

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of NextEra )  
Energy Honey Creek Wind, LLC for a )  
Certificate To Site a Wind-Powered Electric ) Case No. 11-4886-EL-BGN  
Generation Facility in Seneca and Crawford )  
Counties, Ohio. )

ENTRY

The Administrative Law Judge finds:

- (1) On August 25, 2011, NextEra Energy Honey Creek Wind, LLC (Honey Creek or applicant), filed with the Board a motion requesting waivers. Honey Creek is a wholly-owned subsidiary of NextEra Energy Resources (NextEra). NextEra is a national wind energy company formed to develop, build, own, and operate wind energy facilities. The proposed Honey Creek wind facility will consist of up to 115 turbines, access roads, electrical collection system, construction staging area, operations and maintenance facilities, and substations across approximately 14,000 acres in portions of Seneca and Crawford counties, Ohio. The expected generation capacity of the facility is up to 185 megawatts.
- (2) Honey Creek filed a motion requesting waivers of Section 4906.06(A)(6), Revised Code, and Rules 4906-17-04(A), 4906-17-05(A)(3)(g), divisions (A)(4) and (B)(1)(a) of Rule 4906-17-05, and 4906-17-05(B)(2)(h), Ohio Administrative Code (O.A.C.).
- (3) On October 13, 2011, the Board's Staff (Staff) filed a letter indicating that, while Staff does not object to Honey Creek's waiver requests, to the extent that any waiver requests are granted, Staff reserves the right to require information from the applicant if Staff subsequently determines such information to be necessary during the course of Staff's investigation.
- (4) Section 4906.06(A)(6), Revised Code, requires that a certificate application "be filed not less than one year nor more than five years prior to the planned date of commencement of construction." Honey Creek states that a waiver of this provision is necessary to allow the applicant to commence construction by the summer of 2012, so that it can take full

advantage of the longest period possible for construction weather and to minimize the inconvenience to affected property owners to one construction season.

- (5) Section 4906.06(A)(6), Revised Code, specifically allows waiver of the one-year notice requirement for good cause. Honey Creek's efficient use of the construction season to reduce the inconvenience of construction to a single construction season for affected property owners is a good cause. Therefore, the Administrative Law Judge (ALJ) finds that Honey Creek's request for waiver of the one-year advance notice requirement is reasonable and the applicant's request to waive that aspect of Section 4906.06(A), Revised Code, should be granted.
- (6) Rule 4906-17-04(A), O.A.C., requires the applicant to conduct a project area site selection study and provide a description of the study area or geographic boundaries, a map of the study area, a comprehensive description of the process used to establish site criteria, constraints, any alternate project sites and a comparison of the selection factors. Honey Creek notes that sufficient wind resources in Ohio are very limited for viable utility-scale wind projects and, accordingly, the Board has recognized that it may be appropriate to grant a waiver from the filing of an extensive site selection study. Further, the applicant states that it will provide sufficient information to support a finding that the site represents the minimum adverse environmental impact pursuant to Section 4906.10(A)(3), Revised Code. Accordingly, Honey Creek requests a waiver from the extensive site selection study requirements of Rule 4906-17-04(A), O.A.C. Upon consideration of this request, the ALJ finds the applicant's request to be reasonable and, therefore, the request to waive Rule 4906-17-04(A), O.A.C., should be granted.
- (7) One of the application requirements for a wind generation facility is a map of the project site depicting vegetative cover that may be removed during construction at Rule 4906-17-05(A)(3)(g), O.A.C. Honey Creek requests that it be permitted to submit a map with a general description and drawing of the vegetation to be cleared (to be disturbed) within the project area excluding the five-mile radius surrounding the proposed facility. Honey Creek asserts that detailed information on a project of this size, as required by the rule, is cost prohibitive.

The applicant argues that the additional data required per the rule does not serve a useful purpose and similar waivers have been granted to other wind applicants.

Upon consideration, the ALJ concludes that as with other requests for waiver of Rule 4906-17-05(A)(3)(g), O.A.C., Honey Creek must provide sufficient information for Staff to conduct its investigation and determine whether the project area represents the minimum adverse environmental impact, as required in accordance with Section 4906.10(A)(3), Revised Code. In light of the extensive project area, the applicant is directed to provide a description of the vegetation and quantity of vegetation likely to be disturbed during construction. With that caveat, the ALJ finds that Honey Creek's request for waiver of Rule 4906-17-05(A)(3)(g), O.A.C., is reasonable and should be granted.

- (8) Pursuant to Rule 4906-17-05, O.A.C., at divisions (A)(4) and (B)(1)(a), the certification application for a wind generation facility must include a map, with corresponding cross-sectional views indicating geological features of the proposed facility site and the location of test borings. Honey Creek requests that it be permitted to provide a geological desktop study, with generalized cross-sectional views based on available secondary source information and representative test boring information. Once the final turbine locations are determined, Honey Creek agrees to provide test borings of the final turbine site locations. The ALJ finds that the request for waiver of divisions (A)(4) and (B)(1)(a) of Rule 4906-17-05(A)(4), O.A.C., is reasonable and should be granted provided Honey Creek submits the results of the test borings to Staff at least 30 days prior to the commencement of construction.
- (9) Rule 4906-17-05(B)(2)(h), O.A.C., requires that the layout map of the proposed generation facility include grade elevations where the elevation will be modified during construction. Honey Creek requests a waiver of Rule 4906-17-05(B)(2)(h), O.A.C., to the extent the rule requires such information prior to the determination of the final turbine site locations. Applicant reasons that the turbine footprint is relatively small, at approximately 50-60 feet in diameter and, therefore, the impact of grading will be minimal. Honey Creek agrees to provide Staff with the grading information when final construction

drawings are submitted. In light of the applicant's agreement to supply a map with grade elevations at the final turbine site locations, the ALJ finds that the request for waiver of this rule is reasonable and should be granted.

- (10) In granting Honey Creek's motion, the ALJ notes that the applicant is not relieved of its responsibility to provide Staff with information in the areas subject to the waivers, if, in the determination of Staff, the information becomes necessary during the course of its investigation of the application.

It is, therefore,

ORDERED, That, in accordance with the above findings, Honey Creek's motion for waivers be granted. It is, further,

ORDERED, That a copy of this entry should be served upon all interested persons of record in this proceeding.

THE OHIO POWER SITING BOARD

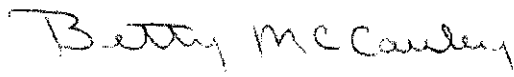


By: Greta See  
Administrative Law Judge

GRF  
/vrn

Entered in the Journal

**NOV 01 2011**



Betty McCauley  
Secretary