

**STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD**

IN RE:	:	DOCKET NO. GCU-2019-_____
	:	
WAPELLO SOLAR LLC	:	
	:	

**PETITION FOR WAIVER OF CHAPTER 476A
AND
ALTERNATIVE APPLICATION FOR GENERATING CERTIFICATE WITH
REQUEST FOR WAIVERS**

COMES NOW Wapello Solar LLC (Wapello) and, pursuant to Iowa Code § 476A.15, requests the Utilities Board (Board) issue an order waiving the generating certificate requirements of Iowa Code chapter 476A with respect to a 100 MW_{AC} solar-powered electric generating plant and energy storage system (the Project) to be located near Wapello, Iowa. In the alternative, and only if the Board does not grant the waiver of chapter 476A, Wapello requests the Board issue a generating certificate to Wapello pursuant to chapter 476A, including waivers of certain statutes and rules relating to the public informational meeting and hearing. In support of its request, Wapello states as follows:

**PETITION FOR WAIVER OF GENERATING CERTIFICATE
REQUIREMENT OF CHAPTER 476A.15**

Wapello has agreed to construct and operate a 100 MW_{AC} solar power plant and energy storage system near Wapello, Iowa, to sell the electric power generated there to Central Iowa Power Cooperative (CIPCO). Iowa Code §476A.2 prohibits the operation of any electric generation facility unless a generating certificate has been issued by the Board. “Facility” is defined as any electric power generating plant or combination of plants at a single site with a total generating capacity of 25 MW or more. Thus, it would appear that Wapello’s proposed

Plant would require a generating certificate.

However, § 476A.15 authorizes the Board to waive any of the generating certificate requirements of chapter 476A if the Board determines that the public interest would not be adversely affected by doing so.¹ Here, that test is satisfied; in fact, the public interest will be advanced by granting the requested waiver.

A. Description of the Project

Wapello proposes to build a 100 MW_{AC} solar-powered generating facility made up of approximately 329,400 solar panels installed on a single-axis tracker with an option for a future energy storage system consisting of lithium ion batteries (or other commercially viable energy storage chemistry or technology) on approximately 1,000 acres of land near Wapello, Iowa. The output of the plant will be delivered to a CIPCO substation located on adjoining property at 5999 J Ave., Wapello, Iowa 52653.

CIPCO is a generation and transmission cooperative that supplies power to 13 rural electric cooperative and association members, which in turn provide electric service at retail to residential, commercial, and industrial consumers in 58 Iowa counties. CIPCO meets its members' needs through a mix of generating resources, currently including coal, nuclear, wind, hydro, solar, natural gas, and oil. CIPCO owns some of those resources and also relies on power purchase agreements and market purchases. Wapello and CIPCO have entered into a power purchase agreement (PPA) for 100 percent of the output of the Project. The term of the PPA is 25 years and it has a planned commercial operation date (COD) of December 2020. The COD was selected in order to help satisfy CIPCO's capacity needs in 2021. Time is of the essence to

¹ Wapello is aware of the Board's recent orders in Docket Nos. GCU-2018-0001, *et al.*, declining to grant a waiver of the certificate requirement and granting a generating certificate instead. Wapello believes that this project is appropriate for a waiver and is making this request, with an alternative request for a generating certificate, as set forth below.

finalize the project permitting in order to commence procurement and project construction activities in order to meet the timeline required to achieve COD by December of 2020.

To further describe the Project and its area, Wapello is submitting the following exhibits with this application:

Exhibit A: Legal description of Project site

Exhibit A-1: Plat map of the Project site

Exhibit B: Map of overall Project layout

Exhibit B-1: Supplemental map showing prominent features within 10 miles

Exhibit B-2: Supplemental map showing utility property, railroads, public facilities cemeteries, and places of historical significance within 1 mile

Exhibit C: Example solar facility photo, aerial view

Exhibit C-1: Example solar facility photo, ground view

Applicable law

Iowa Code § 476A.2 requires that a person obtain a generating certificate from the Board prior to commencing construction of an electric generating facility with a capacity of 25 MW or greater. However, as noted previously, § 476A.15 allows the Board to waive that requirement if the Board determines that the public interest would not be adversely affected by so doing.

Rule 24.15 provides that the Board will consider the following factors when making this determination:

1. The purpose of the facility;
2. The type of facility;
3. Whether the facility is for the applicant's own needs;
4. The effect of the facility on existing transmission systems; and
5. Any other relevant factors.

