

Solar is Here in Ohio; Landowners Beware

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There are now more than ten companies in Ohio attempting to tie up sizeable tracts of land for generation of Solar energy.

While “clean energy” and “renewable energy” can be major positives for our country’s efforts at energy independence and clean air, landowners should be very careful about signing any of the Solar documents currently being presented to them.

Typically one of the first documents offered to a landowner is titled “Letter of Intent” or “LOI”, but most of these documents impose some binding obligations on the landowner—and may restrict the landowner’s use of his/her property for more than forty years! The LOI often contains big numbers of “potential” benefits for landowners such as “multi-year cash rental of \$500 per acre”—but don’t be misled by the sizzle.

Before signing any such document the landowner will want to ask a number of important questions. Because American Electric Power has recently issued a Request for Proposal for construction projects to generate 100 Megawatts of solar energy, the focus here is primarily on questions the landowner should ask to those Solar companies claiming they will be working with AEP (or an affiliate).

However the following basic questions should be asked whether or not the project is to involve AEP.

1. Is the Company planning to submit a proposal to AEP (American Electric Power) or AEP Ohio (or an affiliate) in response to AEP’s recent RFP (Request for Proposals)?
 - a. If the answer is yes, then the other questions below are appropriate because the Solar Company will need to provide answers to these questions to AEP when the Company submits its proposal to AEP in response to the RFP.
 - b. If the answer is no, then the next question is—what kind of project is the company planning and to whom does it plan to sell its solar energy? Followed by the other questions because they are relevant even if the Solar Company is not planning to respond to AEP’s RFP.
2. How many megawatts (MW) of solar energy does the company plan to generate and how many acres does the Company’s project need?
3. What is the name and address and telephone number of the home office of the Company, the address and telephone number of the of the Company’s Ohio office

and who is the Project manager and what is the project name for the project you are being contacted about.

- a. Same questions about name, address, telephone number plus CEO of the parent company of the company contacting you.
- b. Is the person contacting you an employee of the Solar Company, and if so, tenure of employment? If not an employee, who is that person employed by and what is the relationship between contact person's company and the Solar company.
- c. Who is/are the owner(s) of the Solar company? Is it a public company and if so where is it traded?

4. What are the project names, locations and timing (when built, how long operating) of the solar projects the Solar company has developed in Ohio and elsewhere in the United States and Canada?

5. Ask to receive from the Solar company its Annual Reports for the three most recent fiscal years and the quarterly report for the most recent quarter. If the Solar company doesn't have "Annual Reports" receive at least financial statements (balance sheets and profit and loss statements) for the three most recent fiscal years and the quarterly financial report for the most recent quarter.

If whoever has contacted the landowner has problems providing this information, quite a bit will be learned about the Solar company (or not, but that is also instructive). The answers to these questions are important for any landowner and especially so for a person who truly wants to take care of his land.

Two final points:

1. Beware of "flippers". Flippers are salespersons not employed by a Solar company who are trying to tie up land so it can be sold to a real Solar company at a markup.

2. Before signing any solar contract, be it a Letter of Intent, an LOI, an Option or a Lease, consult an attorney who understands solar contracts and the renewable energy business.