).

Having reviewed the information filed by the Applicants and the comments filed in opposition to and in support of the proposed projects, and, as discussed below, the public comment opportunities available during the Clinton County rezoning process, the Board does not consider a hearing to be necessary to assist in its consideration of the § 476A.6 factors. As of the date of this order, each docket contains approximately two dozen objections, seven letters of support, and four comments (three in support of the projects and one opposed). Of those who filed objections, some expressed opposition to the projects without explaining their reasoning and some expressed concerns with aspects that are not germane to the statutory factors that must govern this Board's review. The majority of the objectors opposed the use of farmland for non-farming purposes.

As noted by OCA in its August 1, 2022 filing, during the 2022 Iowa Legislative Session, Iowa lawmakers considered legislation that would have prevented the installation of utility-scale solar energy facilities on agricultural land unless each of the following findings was met: (1) the agricultural land had an average corn suitability rating (CSR) of 65 or lower; (2) the solar energy facility is not less than one-half mile distance from another utility-scale solar facility; and (3) the solar energy facility is not less than 1,250 feet from the nearest residence. (Senate File 2321.) However, this legislation was not enacted, and no commenter or objector has presented the Board with any law that prohibits a landowner from voluntarily agreeing to an easement for the construction and operation of a utility-scale solar facility on that landowner's own property, even if that property has a high CSR.

It should be further noted that eminent domain is not implicated in this case; instead, the affected landowners approved and consented to the use of their land for the proposed projects. As noted by one consenting landowner in his February 11, 2022 comment:

> There is no use of eminent domain with this project, meaning that it is solely my right as a property owner to [agree to the project]. I have chosen to do so for many reasons, including income diversification, soil restoration, improving the local economic landscape, and advancing clean energy in my community.
>
> This project is an investment in the future of Clinton County. Again, this project is entirely voluntary. It does, however, remain essential that hard-working Grand Mound residents can choose to do what they want with their property.

This is not a case in which the Board is being asked to condemn private farmland for the purpose of constructing, operating, and maintaining a solar farm over the objection of the landowner and, if that were the case, the Board would likely schedule a hearing.

Under Iowa Code § 476A.15 and 199 IAC 24.15, the Board finds that the public interest will not be adversely affected by waiving the procedural schedule and hearing requirements contained in §§ 476A.4 and 476A.5 and Board rules 24.6, 24.8, and 24.9. The Board provided numerous opportunities for the public and interested persons to submit comments and objections regarding the proposed projects, several comments and objections have been filed, and the Board has reviewed and considered the same.

B. Rule 1.3. Next, the Board will consider the Applicants' waiver requests under the four criteria enumerated within rule 1.3. The first criterion requires the Applicants to establish that application of the rules would pose an undue hardship. The Applicants contend that holding a hearing would delay generating certificate approval,

which in turn would delay construction and risk losing potential commercial opportunities and jeopardize eligibility for the full value of certain tax credits. These circumstances meet the undue hardship requirement given no party has objected to the waiver of the hearing and because the Applicants obtained all necessary easements. Loss of commercial opportunities and possible increased costs that would result from a hearing would pose an undue hardship.

Concerning the second rule 1.3 element, the Applicants contend that granting the waiver will not prejudice the substantial rights of another. The Applicants state they engaged in substantial pre-application efforts to inform the public of the projects, to inform landowners of their rights, and to provide opportunities for the public to obtain information about the projects. The Applicants and the Board also held an informational meeting where interested members of the public could obtain additional information about the projects, and the Applicants filed their information meeting presentation in the dockets for review by the public. Even after finding the Applicants' applications to be substantially complete, the Board provided additional opportunities for interested persons to request intervention and file comments. Given the number of opportunities that have been provided for interested persons to learn about these proposed projects and to file comments and other documents in support of or against the proposed project, the Board finds that granting the waiver of the procedural schedule and hearing would not prejudice the substantial legal rights of other persons.