Finally, rule 1.3 sets out the Board's general considerations for ruling on a waiver request:

1. Application of the rule would pose an undue hardship on the person requesting the

waiver;

2. Granting the waiver will not prejudice the substantial legal rights of any person;
3. The provisions of the rule that would be waived are not specifically mandated by statute or other provision of law; and
4. Substantially equal protection of public health, safety, and welfare will be afforded by other means.

Consideration of these factors supports a determination that the requested waiver will not adversely affect the public interest.

B. The public interest will not be adversely affected by granting a waiver of 476A

1. *Purpose.* The purpose of the Project is to provide clean, renewable, reliable, and competitive electric power to CIPCO, its members, and their customers. The Project has been in development since 2017, but Wapello understands that the usefulness of this capacity and energy may have been accelerated by the accelerated retirement of the Duane Arnold Energy Center nuclear plant in 2020.

2. *Type.* As described above, the Project will be a 100 MW_{AC} solar farm. It will provide CIPCO with capacity and energy over a 25 year PPA contract term and the project has an expected useful life of 35 years. Maps or views of the Project are filed herewith as Exhibits B-1 and B-2.

3. *Need and Transmission.* The Project will be for CIPCO's needs, as described above. It will have minimal effect on the existing transmission systems, as the power will be delivered directly to the existing CIPCO Newport substation to meet the resource adequacy requirements of CIPCO; the Project is not intended as a merchant facility or to meet the power needs of any party other than as previously described. Transmission studies show that no new transmission lines will be required. Adding this power to the CIPCO substation will benefit the network,

particularly the local 161 kV grid.

A waiver of the statute is also supported by Iowa Code § 476.41, which provides that it is the policy of the State of Iowa to encourage the development of alternate energy production facilities (AEPs) in order to conserve our finite and expensive resources and to provide for their most efficient use. The Project is an AEP as defined in § 476.42(1)(a)(1), which includes solar facilities. As a solar-powered generating unit, the Project requires no fossil fuel to operate and therefore conserves those finite resources in an efficient manner.

Further, § 476.53(1) expresses the intent of the General Assembly that Iowa should attract the development of electric power generation facilities within the state in sufficient quantity to ensure reliable electric service to Iowa consumers and provide economic benefits to the state. Section 476.53(1) also expresses the General Assembly's intent to "manage carbon emissions intensity in order to facilitate the transition to a carbon-constrained environment." The Project will provide a diverse and reliable source of electric power with no operational carbon emissions, advancing the legislative intent as expressed in the Code.

Consideration of these factors, as required by rule 24.15, demonstrates that the requested waiver of the generating certificate requirements will not adversely affect the public interest; instead, it will advance the public interest as expressed in statute. Similarly, consideration of the rule 1.3 criteria demonstrates the appropriateness of a waiver.

Application of the statute would pose an undue hardship for Wapello, which should commence construction by August 31, 2019, in order to be reasonably certain of achieving COD in December 2020. If the full generating certificate process is required, it is unlikely that goal can be met. The time frames set out in rules 24.5 and 24.6 would likely result in a hearing in October or November of 2019, once time is allowed for the Board's initial review of the

application, preparing and filing any additional information that might be required, acceptance of the application, and a minimum of 90 days before the hearing could be held. A waiver of the generating certificate requirement is the most certain means of meeting the required schedule.

Granting the waiver will not prejudice the substantial legal rights of any person. Wapello mailed notice of the project to affected landowners and held an open house, similar to the public meeting requirement of the Board's rules, even though there is no statutory requirement for a public informational meeting under Iowa Code chapter 476A. The landowners were well aware of the overall scope of the project and participated in negotiations freely, resulting in voluntary agreements for all required rights. No additional protection of landowner rights would be provided by requiring Wapello to obtain a generating certificate.

The provisions of chapter 476A are not specifically mandated by any other statute. The chapter stands alone in requiring that a generating certificate be obtained before commencing construction of a facility, and the chapter includes provision for waiving any or all of the requirements of chapter 476A if the Board determines that the public interest will not be adversely affected by doing so, *see* Iowa Code § 476A.15.

