

BEFORE

OHIO POWER SITING BOARD

In the Matter of the Application of)
Heartland Wind LLC for a Certificate to)
Site Wind-Powered Electric Generating) Case No. 09-1066-EL-BGN
Facilities in Van Wert and Paulding)
Counties, Ohio.)

ENTRY

The administrative law judge finds:

- (1) On December 21, 2009, Heartland Wind LLC (Heartland or applicant) filed with the Ohio Power Siting Board (Board), an application for a certificate to site a 350 megawatt (MW) wind-powered electric generation facility in Van Wert and Paulding counties, Ohio, pursuant to Chapter 4906-17, Ohio Administrative Code (O.A.C.).
- (2) Pursuant to the Entry of March 2, 2010, a procedural schedule was established in this proceeding. Included as part of this schedule, both a public hearing and evidentiary hearing were scheduled for May 18, 2010, and June 2, 2010, respectively. The applicant was directed to issue public notices of the application and hearing, in accordance with Rule 4906-5-08, O.A.C.
- (3) On March 25, 2010, Heartland and the Staff of the Ohio Power Siting Board (Staff) (collectively, Joint Movants) filed a joint motion seeking a new procedural schedule in this case, including the rescheduling of the public and evidentiary hearings until June 8, 2010, and June 17, 2010, respectively. Joint Movants also sought to modify the previously established deadlines for various filings.
- (4) Consistent with the administrative law judge's Entry of April 1, 2010, the joint motion was approved and the following procedural schedule was established:
 - (a) The public and evidentiary hearings were rescheduled to June 8, 2010, and June 17, 2010, respectively;

- (b) Heartland and intervenors will file a list of issues for cross-examination pertaining to the Staff report by June 3, 2010;
 - (c) Heartland will file its expert testimony by June 11, 2010;
 - (d) Staff and intervenors will file testimony by June 15, 2010.
- (5) On April 30, 2010, Joint Movants filed a joint motion for another extension of time or continuance of the hearing dates.

In support of their request, Joint Movants explain that the proposed modifications to the previously established procedural schedule are necessary due to the fact that, since the filing of Heartland's December 21, 2009, application, the standards for wind farms have become more defined, thus, resulting in the need for Heartland to modify turbine site locations in order to meet the more defined noise standards. According to the joint motion, Heartland filed a formal supplement to its application on March 31, 2010, which contained maps of the modified turbine locations within the project area. Specifically, the joint motion indicates that, while the modifications in the new site plan added more distance among the proposed turbine locations in order to mitigate noise, the project area boundaries were not changed. Additionally, based on the criteria identified by the Board Staff, Heartland has committed to submit a noise study by May 3, 2010, and a shadow flicker study by May 14, 2010.

According to Joint Movants, the additional requested time is necessary in order to allow the Board Staff to conduct its review of the recently supplemented application. Further, Heartland has to serve the supplement on persons entitled to service of the original application, republish the new hearing dates, and reissue a letter to applicable property owners and governmental entities setting forth the new hearing dates.

Finally, Joint Movants represent that no party will be prejudiced by the granting of the motion inasmuch as the only current intervenor, the Ohio Farm Bureau Federation, has agreed to the requested revised schedule.

