

## ATTACHMENT A

STATE OF IOWA

DEPARTMENT OF COMMERCE

UTILITIES BOARD

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IN RE:

COGGON SOLAR LLC

DOCKET NO. GCU-2021-0001

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**ORDER GRANTING PETITION FOR INTERVENTION, REQUEST FOR WAIVERS,  
AND APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE, USE AND  
NECESSITY UNDER IOWA CODE CHAPTER 476A**

### BACKGROUND

On March 3, 2021, Coggon Solar LLC (Coggon Solar) filed an application with the Utilities Board (Board) for a certificate of public convenience, use and necessity (CPCN) pursuant to Iowa Code chapter 476A and a request for waivers (Application) for a proposed 100 MW solar generation facility to be located approximately 2.75 miles west of Coggon, Linn County, Iowa. In its Application, Coggon Solar requested the Board waive portions of Iowa Code §§ 476A.4 and 476A.5 and Board rules 199 Iowa Administrative Code (IAC) 24.4, 24.6, 24.7, 24.8, and 24.9, which provide, among other things, for an informational meeting and a public hearing to be held before issuing a CPCN.

On March 22, 2021, the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, filed an objection to Coggon Solar's application. OCA stated that in the Application, Coggon Solar failed to submit clear and convincing evidence that demonstrates all landowners received notice of the proposed project and that affected property owners had an adequate opportunity to submit comments or objections to the project. OCA requested the Board direct Coggon Solar to notify all

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affected landowners and to provide notice to allow interested persons to file comments or objections.

On April 15, 2021, the Board issued an order requiring Coggon Solar to file additional information pertaining to the project. On April 30, 2021, Coggon Solar filed additional information. On May 3, 2021, Coggon Solar filed the affidavit of Jason Ellsworth, in which he asserted Coggon Solar conducted an initial mailing campaign, held a public meeting on January 17, 2019, and conducted a second mailing campaign in December 2020 which “included all landowners or tenants of record with property within the [project’s] footprint or within 1000 feet of the boundary of the Coggon Solar Project.”

On June 14, 2021, the Board issued an order finding Coggon Solar’s Application to be substantially complete and accepting the Application pursuant to 199 IAC 24.5(3). Also in the June 14, 2021 order, the Board found that Coggon Solar failed to establish that the waiver would not prejudice the substantial legal rights of another person and the Board denied Coggon Solar’s request to waive the informational meeting requirements. The Board also directed Coggon Solar to serve the Official Notice, attached to the order as Attachment A, on all property owners within 1,000 feet of the proposed facility and to publish the Official Notice in a newspaper of general circulation in Linn County. In part, the Official Notice stated that objections and comments to the project should be filed by July 6, 2021. Finally, the order provided that the Board would consider Coggon Solar’s request to waive the requirements of a full procedural schedule and the requirement to conduct a hearing after the expiration of the July 6, 2021 deadline, and after Coggon Solar conducts an informational meeting.

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On June 22, 2021, Coggon Solar filed a request for Board approval of the time, date, and place for a public informational meeting. On June 25, 2021, the Board chair issued a letter scheduling the informational meeting for 5:30 p.m. July 14, 2021, at the Coggon Center in Coggon, Iowa, directing Coggon Solar to provide written notice of the time, date, and location of the informational meeting by mail and by publication, and requiring Coggon Solar to file its presentation material in Docket No. GCU-2021-0001 at least one week prior to the informational meeting. On July 7, 2021, Coggon Solar filed its informational meeting presentation.

On July 2, 2021, OCA filed a partial withdrawal of its objection. Specifically, based on the supplemental information filed by Coggon Solar, OCA withdrew its objection to Coggon Solar's request to waive the notice requirements; however, OCA maintained its objection to Coggon Solar's request to waive the hearing requirements.

On July 14, 2021, as scheduled, the informational meeting was held, and on July 27, 2021, the informational meeting checklist and transcript were filed. Approximately 60 people attended the informational meeting. As part of its presentation at the informational meeting, Coggon Solar provided a project overview, including the anticipated construction and operational dates, and the 20-year power purchase agreement with Central Iowa Power Cooperative (CIPCO). Coggon Solar explained how the project location was selected with the primary reasons being its proximity to a CIPCO substation and the willingness of the landowners to enter into long-term leases and property sales. Coggon Solar further described the design features of the project and the solar modules and panels. Finally, Coggon Solar detailed its decommissioning plan and summarized the project benefits.