Finally, substantially equal protection of the public health, safety, and welfare will be afforded by other means. If the generating certificate statutes are waived, Wapello will still be required to build the Project in compliance with applicable safety codes. The Project itself does not represent any untoward concern for the public; no hazardous materials are involved in the construction or operation of the Project and the power it produces is the result of the clean conversion of solar energy to electric power.

Thus, consideration of the rule 1.3 criteria demonstrates that it is appropriate to waive the requirements of Iowa Code chapter 476A with respect to the Project.

WHEREFORE, Wapello Solar LLC requests that the Board issue an order, pursuant to Iowa Code § 476A.15, waiving the generating certificate requirements of chapter 476A with respect to Wapello's proposed solar-powered electric generating facility as described above.

**ALTERNATIVE APPLICATION FOR GENERATING CERTIFICATE
AND REQUEST FOR WAIVERS**

In the alternative, and only in the event the Board decides to deny the preceding petition for waiver of the licensing requirements of chapter 476A, Wapello requests that the Board issue a generating certificate for the Project, including waivers of parts of Iowa Code §§ 476A.4 and 476A.5, along with 199 Iowa Admin. Code 24.4, 24.6, 24.7, 24.8, and 24.9. In support of this alternative request, Wapello states as follows:

A. Application Requirements of Rule 24.4. The following information is provided in support of Wapello's application for a generating certificate. As discussed above, new solar generation is consistent with the state policies expressed in Iowa Code §§ 476.41 and 476.53. Wapello is committed to complying with the reasonable requirements of a certificate, with chapter 476A, and with all applicable laws. Finally, the Project will be constructed, operated, and maintained in a manner consistent with reasonable land use and environmental policies and in compliance with reasonable utilization of air, land, and water resources.

1. General

a. Name, address, telephone, email of applicant, with a contact:

Communications relating to the proposed Project should be directed as follows:

Wapello Solar LLC
c/o Centaurus Renewable Energy LLC
Attn: Keith Holst
Attn: Stephen H. Douglas
1717 West Loop South, Suite 1800
Houston, TX 77027
Email: SDouglas@centaurusenergy.com

Telephone: (713) 554-1952

With additional copy to:
Wapello Solar LLC
c/o Clenera LLC
Attn: Admin Dept.
P.O. Box 2576
Boise, Idaho 83701
Email: cre.notices@clenera.com
Telephone: (208) 639-3232

Communications relating to this application may be made to the undersigned attorney.

b. Names and types of business for parent companies and affiliates.

Wapello Solar LLC is a special purpose project company that is a party to the major project contracts that support the Project. Wapello Solar LLC is a wholly-owned subsidiary of a holding company, CRE-Wapello Iowa LLC, which is established to facilitate the use of tax equity financing, a common structure in the renewable energy industry driven by the federal Investment Tax Credit. CRE-Wapello Iowa LLC is wholly owned by Centaurus Renewable Energy LLC, which holds interests in multiple operating solar projects across the United States.

c. Current and proposed ownership of facility and current or planned PPAs.

As addressed above, Wapello Solar LLC is a wholly-owned subsidiary of Centaurus Renewable Energy LLC and is part of a larger portfolio of solar projects in the United States. Wapello has an executed Power Purchase Agreement (PPA) with CIPCO for 100% of the Project's output. The PPA is for a 25 year term and the Commercial Operation Date is scheduled for December 2020.

d. General site description including legal description and map.

Please reference Item E below for the Project's general site description. The legal description and site map are attached as Exhibits A and B-1 and B-2, respectively. The project site includes some limited areas that are within the 100-year floodplain. Wapello anticipates the

project will be designed around the floodplain, but Wapello has identified certain floodplain permits as possible project requirements in section 2.b, below, in case it turns out to be preferable to site some parts of the project in the floodplain areas.

e. Description of the proposed facility.

The Project is a solar energy generation station to be located in Louisa County, Iowa. This Project will utilize solar photovoltaic (PV) modules to convert the energy from sunlight to DC electricity. The modules will be mounted on single-axis trackers, which rotate along a North-South axis to track the sun movement from the East in the morning to the West in the evening. The PV area will be completely fenced with roads around the perimeter and interspersed through the array. Within the fence, the solar modules are connected to solar inverters which convert DC electricity to AC electricity. The inverters are then joined in series and parallel, ultimately connecting to the project substation. Within the project substation, a main power transformer steps up the voltage from the collection system voltage to 161 kV for interconnection to the adjacent CIPCO transmission system at the Newport Substation. The project substation also provides for electrical protection, metering, communications, and emergency safety. No hazardous chemicals or material will be used in the components and equipment for this project. The primary materials utilized are steel, aluminum, copper, and glass (silicon).