Third, the Board finds the provisions for which waivers are requested are not mandated by law. While Iowa Code §§ 476A.4 and 476A.5 normally require a hearing to be scheduled and occur prior to the issuance of a generating certificate, the

Legislature delegated authority to the Board to waive these requirements. *See* Iowa Code § 476A.15. The Board has found that the public interest will not be adversely affected by waiver of the scheduling and hearing requirements. This element of rule 1.3 has been met.

Finally, the Board must examine whether the substantially equal protection of public health, safety, and welfare may be afforded by means other than through a hearing. The Board has previously found that the reasons for holding a generating certificate hearing include providing the affected public and regulatory agencies an opportunity to submit information to the Board and allowing the facility to present information from which the Board may apply the § 476A.6 decision criteria. *See In re Holliday Creek Solar, LLC*, Docket No. GCU-2020-0001, "*Order Granting Petition for Intervention, Request for Waivers, and Application for a Certificate of Public Convenience, Use and Necessity under Iowa Code chapter 476A*," p. 12 (Feb. 3, 2021). Because the Board has provided other opportunities for the public to present information for the Board's consideration, the Board finds that the equal protection of public health, safety, and welfare will be afforded by means other than through a hearing.

As noted above, through the informational meeting and through the public filings in the above-captioned dockets, individuals affected by or simply interested in the proposed projects have been afforded the opportunity to receive information regarding the projects and to file comments and objections with the Board. Further, the Applicants are not seeking the power of eminent domain. Given the extensive and encompassing material filed by the Applicants, the parties, and the public, the Board finds the dockets

contain sufficient information to allow the Board to analyze the proposed projects under the § 476A.6 factors. For these reasons, the Board finds the Applicants sufficiently supported their requests under rules 1.3 and 24.15 to waive the statutory provisions and rules relating to the hearing. Because the Board is waiving the hearing, a procedural schedule is unnecessary and the Board will waive those requirements. Therefore, the Board will grant the Applicants' requests to waive Iowa Code §§ 476A.4 and 476A.5 and Board rules 24.6, 24.8, and 24.9.

APPLICATION FOR GENERATING CERTIFICATE

In relevant part, § 476A.2(1) provides "a person shall not commence to construct a facility except as provided in section 476A.9 unless a certificate has been issued by the board." Hawkeye requests the Board issue it a generating certificate to construct a proposed 200 MW solar generating facility, and Hatchling requests the Board issue it a generating certificate to construct a proposed 50 MW solar generating facility. According to § 476A.6, the Board shall issue a generating certificate if the Board finds all of the following:

> (1) The services and operations resulting from the construction of the facility are consistent with legislative intent as expressed in section 476.53 and the economic development policy of the state as expressed in Title I, subtitle 5, and will not be detrimental to the provision of adequate and reliable electric service.
>
> (2) The applicant is willing to construct, maintain, and operate the facility pursuant to the provisions of the certificate and this subchapter.
>
> (3) The construction, maintenance, and operation of the facility will be consistent with reasonable land use and environmental policies and consonant with reasonable utilization of air, land, and water resources, considering available technology and the economics of available alternatives.

In the interest of clarity, each will be discussed in turn.

1. Legislative Intent/Economic Development/Adequate and Reliable Service.

The Board finds that the Applicants' proposed solar generating projects are consistent with multiple statutory provisions expressing legislative intent and policies of this state, including, but not limited to, Iowa Code §§ 476.41 and 476.53(1).

Iowa Code § 476.41 provides that "[i]t is the policy of this state to encourage the development of alternative energy production facilities . . . in order to conserve our finite and expensive energy resources and to provide for their most efficient use." *See Mathis v. Iowa Utilities Bd.*, 934 N.W.2d 423, 429 (Iowa 2019) (stating "it is the official policy of this state to encourage the development of new alternative energy facilities"). Solar facilities fall within the definition of "alternative energy production facilities." Iowa Code § 476.42(1)(a). Therefore, the Applicants' proposed projects are consistent with the expressed state policy objectives in § 476.41.

Iowa Code § 476.53(1) provides, in relevant part, that "[i]t is the intent of the general assembly to attract the development of electric power generating and transmission facilities within the state in sufficient quantity to ensure reliable electric service to Iowa consumers and provide economic benefits to the state." This statutory provision also states that it is the legislature's intent for lower carbon-emitting electric generating facilities "to facilitate the transition to a carbon-constrained environment." *Id.* The Applicants' proposed projects are consistent with both of these state policy goals.