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In addition to the other items discussed above, the Board's June 14, 2021 order set an intervention deadline. On June 30, 2021, Martin Robinson, Paula Robinson, Tom Robinson, and Laura Robinson, by and through their counsel, (collectively referred to as the "Robinsons") filed a petition to intervene, stating each owns property within 1,000 feet of the proposed project. The Robinsons further asserted their opposition to the project for the following reasons: (1) Coggon Solar failed to give reasonable notice, (2) the proposed project will remove farmland from production, (3) Coggon Solar failed to show why alternate locations are not feasible, and (4) the solar panels contain hazardous material. On July 29, 2021, the Board granted the Robinsons' intervention request.

On July 6, 2021, the Environmental Law & Policy Center and the Iowa Environmental Council (collectively the "Environmental Intervenors") filed an intervention request with initial comments. The Environmental Intervenors stated they support projects that avoid impacts with Iowa's natural resources and incorporate native vegetation and ground management practices, and based on information provided by Coggon Solar, the Environmental Intervenors opined that the proposed facility is consistent with Iowa's land use and environmental policies. The Environmental Intervenors stated the proposed project will provide numerous environmental benefits, including improving air quality, water quality, and soil health. On July 29, 2021, the Board granted the Environmental Intervenors' intervention request.

On July 21, 2021, the Linn Clean Energy District (LCED) filed a petition to intervene, which will be discussed in greater detail below.

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As of the date of this order, more than 70 comments and objections have been filed in this docket, and the issues have included the use of farmland for the project, environmental concerns, the facility itself (e.g., noise, light pollution, etc.), and the perceived use of eminent domain. On June 15, 2021, Coggon Solar filed a document responding to several general themes or categories of objections. On August 9, 2021, Paula Robinson filed a response to Coggon Solar's June 15, 2021 filing.

### **DESCRIPTION OF PROJECT**

Coggon Solar seeks to construct and operate a 100 MW solar generating facility on approximately 750 acres located approximately 2.75 miles west of Coggon, Iowa. Coggon Solar states that it selected the site for several reasons, with the primary reason being the proximity of the CIPCO Coggon substation. Coggon Solar and CIPCO entered into a 20-year power purchase agreement and, consequently, the power produced by Coggon Solar will be used in central Iowa by CIPCO member cooperatives, including the Linn County Rural Electric Cooperative (REC). Because of the proximity to the Coggon substation, Coggon Solar will not need to acquire easements or other property rights to connect the project to the substation. Additionally, because the Coggon substation currently has 100 MW of capacity, the substation does not require upgrades, the cost of which otherwise would be passed on to customers. Finally, the site was selected because landowners of the underlying property were willing to enter into long-term leases and property sales to accommodate the project.

The project site will include photovoltaic (PV) solar modules, inverters, a switchyard, security fencing, temporary use areas, a perimeter road, and other interspersed roads throughout the project area. The PV modules will be mounted on

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single-axis trackers, which rotate along a north-south axis to track the sun's movement from the east in the morning to the west in the evening. The trackers will be mounted on pile-driven support piers that do not use concrete foundations. Each row of PV modules will be spaced approximately 7.5 meters apart, and each PV module will be spaced approximately 6 inches apart. The PV modules will convert energy from sunlight into direct current electricity and will connect to solar inverters, which convert direct current electricity to alternating current electricity. The solar inverters will be joined in series and parallel, ultimately connecting to the project substation. At the project substation, a main transformer steps up the voltage to 161 kilovolts for interconnection to the transmission system at the adjacent Coggon substation.

The facility is expected to produce energy during daylight hours from approximately 6 a.m. until 6 p.m. Coggon Solar expects that in the first year, the project will produce approximately 220,930 megawatt-hours. Coggon Solar will not create any direct sulfur dioxide emissions and will generate electricity without burning sulfur dioxide containing fuels.