The main project parameters are summarized as follows*.

AC Capacity	100 MW-AC
DC Capacity	130 MW-DC
DC/AC Ratio	1.30
Modules	400W Bifacial mono-PERC
Module Count (approx.)	330,000

Inverters	Sungrow SG3150
Inverter Count	32
Racking	Single-axis Tracking
Fuel Source	Sun
Fuel Transportation	93 million miles
Design Life	35 years

**Note – the type, quantity, and specifications of the equipment and components listed here are subject to change based on final design and procurement.*

In addition to the above system design components, the Project is also being designed to allow an optional energy storage system to be implemented at a future date, after commercial operation of the solar facility. This energy storage system will utilize lithium ion batteries (or other commercially viable chemistry or technology) to store energy from the solar project or the grid for discharge at a later time.

Wapello anticipates commencing construction in August of 2019 with a projected Commercial Operation Date of December 2020.

The Project has been sized and designed to generate energy efficiently, balancing revenue with component and installation cost. A resource assessment and energy estimate analysis has been performed to quantify the potential energy generation of the Project over the life of the facility. Satellite irradiance data from the SolarAnywhere platform has been procured from Clean Power Research for the previous 20 years. This data was used in conjunction with the PVSYST software package to develop a model representing the plant components and their interaction with the grid. A statistical analysis of uncertainty and long-term trending of the solar resource enables an understanding of the potential generation over the expected 35-year life. The annual energy generated will serve the consumption of approximately 20,000 average Iowa

homes.

Estimated Energy Generation (Year 1)	218,900 MWh
Capacity Factor	25.4%
Annual Degradation Factor	0.5% per year

Note – final energy generation estimate subject to change based on final design.

The Project will utilize state-of-the-art PV generating equipment and best-in-class design and engineering. The Project is a very important and positive addition to the diversity of electric infrastructure of Iowa and Louisa County. More than 200 jobs are currently expected to be created during construction, which is anticipated to last 12-18 months. The county and state governments and the electric utility that have been engaged are all in strong support of the Project and the benefits it will bring to the area as well as the electric ratepayers of Iowa.

f. Description of all raw materials used to produce electricity and wastes created.

The primary materials utilized are steel, aluminum, copper, and silicon (glass). As discussed above, no hazardous chemicals or materials will be used in the components and equipment for this Project. No waste will be created during operation and construction waste will be minimal. The facility will not have any sulfur dioxide emissions so no allowances will need to be acquired.

g. Financial and other contractual commitments undertaken or planned.

As stated above, Wapello has signed a PPA with CIPCO for the sale of the electrical output of the project commencing in December 2020. The Project is anticipated to be 100% equity financed. The use of 100% equity in project finance insulates against potential costly and disruptive fluctuations in interest rates, transaction fees, funding delays, and complicated regulatory requirements.

Other contractual commitments include Renewable Energy Credit Agreements that have been executed with Commonwealth Edison Company (dated December 5, 2018), Ameren Illinois Company (dated December 5, 2018), and MidAmerican Energy Company (dated December 5, 2018). An Interconnection Agreement with CIPCO will be executed in the near future.

h. Transmission information

The Project will utilize a medium-voltage collection system at 34.5 kV. These lines will be either underground or overhead and connect the inverter skids (solar PV inverter and megavolt transformer) together, then route to the substation. The project substation has been conveniently sited adjacent to the CIPCO Newport substation, which allows an "over the fence" interconnection. This results in few transmission structures (or none) to route the power lines between the two substations. Within the project-owned substation will be breakers, metering, switches, a main power transformer stepping up the voltage from 34.5 kV to 161 kV, and other electrical components necessary for the control and protection of the solar PV generator. In addition, an optional battery storage system may be sited adjacent or near to the project substation which would allow power to flow in or out as necessary based on market and grid conditions.

The local 161 and 69 kV lines are shown on Exhibit B-2.

i. Names and addresses of owners and lessees of real property in site impact area.