Further, the Applicants contend the proposed projects will provide a significant financial benefit to the local economy and the local taxing bodies. The Applicants

anticipate the projects would provide employment for more than 200 temporary construction workers and a lesser number of permanent maintenance positions, which may be hired locally, to service and maintain the projects.[5] The Applicants expect the temporary workers will result in increased revenues for local businesses that will provide goods and services to the workforce.

Over the expected 40-year operating life, Hawkeye anticipates producing approximately $10.5 million in local tax revenue with approximately $4.2 million going to Clinton County, approximately $3 million to the Central Clinton School District, and approximately $2.3 million to the Calamus-Wheatland School District. (Hawkeye Application, Exhibit E, App. O). Over the same period, Hatchling anticipates producing approximately $2.6 million in local tax revenue with approximately $1 million going to Clinton County and approximately $1.1 million going to the Calamus-Wheatland School District. (Hatchling Application, Exhibit E, App. O).

Finally, the Applicants state the projects will have no detrimental effect on the existing transmission system. Hawkeye states generated power will only be delivered to the transmission system (interconnection through the Calamus East 161 kV substation) upon successful conclusion of the Midcontinent Independent System Operator, Inc., Generator Interconnection Queue study process and that it will pay for any necessary network upgrades.[6] Hawkeye anticipates signing a Generator Interconnection Agreement in December 2022.

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[5] As part of the BOS' approval for the projects, the Applicants are required to "hold a job fair and shall make a good faith effort to hire local employees to construct and maintain" the projects.

[6] Based on its internal analysis, Hawkeye does not anticipate the need for costly network upgrades.

Similarly, Hatchling states generated power will only be delivered to the transmission system (interconnection through the Olive 69 kV substation) upon successful completion of the Central Iowa Power Cooperative study process. Hatchling will pay for any necessary upgrades identified by the study process, although Hatchling's internal analysis suggests there is sufficient capacity to accommodate a power injection from the project without the need for costly upgrades. In its May 13, 2022 filing, Hatchling states that it anticipates executing the Generator Interconnection Agreement in the fourth quarter of 2022.

Because the Applicants' proposed projects are consistent with legislative intent and the economic development policies of this state and will not be detrimental to the provision of electric service, the Board finds the first § 476A.6 decision criterion is established.

2. Construction, Operation, and Maintenance.

The second factor requires the Board to examine whether the Applicants will construct, maintain, and operate the facility pursuant to the provisions of the certificate and Iowa Code chapter 476A. In support of their applications, the Applicants submitted an affidavit from Adam Cohen, President of Hawkeye and Hatchling, in which he states that the Applicants are "willing to construct, maintain, and operate the [projects] pursuant to the provisions of the certificate and Iowa Code chapter 476A, subchapter I." (Hawkeye Application, Exhibit G; Hatchling Application, Exhibit G). Further, as a condition of the generating certificate, the Applicants will be required to comply with all provisions of the certificate and of Iowa Code chapter 476A, subchapter I, in the

construction, maintenance, and operation of the facility. Therefore, the Board finds the second § 476A.6 factor is established.

3. Land Use and Environmental Policies.

The final factor requires the Board to determine whether the "construction, maintenance, and operation of the facility will be consistent with reasonable land use and environmental policies and consonant with reasonable utilization of air, land, and water resources, considering available technology and the economics of available alternatives." In considering this factor, the Board also considers whether the adverse impacts of the proposed facility have been reduced to a reasonable level, whether the site represents a reasonable choice among available options, and whether the proposed facility complies with local zoning and other requirements. 199 IAC 24.10(2)(b). The Board will address the issues most relevant to the final factor.

a. Site Selection.

Subparagraph 24.10(2)(b)(2) directs the Board to consider whether the proposed site selected "represents a reasonable choice among available alternatives." Pertinent to this inquiry, several commenters raised concerns with the Applicants siting the proposed projects on farmland.