- (6) The administrative law judge finds that the joint motion to again reschedule the hearings and establish a new procedural schedule is reasonable and should be granted. However, the administrative law judge notes that this is the last time that the hearings in this matter shall be rescheduled. Accordingly, the local public hearing, currently scheduled for June 8, 2010, at 5:00 p.m. at the Crestview School, 531 East Tully Street, Convoy, Ohio 45832 and the adjudicatory hearing currently scheduled for June 17, 2010, at the offices of the Commission, shall both be rescheduled as requested. Therefore, the local public hearing is rescheduled for July 8, 2010, at 5:00 p.m., at the Lincolnview School, 15945 Middle Point Road, Van Wert, Ohio 45891, and the adjudicatory hearing is rescheduled for July 15, 2010, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11th Floor, Columbus, Ohio 43215-3793.
- (7) Heartland is directed to post a notice, on June 8, 2010, at the local public hearing location that had been established by the April 1, 2010, entry. The notice should state that the local public hearing in this case scheduled for June 8, 2010, and the adjudicatory hearing in this case scheduled for June 17, 2010, have both been rescheduled. The notice should indicate that the local public hearing has been rescheduled for July 8, 2010, at 5:00 p.m., at the Lincolnview School, 15945 Middle Point Road, Van Wert, Ohio 45891, and that the adjudicatory hearing has been rescheduled for July 15, 2010, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11th Floor, Columbus, Ohio 43215-3793.
- (8) Heartland should publish revised public notices reflecting the rescheduled hearings in accordance with Rule 4906-5-08, O.A.C. As part of the information to be included in the notices, as required by Rule 4906-5-08, O.A.C., Heartland shall include a statement that the public hearing in this case shall consist of two parts:
- (a) The local public hearing, pursuant to Section 4906.08(C), Revised Code, rescheduled from June 8, 2010, to July 8, 2010, at 5:00 p.m. at the Lincolnview School, 15945 Middle Point Road, Van Wert, Ohio 45891;
 - (b) An adjudicatory hearing rescheduled from June 17, 2010, to July 15, 2010, at 10:00 a.m., 11th Floor, Hearing Room D, at the offices of the Public Utilities

Commission of Ohio, 180 East Broad Street,
Columbus, Ohio 43215-3793.

Further, Heartland shall include the following statement as part of the public notice:

Petitions to intervene in the adjudicatory hearing will be accepted by the Board up to 30 days following publication of this notice required by Rule 4906-5-08(C)(1), O.A.C., or later if good cause is shown. However, the Board strongly encourages interested persons who wish to intervene in the adjudicatory hearing to file their petitions as soon as possible. Petitions should be addressed to the Ohio Power Siting Board, 180 East Broad Street, Columbus, Ohio 43215-3793 and cite the above-listed case number.

- (9) Pursuant to the granting of the joint motion for an extension of time, the following time frames shall be in effect:
- (a) The public and evidentiary hearings are rescheduled to July 8, 2010, and July 15, 2010, respectively;
 - (b) Heartland will submit its noise study and shadow flicker study on May 3, 2010, and May 14, 2010, respectively;
 - (c) The Board Staff will issue its report by June 23, 2010;
 - (d) Heartland and intervenors will file a list of issues for cross-examination pertaining to the Board Staff report by July 6, 2010;
 - (e) Heartland will file its expert testimony by July 9, 2010;
 - (f) Staff and intervenors will file testimony by July 13, 2010.

It is, therefore,

ORDERED, That the joint motion to reschedule the hearings and establish a new procedural schedule be granted in accordance with Finding (6). It is, further,

ORDERED, That the public and evidentiary hearings be rescheduled consistent with Finding (6). It is, further,

ORDERED, That the parties comply with the revised procedural schedule outlined in Finding (9). It is, further,

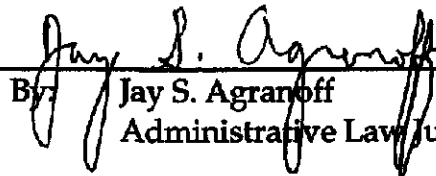
ORDERED, That, in accordance with the directives of Findings (7) and (8), Heartland shall post notice and cause newspaper notice to be published concerning the rescheduling of the hearings. It is, further,

ORDERED, That Heartland send the requisite letter to each property owner and affected tenant in accordance with Rule 4906-5-08(C)(3), O.A.C. It is, further,

ORDERED, That the Board's Staff file its report pursuant to Finding (9). It is, further,


ORDERED, That a copy of this entry be served upon all parties and interested persons of record.

THE OHIO POWER SITING BOARD


By Jay S. Agranoff
Administrative Law Judge

JPJ/dah

Entered in the Journal
MAY 06 2010



Renee J. Jenkins
Secretary