### **PETITION FOR INTERVENTION**

On July 21, 2021, the LCED filed an intervention request. Pursuant to 199 IAC 7.13(3), “[a]ny person having an interest in the subject matter of a proceeding may be permitted to intervene at the discretion of the board . . . .” In determining whether to grant intervention, subrule 7.13(3) directs the Board to consider factors including, but not limited to, the prospective intervenor’s interest in the subject matter of the proceeding, the effect a final decision in the proceeding may have upon the prospective

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intervenor's interest, and the extent to which the prospective intervenor may be expected to assist in the development of a sound record.

LCED seeks intervention following its director's attendance at the July 14, 2021 informational meeting. Based on the comments made at the informational meeting, LCED made the decision to intervene to accomplish the following:

- to bring before the Board verified research and information to dispel misconceptions about solar energy and large solar farms;
- to convey the perspective of landowners who want to farm solar energy because of its financial benefits and the opportunity to preserve and enrich their farmland;
- to establish the importance of large solar farms as a critical stepping stone in the broad and long-term strategies to address climate change; and
- to enumerate the economic benefits of large solar farms, both direct and indirect, to the citizens of Linn County and the state of Iowa.

LCED asserted a unique interest in the subject matter of this proceeding and expressed an intent to assist in the development of the record. Applying the subrule 7.13(3) factors, the Board concludes LCED stated sufficient grounds for intervention and will grant the same.

### **REQUEST FOR WAIVER**

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.*

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Coggon Solar requests the Board waive portions of Iowa Code §§ 476A.4 and 476A.5 and Board rules 24.4, 24.6, 24.7, 24.8, and 24.9. In general, Coggon Solar's requests fall into two categories: (1) rules concerning an informational meeting and (2) statutory provisions and rules concerning a hearing and the additional requirements attendant thereto (*e.g.*, full procedural schedule, hearing notice, etc.).

In its June 14, 2021 order, the Board denied Coggon Solar's request to waive the holding of an informational meeting and ordered Coggon Solar to schedule and hold an informational meeting. The June 14, 2021 order further provided that the "Board will consider Coggon Solar's requests to waive the requirements of a full procedural schedule, and the requirement to conduct a hearing, after the expiration of the comment deadlines and after Coggon Solar conducts an informational meeting." The comment deadline set in the June 14, 2021 order has expired and Coggon Solar has held an informational meeting. Consequently, the Board will now address Coggon Solar's request to waive the statutory provisions and rules relating to a procedural schedule and a hearing.

With respect to the statutory provisions, Coggon Solar requests the Board waive Iowa Code § 476A.4, which concerns the hearing scheduling and notices, and Iowa Code § 476A.5, which concerns the hearing proceedings. Coggon Solar also requests 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.



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Coggon Solar requests the Board waive these statutory provisions and rules because, according to Coggon Solar, the public interest will not be adversely affected by doing so and because the rule 1.3 elements for a waiver are established.

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.

According to Iowa Code § 476A.6, the Board “shall”<sup>1</sup> 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

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<sup>1</sup> According to Iowa Code § 4.1(30)(a), as used in the Iowa Code, the term “shall” imposes a duty.

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reasonable choice, and whether the proposed facility complies with local zoning requirements. 199 IAC 24.10(2)(b). If these elements are established, a generating “certificate shall be issued to the applicant . . . .” Iowa Code § 476A.6 (emphasis added).

Based on the filings in this docket, including the objections, as well as the information in support of the project, and, as discussed below, the applicable provisions of the Linn County Zoning Ordinance, the Board does not consider a hearing to be necessary to assist the Board in its consideration of the § 476A.6 factors. The Board has provided numerous comment opportunities and, in response, as of the date of this order, more than 70 comments and objections were filed. However, most filings in opposition to this proposed project raised issues or concerns that are not pertinent to the § 476A.6 factors that must guide this Board’s decision.

For example, many commenters expressed opposition to the use of eminent domain and the use of high-quality farmland for non-farming purposes. Eminent domain *is not* implicated in this case; instead, landowners approved and consented to the use of their land for the proposed project and entered into leases for the use of the land with Coggon Solar. This is not a case in which the Board is being petitioned 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 certainly schedule a hearing. As noted by the Iowa Conservative Energy Forum and the Iowa Land and Liberty Coalition in their August 18, 2021 filing:

Not one solar panel is installed without a landowner exercising his or her right to choose solar on their private land. We strongly believe in this principle and that our farmers and landowners are the greatest stewards of their land – they have the right to choose if solar energy is right for

them. **Landowners within the Coggon Solar project area have already made that choice, volunteering to host solar energy on their land.** Their property rights were on display during their consideration of the project, and it is critical you observe their rights during your consideration of the project as well.