Prior to starting the projects, the Applicants identified the following siting criteria to guide its site selection: land availability that would be compatible with existing uses, site topography, engineering and design parameters, proximity to existing transmission infrastructure, environmental compatibility, and community and landowner support. Through its analysis of the criteria, the Applicants identified the proposed project areas in Clinton County as warranting further evaluation.

As a result of its continued review of the area, the Applicants concluded the proposed project area included significant tracts of cleared land, the terrain was suitably flat to allow for economical construction of a solar generating facility, the area was located in close proximity to existing transmission infrastructure, and initial outreach indicated community and landowner support. Following their identification of a potential project area, the Applicants continued evaluating, assessing potential placement of solar arrays, and conducting additional community outreach. As part of their continued assessment of the proposed site, the Applicants considered a number of factors, including: land use and zoning regulations, site topography and the land's structure and substance, the existing flora and fauna, community resources, the existing transportation infrastructure, and neighboring landowners' feedback.

The Board finds the Applicants' proposed site locations are based on reasoned and rational grounds, and, consequently, constitute reasonable choices.

b. Adverse Impacts and Decommissioning.

Pursuant to subparagraph 24.10(2)(b)(1), the Board should consider whether "all adverse impacts attendant the construction, maintenance and operation of the facility have been reduced to a reasonably acceptable level." Within their filed material, the Applicants assert the projects will have no permanent or negative impacts, while having the potential to generate a number of positive impacts.

First, with respect to potential impacts to surrounding residential properties, the Applicants note that the projects are temporary and not designed to be permanent. The projects do not produce dust or emissions, and the Applicants anticipate the projects will not produce any sound that will be appreciable to the surrounding residences. The

Applicants state the projects will use "extremely low-impact generation technology with very limited visual impact . . . ."

The Applicants further anticipate that the projects will not negatively impact property values. As support for this point, the Applicants submitted a Real Estate Adjacent Property Value Impact Report (Report), prepared by CohnReznick LLP of Chicago in conformity with the Uniform Standards of Professional Appraisal Practice and the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute. The authors of the Report opined that "the data indicates that solar facilities do not have a negative impact on adjacent property values." (Hawkeye and Hatchling Applications, Exhibit E, App. J, pp. 3-4). The data relied upon by the authors includes:

- published academic studies regarding the impact of solar facilities on nearby property values. The Report provides that the "studies include multiple regression analyses of hundreds and thousands of sales transactions, and opinion surveys, for both residential homes and farmland properties in rural communities, which concluded existing solar facilities have had no negative impact on adjacent property values."
- CohnReznick studies, which are composed of 26 studies in 15 states, of residential and agricultural properties. The studies revealed that "solar facilities have not caused any consistent and measurable negative impact on property values."
- market participant interviews, including interviews with more than 45 county and township assessors, including assessors in Iowa,[7] that have at least one utility-scale solar generative facility located within their jurisdiction. The interviews reveal that "solar farms have not negatively affected adjacent property values."

[7] The Report highlights an interview with the Louisa County Assessor, in which she "stated that she has not seen a reduction in assessed property value or market value for [property adjacent] to the 100 MW Wapello Solar farm" and that no complaints have been filed. (Hawkeye and Hatchling Applications, Exhibit E, App. J, pp. 4, 99). The assessor further noted that during the construction of the solar facility, a new residential dwelling was built on land that bordered the solar facility on two sides, illustrating the point, according to the Report authors, that solar generating facilities do "not diminish property values or marketability" in the areas in which they are located. (*Id*).

(*Id*).

The Applicants assert the projects will have no negative impact on the agricultural ground on which the projects are located. During the life of the projects, an amount of agricultural land will be taken out of production; however, the Applicants will implement a ground-cover strategy that will assist in restoring the land by using deep-rooted and nutrient-retaining plant species that will condition the soil. This strategy will reduce topsoil loss due to erosion, increase organic carbon levels, improve soil fertility through increased organic matter, and improve soil moisture and drought resistance. The Applicants state the project areas may be available for grazing, a direct agricultural use, and pollinators, which may indirectly benefit neighboring agricultural uses that require pollination. When the projects' commercial operation ceases, the Applicants will be responsible for decommissioning and restoring the project areas to a reasonably similar condition to its pre-construction state, which will be discussed in greater detail below.

