

**BEFORE  
THE OHIO POWER SITING BOARD**

In the Matter of the Application of **LEIPSIC** )  
**WIND, LLC** for a Certificate to Site a Wind- )  
Powered Electric Generation Facility in Putnam ) Case No. 11-3676-EL-BGN  
County, Ohio )

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**LEIPSIC WIND LLC’S THIRD MOTION FOR A WAIVER OF  
OHIO ADMINISTRATIVE CODE RULE 4906-5-05**

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Leipsic Wind, LLC (“Leipsic Wind” or “Applicant”), respectfully moves the Ohio Power Siting Board (“Board”) or its Administrative Law Judge (“ALJ”) for a third waiver of Ohio Administrative Code (“OAC”) Rule 4906-5-05 (A) pertaining to the 60 day period within which the Chairman of the Board is required to issue a letter indicating whether the application is complete. For the reasons given below, this motion requests that the issuance of the letter referred to in OAC Rule 4906-5-05 (A) be extended from May 23, 2012 to March 31, 2013. When Leipsic Wind files its supplemental information, Leipsic Wind proposes that the full sixty (60) day period for the completeness review begin anew.

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**MEMORANDUM IN SUPPORT**

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As noted in its prior Motions for Waiver filed on September 16, 2011 and December 22, 2011 Leipsic Wind filed its Application in the above referenced matter on July 29, 2011. In its Application it noted that though it had proposed one point for interconnection, AEP had subsequently suggested alternatives within the Project area as explained in a memorandum found in Appendix Q (Application at 5-52). Since filing the Application representatives of Leipsic Wind and AEP have met numerous times and have jointly settled upon an interconnect location at the AEP North Leipsic substation. This interconnect location is within the project boundary as

submitted with the Application and is located approximately 0.5 mile NW of the original interconnect location (AEP East Leipsic substation). The change to the North Leipsic substation also entailed changes to the electric lines serving ProTec, a business adjoining the Leipsic Wind footprint. A plan to better improve service not only to ProTec but potentially to others in the community involves AEP's constructing both a 138 kV and a 69 kV transmission line around the perimeter of the ProTec property to the North Leipsic substation and for Leipsic Wind to construct a 138 kV line from one of its turbines to the North Leipsic substation. . Leipsic Wind recognizes that an appropriate application for construction and operation of the new electric line will need to be filed with the Board.

Moreover, in the intervening time, Leipsic Wind has been able to lease additional parcels and would like to expand the Project area. Though the Application requested authority to construct and operate up to 150 MW of capacity, the number of turbines that would appropriately fit on the original footprint was fewer than the number of turbines to produce 150 MW. The expanded area will permit Leipsic Wind to achieve the requested 150 MW of capacity with additional spacing in between turbines to meet Ohio wind turbine siting requirements. The expanded footprint will extend into a second county, Henry. Leipsic Wind proposes to hold a second community meeting in Henry County prior to filing its revised application.

Leipsic Wind has also been considering turbine models for its project in addition to the Gamesa model listed in the original Application. Leipsic Wind proposes to include information about additional models when it files its supplemental information. It will make the safety manuals of the additional turbine models available for Board staff review.

On April 10, 2012 Leipsic Wind and Board staff representatives met to discuss the proposed expansion and additional turbine models. Because the Application has not proceeded to the completeness phase, supplemental information when it is filed can include the information on the changes discussed above. It was agreed that at the time Leipsic Wind files supplemental

information, it would include data pertinent to the expanded area and the turbines. It was also agreed that Leipsic Wind would file the supplemental information as a revised application that would include the entire Application as filed plus the new information about developments since the Application was filed.

Leipsic Wind has initiated various studies pertinent to the additional land and the new proposed turbine models. With this supplemental analysis plus the studies completed on the original project area, the Board staff will be able to complete its 60 day review of the Leipsic Wind application. Thus Leipsic Wind requests that the timing on the completeness review be reset for a full 60 days to begin on the date the revised application is filed.

OAC Rule 4906-5-05 (A) sets a 60 day time period for the Board Chairman to issue a letter determining whether an application is complete. Ohio Revised Code Chapter 4906, governing the jurisdiction of the Board, is silent on the length of time the Board may take in the processing of an application. The Board's rules, rather than statutes, establish a 60 day period for the issuance of a letter informing an applicant about whether its application is complete.

The Board's rules specifically permit the Board or the ALJ to grant waivers from the Board's rules. OAC Rule 4906-1-03 permits the Board to waive "any requirement, standard, or rule set forth in Chapters 4906-1 to 4906-17 of the Administrative Code, except where precluded by statute." As noted, the 60 day period is not set forth in the statute; indeed, the completeness letter itself is not set forth as a requirement in Ohio Revised Code Chapter 4906. Thus, the Board or the ALJ<sup>1</sup> has complete authority to waive the time period for the issuance of the completeness letter.

The Board's rules anticipate a fairly speedy process for the processing of applications. The time frames set forth by the rules are beneficial to applicants who typically have significant financial commitments at stake and thus require timely regulatory decisions. Since the 60 day

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<sup>1</sup> The ALJ, pursuant to OAC Rule 4906-7-12 has authority to rule on motions.

period grants applicants a date certain by which applicants are given notice whether an application is complete, the Applicant is the only party who will be disadvantaged if the process of review is extended. There is no party, other than the Applicant, who will be affected adversely by the extension of the time for the completeness review. The Ohio Farm Bureau Federation which has moved to intervene in this case does not object to this third extension. The Board Staff has represented that it has no objections to the waiver. Thus, it is reasonable and just for the Board to grant this waiver.

WHEREFORE, Leipsic Wind, LLC requests the Board or its Administrative Law Judge grant an extension of time for the issuance of the letter contemplated by OAC Rule 4906-5-05 (A) for a third period to end on March 31, 2013 in which to file a revised application that will include all the supplemental information.

Respectfully submitted on behalf of  
LEIPSIC WIND, LLC



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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion for an Extension of Time was served upon the following parties of record via regular U.S. Mail this 22<sup>nd</sup> day of May 2012.



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Sally W. Bloomfield

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**Case No(s). 11-3676-EL-BGN**

Summary: Motion for a Waiver of Ohio Administrative Code Rule 4906-5-05 electronically filed by Teresa Orahod on behalf of Leipsic Wind, LLC