(alterations in original).

A hearing is also not necessary to consider the grounds and issues raised by intervenors. For example, in their June 30, 2021 filing, the Robinsons contend the application should be denied because: (1) Coggon Solar failed to give reasonable notice; (2) the proposed project will remove farmland from production; (3) Coggon Solar failed to show why alternate locations are not feasible; and (4) the solar panels contain hazardous material.

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 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 regarding the proposed project, numerous comments have been filed, and the Board has reviewed and considered the same.

*B. Rule 1.3.* Next, the Board considers Coggon Solar's waiver request under the four criteria enumerated within rule 1.3. The first criterion requires Coggon Solar to establish that application of the rules would pose an undue hardship on Coggon Solar. According to Coggon Solar, requiring a hearing will further and unnecessarily delay the proposed facility's construction and operational start dates. Coggon Solar states it expects to be contractually committed to start selling electricity to CIPCO by December 15, 2022, and the proposed project must commence construction in 2021 to

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meet certain federal investment tax credit eligibility criteria. Coggon Solar had hoped that construction could commence no later than August 2021.

The second rule 1.3 element concerns whether the waiver would prejudice the substantial legal rights of another person. On this point, it is important to note that Coggon Solar has not sought eminent domain and all landowners whose land will be used for the proposed project have agreed to the use of their land. Further, the Board allowed for the submission of comments and ordered Coggon Solar to provide Board-ordered notice to inform the public of the comment submission opportunities. Coggon Solar and the Board also held an informational meeting so that interested persons could obtain additional information about the project. Coggon Solar's informational meeting presentation material and a transcript of the informational meeting have been filed in this docket. Given the number of opportunities that have been provided for interested persons to file comments and other documents in support of or against the proposed project, the Board finds that granting the waiver of the 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 prior to the issuance of a generating certificate, the Legislature delegated authority to the Board to waive the hearing requirement. See Iowa Code § 476A.15. The Board has found that the public interest will not be adversely affected by waiver of the hearing requirements in §§ 476A.4 and 476A.5. 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

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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 the public health, safety, and welfare will be afforded by means other than through a hearing.

As set forth above, through Coggon Solar’s efforts prior to the filing of the application and through the Board-ordered notices, individuals affected by the proposed project received information concerning the project and how to file comments with the Board. Additionally, Coggon Solar and the Board held an informational meeting during which Coggon Solar provided the public information about the project. Coggon Solar is not seeking the right of eminent domain, having secured all necessary land agreements for the project. Finally, given the material filed by Coggon Solar and all other interested parties, the Board finds the docket contains sufficient information to allow the Board to analyze the proposed project under the § 476A.6 factors. For these reasons, the Board finds Coggon Solar sufficiently supported its request 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

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requirements. Therefore, the Board will grant Coggon Solar's request 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." Coggon Solar requests the Board issue it a generating certificate to construct a solar facility. According to § 476A.6, the Board shall issue the applicant 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 Coggon Solar's proposed solar project is consistent with multiple statutory provisions expressing legislative intent and policies of this state. In § 476.53(1), the legislature unequivocally expressed its intent to encourage electric generating facilities. Specifically, this statute provides that "[i]t is the intent of the general assembly to attract the development of electric power generating and

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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.” Coggon Solar’s proposed project is consistent with both of these state policy goals.

Additionally, 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.” Solar facilities fall within the definition of “alternative energy production facilities.” Therefore, Coggon Solar’s proposed facility is consistent with the expressed state policy objectives in § 476.41.

Coggon Solar’s proposed solar farm also provides economic benefits. In its submitted material, Coggon Solar asserts that the project will be an estimated \$150 million capital investment that will result in the creation of approximately 300 construction jobs (hiring local as available) and two or three long-term jobs through the length of the project. Because of the power purchase agreement with CIPCO, the power produced will be used in Iowa by CIPCO member cooperatives, including the Linn County REC. Coggon Solar estimates that the clean energy produced at the proposed facility could power approximately 19,000 homes in the area. Coggon Solar further anticipates that, through the life of the project, the increased property tax revenue exceeds the property taxes associated with the current use by millions of dollars.