Rule 24.4(1)(j) requires the applicant to provide the names and addresses of the owners and lessees of record of real property associated with the project. Wapello requests a waiver of this requirement. It would be unduly burdensome to require Wapello to assemble this information and would serve no purpose because Wapello has already acquired all of the

property interests it needs for the Project. No other person's rights would be adversely affected by waiving the requirement, which is not mandated by any other statute or rule. Equal protection of the public interest has been provided by the notice Wapello has provided and the public meeting Wapello has already conducted.

- j. Names and addresses of owners and lessees of real property subject to a request for the power of eminent domain.

Wapello has secured all of the land rights needed to construct and interconnect the Project into the CIPCO Newport Substation. As such, the project will **not** require the use of eminent domain.

2. Regulatory requirements

- a. Regulatory agency and zoning authority requirements.

Regulatory approval from Louisa County is required to construct and operate the Project. Wapello is currently working with Louisa County staff to make certain that all county regulatory requirements are met and any requisite permits are obtained prior to ground disturbance.

- b. List of every state agency from which approval is required and zoning authorities.

Wapello identified and evaluated a variety of agencies and other authorities that might have been required to review and approve the Project, including the Iowa Department of Natural Resources and the State Historical Preservation Office, along with the United States Army Corps of Engineers, Department of Agriculture, and Fish and Wildlife Service. In the end, however, it was determined that the Project only requires a limited number of advance approvals:

1. Louisa County – Conditional Use Permit (or similar), Building Permit, and potentially a Floodplain Development Permit (only applicable if the project will result in land disturbance or discharge into a floodway or flood zone, which will depend on the final

design).

2. Iowa Utilities Board – Generating Certificate or waiver.
3. Iowa Department of Natural Resources – potentially a Floodplain Development Permit (only applicable if the project will result in land disturbance or discharge into a floodway or flood zone, which will depend on the final design).
4. National Pollutant Discharge Elimination System (NPDES) –Storm Water Discharges from Construction Activity Permit - General Permit No. 2

A construction permit will be required, but it will be the responsibility of the construction contractor to obtain that permit.

- c. Information equivalent to that which must be filed with those agencies and zoning authorities.

Wapello is working with Louisa County authorities for the necessary permit, but as yet no specific information has been filed with the county and therefore there is nothing associated with that permit to file with the Board at this time. The other identified permits relate to the floodplain and the possible discharge of water and it is not yet clear that those permits will be necessary. If they are, they will be obtained, but at this time there is no related information to be filed with those other agencies. Accordingly, this application for waiver and alternative application for a generating certificate is the only information Wapello has to file in response to this requirement.

3. Community impacts
 - a. Forecasted permanent impact on local infrastructure (housing, land values, labor, sewage and water, fire and public protection, schools, etc.).

No significant impact forecasted.
 - b. Forecasted temporary impact on housing, schools, etc.

No significant impact forecasted.

c. Forecasted property tax effects.

The Project will benefit Louisa County's property tax revenues, roughly tripling the current property taxes collected on the same parcels. The current property tax collected by Louisa County on the subject parcels is approximately \$34,000 annually. The Project is expected to pay approximately \$130,000 annually starting in the first year of operations, declining to about \$120,000 by the 25th year of operations.

d. Forecast on agricultural production and uses.

The Project site consists of approximately 1,000 acres, roughly 90 percent of which is currently being used to farm various types of row crops. Agricultural production on these properties will be suspended for the life of the Project but is expected to resume after the Project's operational life. The Project will not have an adverse impact on agricultural production on the surrounding areas.

e. Forecast of impact on open spaces and wildlife habitat.

Following a desktop habitat assessment at the Project site, it was determined that the natural habitat for plant and animal species within the Project site is limited to a narrow grassed waterway located in the western portion of the site. A review of aerial photography indicates an unnamed tributary to Otter Creek is present within the site boundary. No impacts to this waterway will occur as a result of Project construction, therefore, no impacts to aquatic species will occur as a result of the Project.