The Applicants also state the proposed projects are not anticipated to have any significant environmental impacts, including to state or federally listed plant or wildlife species, or high-quality natural vegetation communities. The Applicants state they received concurrences to these determinations from the United States Fish and Wildlife Services on October 27, 2021, and from the Iowa Department of Natural Resources (IDNR) on January 5, 2022. The Applicants sited the proposed projects outside the IDNR recommended buffer for major wildlife and migratory bird stopovers and corridors

and to avoid impacts to sensitive biological resources, including wetlands and riparian areas.

Next, the Applicants contend the construction/roadway impacts will be minimal. The Applicants state that constructing a solar generating facility does not require the large volume of large mobile cranes, oversized vehicles, and concrete trucks that would be required for a wind generating facility. Instead, the majority of the projects' construction traffic will be ordinary construction and delivery vehicles, including dump trucks for aggregate delivery and flatbed and enclosed tractor trailers for the delivery of equipment. Therefore, the Applicants do not anticipate negative impacts to the roadways as a result of the construction.[8]

Finally, the Applicants state that the operation and construction of the projects will not have negative impacts on cultural resources and landmarks of historic, religious, archeological, scenic, or natural significance. In reaching this conclusion, the Applicants conducted research through the University of Iowa Office of State Archeologist I-sites online database, the National Park Service National Register of Historical Places, and the State Historical Preservation Office's Historic Architectural database. Additionally, prior to construction of the projects, the Applicants will develop a Cultural Resources Unanticipated Discovery Plan.

With respect to decommissioning, the Applicants will be responsible for decommissioning the projects at the conclusion of commercial operations. The

[8] As part of the BOS' approval for the projects, the Applicants must: (1) enter into a Road Use and Repair Agreement with the county prior to construction; (2) conduct a pre-construction survey of the condition of the existing roads and drainage districts; and (3) agree to be financially responsible for restoring, or paying damages sufficient to restore, roads and bridges to pre-construction conditions.

Applicants state that standard decommissioning practices will be utilized, which may take up to 12 months, and they will then restore the land to a condition reasonably similar to its pre-construction state.

During the decommissioning process, the Applicants anticipate the following will occur:

- **Solar panels:** The Applicants will remove the PV panels from the racks and transport from the project areas for salvage, recycling, or disposal.
- **Aboveground components:** The Applicants will remove the control cabinets, electronic components, and internal cables. The racks and the centrally located inverters will be transported whole for reuse or disassembled for salvage, recycling, or disposal.
- **Project substation and operations and maintenance building:** The Applicants will remove the project substation transformer and other electronic equipment in whole for reconditioning and reuse, or disassembled for salvage and recycling. The Applicants state that disposal of the electronic equipment would be a last option. The Applicants state the operations and maintenance building will be demolished with the resulting debris to be disposed of in an approved local landfill.
- **Concrete pads and foundation:** The Applicants state the concrete slabs used as equipment pads will be broken and removed.
- **Underground electrical cables:** The Applicants intend to remove for recycling all underground cables in the vicinity of the arrays that are installed shallower than 36 inches from the ground surface. Medium-voltage underground collector lines installed deeper than 36 inches will be left in the ground to avoid ground disturbance unless an individual lease agreement provides otherwise.
- **Racking piling and fencing:** The racking and fencing will be removed and recycled. The Applicants will pull and remove all racking piles.
- **Access roads:** The Applicants will strip any gravel access roads created, unless a landowner prefers the road remain.

The BOS imposed two additional decommissioning requirements on the Applicants. First, the Applicants are required to prepare and submit to the county a Decommissioning Plan prior to construction. The Decommissioning Plan must include a decommissioning cost estimate prepared by a state-licensed professional engineer. Second, the Applicants must guarantee the estimated decommissioning cost less any

resale and salvage value. The guarantee shall be in one of the following forms: surety bond obtained from a surety authorized by the Iowa Insurance Commissioner; cash held in escrow by the Clinton County Treasurer; or a letter of credit from a financial institution, which shall be irrevocable unless replaced by another form of security approved by the BOS. The decommissioning cost guarantee must be provided prior to construction and must continue through the existence of the projects. The Applicants are further required to revise and update the decommissioning cost estimate every five years through the life of the projects to account for inflation, cost and value changes, and advances in decommissioning technologies.