At the request of Coggon Solar, in March 2020, CIPCO issued a System Impact Study in which it concluded that the existing transmission system could reliably support the additional capacity of Coggon Solar without additional network upgrades. The material filed in support of the project indicates the proposed facility will not be detrimental to the provision of adequate and reliable electric service.

Because the Coggon Solar facility is consistent with legislative intent and the economic development policies of this state and will not be detrimental to the provision of adequate and reliable 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 Coggon Solar will construct, maintain, and operate the facility pursuant to the provisions of the certificate and Iowa Code chapter 476A. As a condition of the generating certificate, Coggon Solar will be required to comply with all provisions of the certificate and 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



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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 factors most relevant to this matter.

*a. Environmental Considerations.*

Several commenters expressed concerns over the environmental impacts of the proposed project, including concerns over whether the solar panels contain hazardous material and whether “toxic” chemicals will be put into the ground. As part of its informational meeting presentation, Coggon Solar explained that the solar panels will not contain hazardous materials and trackers will be mounted on pile-driven support piers that do not use concrete foundations, which is less invasive of the subsurface and will allow for a more efficient decommissioning.

Coggon Solar also states that once constructed, the proposed facility will not create any direct sulfur dioxide emissions and no combustible fuels or fuel wastes will be used in the plant’s operations. Coggon Solar states that the facility design will not impact or alter any on-site wetlands and will maintain pre-project drainage patterns through the life of the project. Coggon Solar estimates that the energy produced at the facility will equate to a reduction of approximately 300 million pounds of CO<sub>2</sub> emissions each year through the life of the project.

In response to objections regarding potential impacts on wildlife, Coggon Solar states it conducted an on-site endangered species assessment and did not identify any species of concern. Coggon Solar further consulted with the Iowa Department of Natural Resources and the United States Department of Fish & Wildlife to ensure the project is constructed consistent with federal and state regulations. The Environmental

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Intervenors stated that Coggon Solar's commitment to providing a pollinating habitat "will provide environmental benefits during the life of the project including improvements to air quality and water quality" and "will also improve soil health, providing additional benefits to the state's natural resources and potentially resulting in future benefits when the land is returned to agricultural use." Coggon Solar further states that because the facility will be constructed to avoid water features, the site will allow for "wildlife corridors" throughout the project area that will allow for migratory and ground species to traverse through the area.

Objectors also expressed concern about the environmental effects of the decommissioning and questioned whether the solar panels can be properly recycled at the end of their operational life. In response, Coggon Solar states that, currently, there are at least 23 PV module recycling operators in the United States, including one located less than 140 miles from the project area. At the conclusion of the project, Coggon Solar indicated the solar panels will either be recycled or sold on the secondary market.

*b. Site Selection.*

Some objectors raised concern with the site selection process, including this proposed site location specifically. For example, the Robinsons contend Coggon Solar should select a site location with "poorer quality land."

As noted above, Coggon Solar states its primary motivation in selecting the proposed site was the proximity of the Coggon substation and the willingness of the necessary landowners to enter into long-term leases or property sales. Additionally, because of the proximity to the substation, Coggon Solar will not require additional

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easements in order to connect the proposed generation facility to the transmission system.

Pursuant to rule 24.10(2)(b)(2), the pertinent inquiry is whether the proposed site selected “represents a reasonable choice among available alternatives.” Coggon Solar’s proposed site location decision is based on reasoned and rational grounds, and, consequently, constitutes a reasonable choice.

