

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of)
Hog Creek Wind Farm, LLC for an)
Amendment to its Certificate of)
Environmental Compatibility and) Case No. 11-757-EL-BGA
Public Need for the Wind-Powered)
Electric Generation Facility in Hardin)
County, Ohio.)

ENTRY

The administrative law judge finds:

- (1) On March 22, 2010, in Case No. 09-277-EL-BGN (09-277), the Ohio Power Siting Board (Board) issued an Opinion, Order and Certificate (certificate), approving a stipulation entered into by the parties to that case and granting to JW Great Lakes Wind, LLC (JWGL) a certificate to construct, operate, and maintain a wind-powered electric generation facility in Hardin County, Ohio.
- (2) By entry issued July 15, 2010, in 09-277, the Board granted a joint application filed by JWGL and Hog Creek Wind Farm, LLC (Hog Creek), approving the transfer of the certificate from JWGL to Hog Creek.
- (3) On February 11, 2011, as supplemented on March 24, 2011, and April 26, 2011, Hog Creek filed an application in the instant case to amend the certificate issued in 09-277.
- (4) On March 24, 2011, Hog Creek filed a motion for protective order pursuant to Rule 4906-7-07(H), Ohio Administrative Code (O.A.C.). Hog Creek sought to protect certain documents filed in support of its amendment application on March 24, 2011, namely Exhibits A and B.
- (5) Rule 4906-7-07(H)(4), O.A.C., provides that, upon motion of any party or person filing a document with the Board's docketing division relative to a case before the Board, the administrative law judge (ALJ) assigned to the case may issue any order, which is necessary to protect the confidentiality of information contained in the document, to the extent that state or federal law prohibits release of the information, including where it is determined that both of the following criteria are

met: the information is deemed by the ALJ to constitute a trade secret under Ohio law, and where nondisclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code. Any order issued under this rule should minimize the amount of information protected from public disclosure.

- (6) By entry issued May 5, 2011, the ALJ granted Hog Creek's motion for protective order with respect to Exhibit A, which contains Hog Creek's financial data. However, with regard to Exhibit B, which is a complete version of the Vestas Americas Health Safety & Environment Manual, the ALJ noted that, although every page of the manual is marked "trade secret" and "confidential," many of the pages do not appear to contain trade secret information that should be the subject of a protective order under Rule 4906-7-07(H), O.A.C.

The ALJ found that certain pages of the manual are blank forms and include no information; many pages contain non-specific information about general subject matters; other pages describe publicly available standards from the United States Occupational Safety and Health Administration and other federal regulatory agencies; and still other pages contain photographs of containment devices appearing to be empty and not in use. In addition, the ALJ noted that a similar document was filed in the public record on January 8, 2010, in *In the Matter of the Application of Black Fork Wind, LLC for a Certificate of Environmental Compatibility and Public Need for the Siting of a Wind-Powered Electric Generating Facility in Richland and Crawford Counties*, Case No. 09-546-EL-BGN.

Consequently, the ALJ directed Hog Creek to file an amended motion for protective order by June 6, 2011, and specifically identify the information on each page of Exhibit B that Hog Creek believes should be considered a trade secret and provide a specific explanation as to why such information should be considered as such.

- (7) To date, Hog Creek has not filed an amended motion for protective order in accordance with the entry of May 5, 2011. Accordingly, the ALJ finds that Hog Creek's motion for a protective order with respect to Exhibit B should be denied. Therefore, the ALJ directs the docketing division of the Board to move Exhibit B to the public file on July 21, 2011.

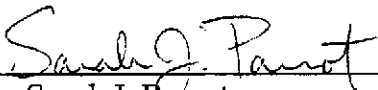
It is, therefore,

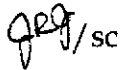
ORDERED, That the motion for protective order pertaining to Exhibit B, filed under seal on March 24, 2011, be denied. It is, further,

ORDERED, That on July 21, 2011, the Board's docketing division shall remove Exhibit B from the sealed record in this case and place it in the public file. It is, further,

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

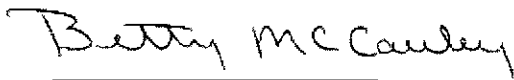
OHIO POWER SITING BOARD


By: Sarah J. Parrot
Administrative Law Judge



Entered in the Journal

JUL 08 2011



Betty McCauley
Secretary