Based on a review of recent aerial photography, no suitable habitat for federally listed plant or animal species is present at the Project site. U.S. Department of Agricultural (USDA) Natural Resources Conservation Service (NRCS) Soil Survey data indicate sandy soils are

mapped within the project site. Areas of sandy soil in the non-cropped portions of the project site may provide limited habitat for some state-listed plant species that prefer sandy areas (Appendix A of the CIA); however, habitat suitability is likely limited due to the dominance of agriculture at the project site and surrounding areas. A review of publicly available GIS data indicates approximately 96 acres of sandy soils (i.e., sand, loamy fine sand, loamy sand, and fine sandy loam) are located in the actively cropped portions of the project site. These areas may provide moderately suitable habitat for ornate box turtles early in spring when crops are still low. However, once crops create a closed canopy, use by turtles is restricted. Given the lack of natural vegetative cover, no areas of highly suitable ornate box turtle habitat (i.e., non-cropped sandy soils) are present at the Project site.

f. Forecast of impact on transportation.

No significant impact forecasted.

g. Forecast of impact on National Register of Historic Places.

Bear Creek Archeology (BCA) conducted a Phase IA study to identify archeological site and survey records at the Project site (BCA 2019). BCA's report indicates several cultural resource investigations have been conducted in the vicinity and numerous sites have been recorded within a one-mile radius of the Project site. A previous survey covered a large swath of the current study area and resulted in the identification of several archaeological sites within the Project site limits. Two of these sites were identified as potentially eligible for the National Register of Historic Places (NRHP) and recommended for Phase II testing as part of a previous study (BCA 2019). No ground disturbance would occur at these two locations; therefore, no impacts to these two potential NRHP-eligible archaeological sites will occur as a result of the project. The remaining sites known within the Project site were identified as Not Eligible for the

NRHP (BCA 2019).

None of the previously inventoried historic architecture properties located peripheral to the project site were determined to be eligible for listing on the NRHP (BCA 2019).

h. Forecast of impact on other cultural resources.

All known cultural resources sites identified as potentially eligible for the NRHP will be avoided and will not be impacted by Project construction. A Cultural Resource Safety Plan will be developed prior to construction should any previously unknown cultural resources sites be encountered during ground disturbance. If human remains are encountered, work will stop immediately and the Office of the State Archaeologist (OSA) will be contacted before any additional ground disturbance occurs.

4. Site selection methodology

a. General criteria used to select alternative sites.

The Project location was selected due to its proximity to the Newport Substation. The Newport Substation was identified by CIPCO as having sufficient capacity for a 100 MW solar facility due to recent upgrades to the substation infrastructure. The already completed upgrades to the substation limit the need for additional investment into the transmission system for the Project to interconnect into the CIPCO network infrastructure.

b. Discussion of the extent to which eminent domain could be reduced by use of alternative site, generation method, or waste handling method.

As discussed above, the Project has secured all of the necessary land rights needed to construct and interconnect into CIPCO's Newport Substation without using eminent domain.

B. Request for waivers

Iowa Code § 476A.4 requires that a hearing be held prior to issuance of a certificate.

Iowa Code § 476A.5 requires that the Board conduct a contested case proceeding at which other

regulatory agencies must appear on record and state whether the application meets their permit and licensing requirements. Pursuant to Iowa Code § 476A.3, Wapello proposes that the Board submit copies of this application to those regulatory agencies and if no objections are filed in a timely manner then the statutory requirement for a hearing or contested case proceeding can be waived pursuant to § 476A.15.

In addition to these statutory requirements, there are certain rules that should be waived for this project. Board rule 1.3 allows the Board to waive any of the requirements of its rules if the Board finds, based on clear and convincing evidence, that:

1. Application of the rule would pose an undue hardship on the person for whom the waiver is requested;
2. The waiver would not prejudice the substantial legal rights of any person;
3. The provisions of the rule are not specifically mandated by statute or another provision of law; and
4. Substantially equal protection of the public interest will be afforded by other means.

Wapello will summarize each rule for which it seeks a waiver and then explain how the criteria of rule 1.3 are satisfied.

Board rule 24.4 specifies the required contents of an application. Wapello has provided the required information above, but to the extent that any information is missing Wapello requests a waiver of those requirements in rule 24.4.

Board rule 24.6 specifies certain requirements for the procedural schedule. Assuming the Board grants a waiver of the hearing requirement, then Wapello requests a waiver of those portions of rule 24.6 that would be inconsistent with the hearing waiver, including the requirements for notice of the hearing and for the hearing itself. As previously described,

requiring a hearing on this project using the timeframes set out in the Board's rules would cause undue harm to Wapello by delaying construction and ultimately causing the Project to miss its contractual deadline for commercial operations. Waiving the hearing requirement will not prejudice the substantial legal rights of any other person, as Wapello has already obtained all of the land interests it requires and Wapello does not anticipate that any other person will raise issues in this proceeding that would require a hearing to resolve. The procedural schedule requirements are not mandated by any other provision of law and substantially equal protection of the public interest will be afforded by the Board's receipt and review of this application. A waiver of the procedural schedule requirements of rule 24.6 is appropriate.