*c. Local Zoning.*

Linn County has enacted a comprehensive utility-scale solar installations ordinance with a purpose of “encourag[ing] utility scale photovoltaic solar installations.” Code of Ordinances of Linn County, Iowa § 107-117(h)(1). The ordinance requires applicants to submit a major site plan for county review and approval of the utility-scale installation and requires that the area for the utility-scale solar installation be rezoned to the Renewable Energy Overlay Zoning District. *Id.* at § 107-117(h)(2). With respect to site and structure requirements, the ordinance covers the following requirements: setbacks, screening, utility connections, grading, glare minimization, appurtenant structures, floodplain considerations, signage, and fencing and security. *Id.* at § 107-117(h)(4). The ordinance sets requirements to avoid and mitigate against damage to public infrastructure (*i.e.*, roads, existing road conditions, and drainage systems). *Id.* at § 107-117(h)(5). The ordinance requires applicants to have “a plan for the operation and maintenance of the solar installation, which shall include measures for maintaining safe access to the installation, stormwater and erosion controls, as well as general procedures for operation and maintenance of the installation.” *Id.* at § 107-117(h)(6). An applicant must also have a decommissioning plan “that describes the anticipated life

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of the utility scale solar installation; the anticipated manner in which the project will be decommissioned, including plans to recycle components; the anticipated site restoration actions; the estimated decommissioning costs in current dollars; and the method for ensuring that funds will be available for decommissioning and restoration.” *Id.* at § 107-117(h)(7). Required restoration activities include restoration of the pre-construction surface grade and soil profile and the revegetation of restored soil areas with “crops, native seed mixes, native tree species, plant species suitable to the area . . . .” *Id.* at § 107-117(h)(7)(c). The ordinance further provides that following a continuous one-year period in which no electricity is generated, or if substantial action on the project is discontinued for a one-year period, the permit holder has one year in which to complete the decommissioning of the installation. *Id.* at § 107-117(h)(7)(d).

The Linn County review and approval process is multi-stepped, with reviews being conducted by the Linn County Technical Review Committee, Linn County Planning & Development staff, and the Linn County Planning & Zoning Commission before being presented to the Linn County Board of Supervisors.

<https://www.linncounty.org/1525/Solar-Farms> (last accessed on Sept. 3, 2021). At the initial stage, the Technical Review Committee will review the solar project application for conformance with the ordinance, the county’s comprehensive plan, and other applicable regulations and standards at a public meeting to which the applicant and surrounding landowners are provided notice. *Id.* Following the meeting, Linn County Planning & Development staff are required to prepare a report of the committee’s findings and, if applicable, any recommended conditions for approval. *Id.*

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At the next step, the Linn County Planning & Zoning Commission will consider the Technical Review Committee's recommendations and will consider the application during at least one public meeting. *Id.* The applicant and surrounding landowners are to be provided notice of the public meeting and are invited to attend. *Id.* Attending members of the public are permitted to make comments and ask questions, all of which will be entered into the public record. *Id.* In making its decision, the Linn County Planning & Zoning Commission must make findings of facts and conclusion of law regarding whether the application is consistent with the county's comprehensive plan and the ordinance. *Id.*

At the final stage, consideration of the application by the Linn County Board of Supervisors must occur at three public meetings. *Id.* The Board of Supervisors' decision to approve or deny will be based on the standards of review set forth in the ordinance, taking into consideration the recommendations of the Technical Review Committee and the Planning & Zoning Commission and public comments received. *Id.* The Board of Supervisors will also consider general rezoning standards, including:

- whether the proposed project is detrimental to existing agricultural uses;
- whether the proposed project will degrade significant environmental, ecological, or natural resources;
- whether the proposed project achieves densities and uses in agricultural areas, critical natural resources areas, rural residential development areas, and urban service areas as designated in the county's comprehensive plan; and
- whether the proposed plan is consistent with the goals, objectives, and strategies of the county's comprehensive plan.

*Id.*

In its Application, Coggon Solar acknowledges the Linn County utility-scale solar installation ordinance and its obligation to comply with the same. Coggon Solar states it

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will comply with the ordinance and with any conditions that may be imposed by Linn County.

Coggon Solar also listed the potential other regulatory approvals and permits needed for the project and is working through the processes to obtain such approvals and permits. The approvals may change based upon the project's final design.