Based on the material filed in the docket, including those reasons discussed above, the Applicants demonstrated that any adverse impacts attendant to the construction, maintenance, and operation of the projects have been reduced to a reasonable acceptable level.

c. Local Zoning.

Finally, 199 IAC 24.10(2)(b)(3) permits the Board to consider whether the proposed projects are compliant with local zoning requirements. The BOS has enacted a Clinton County Zoning Ordinance. *See* clintoncounty-ia.gov/zoning/ordinances/ (last checked on September 23, 2022). In 2021, the BOS modified the Clinton County Zoning Ordinance by adopting section 3.6.10 Renewable Energy Overlay District (RE). *See* clintoncounty-ia.gov/files/meetings/2021-10-25_minutes_board_of_supervisors_98359.pdf (adopted language of section 3.6.10 RE) (last visited September 23, 2022). The stated purpose of the new section is "to allow for the orderly development of utility scale solar and wind farm energy projects."

According to section 3.6.10 RE, a "commercial . . . utility scale solar installation [in Clinton County] requires an application to rezone the area to be used to renewable energy overlay district . . .". The Applicants filed their Applications for Rezoning to Renewable Energy Overlay District in early 2022. The Clinton County Planning and Zoning Commission held a public hearing on the Applicants' rezoning request.

On March 24, 2022, the BOS held a public hearing and first reading of the proposed amendment and accepted comments for and against the proposed amendment. On April 7, 2022, the BOS held a second reading to consider the proposed amendment, and on April 12, 2022, the BOS held a third reading. On May 26, 2022, the BOS passed a resolution to rezone the project areas to Renewable Energy Overlay Districts.

The Applicants also listed other potential regulatory approvals and permits needed for the projects and are working through the processes to obtain such approvals and permits. The Applicants have or expect to obtain these additional approvals and permits prior to full construction of the projects.

d. Board Decision.

Based on the above discussion and review of the information provided by the Applicants, the Board finds the proposed facilities meet the third Iowa Code § 476A.6 factor subject to additional conditions discussed below.

If a certificate is issued by the Board to an applicant for a facility, then, under Iowa Code § 476A.8, "a regulatory agency, city or county shall not require any further approval, permit or license for the construction of the facility." The Board recognizes that without the required zoning and other local permits, the project cannot be

constructed. The Board will grant the Applicants' applications for certificates of public convenience, use and necessity with the following conditions:

1. The Board will require the Applicants to file final design plans with the Board as soon as they exist. If any portion of the project is ultimately sited in a floodplain, the Applicants shall file with the Board a report identifying any additional regulatory permits required, along with copies of any such permits, and a report analyzing flood risks, with a proposed flood mitigation plan. The Applicants shall not construct in a floodplain until the affected entity has obtained any necessary floodplain permits. As this requirement is established herein by the Board, the Applicants may not rely on Iowa Code § 476A.8 as to negate the requirement to obtain any required floodplain development permits.

2. The Board will require the Applicants to file their Cultural Resources Unanticipated Discovery Plans and their Decommissioning Plans following their creation.

3. The Board will require the Applicants to obtain all necessary zoning approvals and other permits. Neither Applicant shall begin construction until the applicant has obtained all necessary permits. The Applicants shall file all permits obtained in this docket. As this requirement is established herein by the Board, neither Applicant may rely on Iowa Code § 476A.8 to negate the requirement to obtain authorizations from other state, city, or county regulatory agencies.

4. The Board will require that the Applicants file status reports every six months until project completion, with updates on its progress in obtaining the necessary permits and construction progress.

5. If construction of a project is not completed within two years from the date the generation certificate is issued, the certificate will expire, and the affected Applicant will need to submit a new application to the Board if it wants to continue to develop the project.