Board rule 24.7 requires that an informational meeting be held in the county of the site of the proposed facility. The meeting must be held not less than 30 days prior to the filing of the application. The prospective applicant must provide qualified personnel to speak on matters relating to the proposed facility, including the need for the facility, timing, appearance, property rights that will be purchased, compensation, and so forth. The purpose of the meeting is to raise public awareness of the proposed facility, to make landowners and other affected persons aware of their rights, and to afford an opportunity for interested members of the public to ask questions and receive answers. (*See* rule 24.7(6).) No formal record of the meeting is kept. (*Id.*) Wapello requests a waiver of the informational meeting requirements of rule 24.7.

Requiring an informational meeting prior to filing an application for generating certificate would pose an undue hardship on Wapello. Pursuant to rule 24.7, Wapello would have to identify a compliant location for the meeting, obtain Board approval of a proposed date, time, and location, publish notice at least one week prior to the meeting, hold the meeting, and then wait at least 30 days before filing this application. All of that would delay the Board's

consideration of the application by at least 45 days, and probably longer. Meanwhile, Wapello is contractually committed to start selling electric power to CIPCO by December 1, 2020, and furthermore the project must commence construction in 2019 in order to qualify for the full 30% value of the federal investment tax credit, which is scheduled to step down for projects that commence construction in 2020 and onward. Considering construction logistics, and in order to meet the aforementioned deadlines, construction must start no later than August 2019, and preferably earlier.

Second, granting a waiver will not cause prejudice to the substantial rights of other people. The purpose of the informational meeting requirement is, as described above, to raise public awareness of the Project, to make landowners and other affected persons aware of their rights, and to afford an opportunity for interested members of the public to ask questions and receive answers. These purposes were fulfilled by through a mailing campaign that was conducted in June 2018, with mailers being sent to a total of 19 landowners who separately own 33 parcels and approximately 2,300 acres of land within a 3 mile radius of the Newport Substation. An Open House was held on Tuesday, August 14, 2018 at the Charles Briggs Civic Center in Wapello, Iowa. Approximately 14 of the notified landowners attended the open house. Following the open house, Wapello commenced negotiations with landowners and has executed voluntary land agreements for the entire Project without the use of eminent domain. Another informational meeting at this time would serve no purpose; it would merely duplicate what has already been done.

Third, the informational meeting requirement exists only in rule 24.7. It is not mandated by chapter 476A or any other statute or provision of law.

Fourth, as described above, the purposes of the informational meeting requirement were

fulfilled when Wapello provided notice to landowners and held the open house, providing substantially equal protection to the public interest.

Rule 24.8 specifies the hearing procedures. These should be waived for the same reasons as the hearing should be waived, except for subrule 24.8(4), relating to discovery. Wapello will respond to discovery as required by the Board's rules. As described above, scheduling a hearing under the timelines set out in the Board's rules means the hearing would most likely be in October or November, causing undue hardship to Wapello, which needs to commence construction in August 2019. Wapello does not anticipate any substantial objections will be filed or any significant issues raised, so no person's substantial legal rights will be affected by a waiver. The hearing is not required by other provision of law; in fact, Iowa Code § 17A.10A specifically contemplates agency action without a hearing where there is no factual dispute to be resolved. Finally, substantially equal protection of the public interest will be offered by the Board's review of this application.

Rule 24.9 provides an option for separate hearings on separate issues. This rule should also be waived for the same reasons as the hearing should be waived, as described previously.

WHEREFORE, Wapello Solar LLC requests, as an alternative to its request for waiver of chapter 476A and only if that request is to be denied, that the Board grant Wapello a generating certificate for the Project and waive the identified requirements of chapter 476A and 199 IAC ch. 24, specifically Iowa Code §§ 476A.4 and 476A.5 and 199 IAC 24.4, 24.6, and 24.7, along with any other waivers that may be necessary or convenient to the issuance of a certificate.

Dated March 22, 2019.

Respectfully submitted,

By /s/ David J. Lynch
David J. Lynch

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