*d. Conclusion.*

Based on the above-discussion and review of the information provided by Coggon Solar, the Board finds the proposed facility meets 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 approve Coggon Solar's application for a certificate of public convenience, use and necessity with the following conditions:

1. The Board will require Coggon Solar 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, Coggon Solar 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. Coggon Solar shall not construct in a floodplain until it has obtained any necessary floodplain permits. As this requirement is established herein by the Board, Coggon Solar may not rely on Iowa Code § 476A.8 to negate the requirement to obtain any required floodplain development permits.
2. The Board will require Coggon Solar to obtain all necessary zoning approvals and other permits, including Coggon Solar's decommissioning plan and approval thereof. Coggon Solar shall not begin construction until it has obtained all necessary permits. Coggon Solar shall file all permits obtained in this docket. As this requirement is established herein by the Board, Coggon Solar may not rely on Iowa

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- Code § 476A.8 to negate the requirement to obtain authorizations from other state, city, or county regulatory agencies.
3. The Board will require that Coggon Solar file status reports every six months until project completion, with updates on its progress in obtaining the necessary permits and construction progress.
  4. If construction of a project is not completed within two years from the date the generating certificate is issued, the certificate will expire, and Coggon Solar will need to submit a new application to the Board if it wants to continue to develop the project.

Accordingly, the Board will issue the certificate when Coggon Solar has filed, and the Board has accepted, the final unappealable decision from the Linn County Board of Supervisors approving Coggon Solar's application to construct its proposed utility-scale solar facility.

Based on the information provided, the Board finds Coggon Solar presented sufficient information to establish the third § 476A.6 element, subject to compliance with the additional filing requirements. The construction, operation, and maintenance of the facility 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 Coggon Solar's application for a certificate of public convenience, use and necessity. The certificate will be issued when Coggon Solar has filed, and the Board has accepted, the final unappealable decision from the Linn County Board of Supervisors in response to Coggon Solar's request under the county's utility-scale solar installation ordinance. The certificate will be limited to the 100 MW solar facility proposed by Coggon Solar. Any increases to total generating capacity or the addition of a storage or other facility will require Coggon Solar to file for an amendment to the certificate. Additionally, a

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transfer of the facility to another entity will require Board approval in accordance with Iowa Code § 476A.7(2).

### **ORDERING CLAUSES**

#### **IT IS THEREFORE ORDERED:**

1. The July 21, 2021 Petition to Intervene filed by the Linn Clean Energy District is granted.
2. The Request for Waivers filed by Coggon 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 relating to a hearing and a full procedural schedule is granted.
3. Pursuant to Iowa Code chapter 476A, the application for a certificate of public convenience, use and necessity filed by Coggon Solar LLC is approved. The certificate will be issued when Coggon Solar LLC has filed, and the Board has accepted, the final unappealable decision from the Linn County Board of Supervisors approving Coggon Solar LLC's request under the county's utility-scale solar installation ordinance.
4. Prior to starting construction, Coggon Solar LLC shall file a report describing the 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 proposed flood mitigation plan.
5. In addition to the Linn County Board of Supervisors' decision identified in Ordering Clause 3, Coggon Solar LLC shall acquire and maintain all other necessary zoning and other permits. Coggon Solar LLC may not rely on the approval of the



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Certificate of Public Convenience, Use and Necessity and Iowa Code § 476A.8 to avoid obtaining authorizations from other state, city, or county regulatory agencies or zoning authorities as those requirements arise from this order. Coggon Solar LLC shall not begin construction until it has obtained all necessary permits. For all permits obtained, Coggon Solar LLC shall file the permits with the Utilities Board in this docket within ten days of receipt of such permits.

6. Within 180 days of the date of this order, Coggon Solar LLC shall file a status report in this docket regarding its progress toward completion of the project. Coggon Solar LLC shall submit additional status reports at least every 180 days thereafter until the project is complete.

7. If construction of Coggon Solar LLC's project is not completed within two years of the date of issuance of the certificate, the certificate will expire and Coggon Solar LLC will be required to submit a new petition with the Utilities Board if it wants to continue to develop the project.

**UTILITIES BOARD**

**Geri Huser** Date: 2021.10.21  
14:58:38 -05'00'

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**Richard Lozier** Date: 2021.10.21  
16:44:56 -05'00'

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ATTEST:

**Louis Vander Streek** Louis Vander Streek  
2021.10.22 11:48:34  
-05'00'

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**Josh Byrnes** Date: 2021.10.21  
13:44:04 -05'00'

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Dated at Des Moines, Iowa, this 22nd day of October, 2021.