Based on the information provided, the Board finds the Applicants presented sufficient information to establish the third § 476A.6 element. The construction, operation, and maintenance of the projects will be consistent with reasonable land use

and environmental policies and consonant with the reasonable use of air, land, and water resources.

CONCLUSION

Having found that the criteria in § 476A.6 are met, the Board will approve the Applicants' applications for certificates of public convenience, use and necessity. A certificate in Docket No. GCU-2021-0005 will be limited to the 200 MW solar facility proposed by Hawkeye, and a certificate in Docket No. GCU-2021-0006 will be limited to the 50 MW solar facility proposed by Hatchling. Any increase to the total generation capacity or the addition of a storage facility will require the affected applicant to file for an amendment to the certificate. Additionally, a transfer of either facility to another entity will require Board approval in accordance with Iowa Code § 476A.7(2).

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The Requests for Waivers filed by Hawkeye Solar, LLC, and Hatchling Solar, LLC, regarding portions of Iowa Code §§ 476A.4 and 476A.5 and 199 Iowa Administrative Code rules 24.6, 24.8, and 24.9 are granted.

2. A Certificate of Public Convenience, Use and Necessity for a Solar Generating Facility for Docket No. GCU-2021-0005, attached to this order and incorporated herein, is issued to Hawkeye Solar, LLC.

3. A Certificate of Public Convenience, Use and Necessity for a Solar Generating Facility for Docket No. GCU-2021-0006, attached to this order and incorporated herein, is issued to Hatchling Solar, LLC.

4. Prior to starting construction on their respective projects, Hawkeye Solar, LLC, and Hatchling Solar, LLC, shall each file a report describing their project's final design, including whether portions of the project are sited in floodplain areas; identifying the additional regulatory permits obtained due to the floodplain, if any; and analyzing the flood risks to the project with a proposed flood mitigation plan. Hawkeye Solar, LLC, and Hatchling Solar, LLC, shall also file copies of their Cultural Resources Unanticipated Discovery Plan and their Decommissioning Plans following their creation.

5. Hawkeye Solar, LLC, and Hatchling Solar, LLC, shall acquire and maintain all necessary zoning and other permits. Hawkeye Solar, LLC, and Hatchling Solar, LLC, may not rely on the issuance of the attached Certificates of Public Convenience, Use and Necessity and Iowa Code § 476A.8 to obtain authorizations from other state, city, or county regulatory agencies or zoning authorities. Neither Hawkeye Solar, LLC, nor Hatchling Solar, LLC, shall begin construction until it has obtained all necessary permits. For all permits obtained, Hawkeye Solar, LLC, and Hatchling Solar, LLC, shall file the permits with the Utilities Board in this docket within ten days of receipt of such permits.

6. Within ten days of the beginning of construction, Hawkeye Solar, LLC, and Hatchling Solar, LLC, shall file notice of the commencement of construction.

7. Within 180 days of the date of this order, Hawkeye Solar, LLC, and Hatchling Solar, LLC, shall file a status report in their respective docket regarding progress toward completion of their project. Each company shall submit additional status reports at least every 180 days thereafter until its project is complete.

8. If construction of either project is not completed within two years of the date of issuance of the certificate, that certificate will expire and Hawkeye Solar, LLC, or Hatchling Solar, LLC, will be required to submit a new petition with the Utilities Board if it wants to continue to develop its project.

9. At the conclusion of operation of its project, Hawkeye Solar, LLC, and Hatchling Solar, LLC, shall decommission its respective project in conformance with its Decommissioning Plan and, within ten days of the conclusion of the decommissioning, shall file notice with the Utilities Board.

UTILITIES BOARD

Geri Huser Date: 2022.10.27 13:50:03 -05'00'

Richard Lozier Date: 2022.10.28 10:26:13 -05'00'

ATTEST:

Louis Vander Streek Louis Vander Streek 2022.10.28 12:21:12 -05'00'

Josh Byrnes Date: 2022.10.28 08:40:02 -05'00'

Dated at Des Moines, Iowa, this 28th day of October, 2022.