

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of Hardin )  
Wind LLC Regarding its Certificate to )  
Construct a Wind-Powered Electric ) Case No. 14-1557-EL-BGA  
Generation Facility in Hardin and Logan )  
Counties, Ohio. )

ORDER ON CERTIFICATE

The Ohio Power Siting Board, in considering the above-entitled matter, having appointed an administrative law judge to conduct the hearing, having reviewed the exhibits introduced into evidence, and being otherwise fully advised, hereby grants the application filed by Hardin Wind LLC to add two new turbine models to the list of turbine models, change the location of various associated facilities, and add new associated facilities for the wind-powered electric generation facility in Hardin and Logan counties, Ohio, subject to the conditions in this Order.

OPINION:

I. Procedural History of this Case

All proceedings before the Ohio Power Siting Board (Board) are conducted according to the provisions of R.C. Chapter 4906 and Ohio Adm.Code Chapter 4906.

On March 17, 2014, the Board granted the applications filed by Hardin Wind LLC (Hardin) for certificates to construct a wind-powered electric generation facility, a substation, and a transmission line in Hardin and Logan counties, Ohio (Scioto Ridge Wind Farm). *In re Hardin Wind LLC*, Case Nos. 13-1177-EL-BGN, et al., (*Hardin I Case*), Opinion, Order, and Certificates (Mar. 17, 2014). The Board granted Hardin's applications pursuant to a joint stipulation filed by Hardin, the Ohio Farm Bureau Federation (OFBF), and Staff, subject to 28 conditions.

On September 11 and 12, 2014, as revised on December 12, 2014, Hardin filed this application pertaining to the certificates issued in the *Hardin I Case*. As explained further below in the summary of the application, Hardin proposes to change the location of one meteorological (met) tower, five access roads, six collection lines, and the collector substation; add two new access roads and six new collection lines.<sup>1</sup> In addition, Hardin proposes to add two new turbine models, the Suzlon S111 and the General Electric 103, to the list of possible models to be used.

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<sup>1</sup> As discussed in more detail in the Section IV of this Order, in its initial application, Hardin proposed to change the location of five turbines; however, it subsequently modified its application to eliminate those five turbines.

On September 11, 2014, Hardin filed proof of service of this application. On October 9 and 30, 2014, Hardin filed proofs of publication of the notice of the application that was published in the Bellefontaine Examiner and The Kenton Times, newspapers of general circulation in Logan and Hardin counties, respectively. On September 4, 2015, Staff filed its report evaluating the application (Staff Report).

By Entry issued September 9, 2015, the administrative law judge (ALJ) granted the motions to intervene filed by James Rudolph, Joseph Grant, Anthony and Devin Elsasser, James Klink, William Campbell, Logan Hardin Neighbors United (LHNU), and the OFBF. In that same Entry, the ALJ found that none of the proposed changes would result in any material increase in any environmental impact of the facility; therefore, a hearing was not required under R.C. 4906.07(B) with regard to any material increase in any environmental impact of the facility due to the proposals in this application. However, the ALJ found that the relocation and addition of certain facilities result in a substantial change in the location of all or a portion of the certified facilities; therefore, a hearing was required under R.C. 4906.07, only to the extent there is a substantial change in the location of all or a portion of the certified facility. Accordingly, an evidentiary hearing was held on September 29, 2015.

## II. Summary of Ohio Revised Code and Ohio Administrative Code

Hardin is a corporation and a person under R.C. 4906.01(A) and is certificated to construct, operate, and maintain a major utility facility, in the form of a wind-powered electric generation facility, under R.C. 4906.10 in accordance with the Board's Order in the *Hardin I Case*.

Pursuant to R.C. 4906.10, the Board's authority applies to major utility facilities and provides that such facilities must be certified by the Board prior to the commencement of construction. In accordance with R.C. Chapter 4906, the Board promulgated rules, which are set forth in Ohio Adm.Code Chapters 4906-5 and 4906-17, prescribing regulations regarding applications for wind-powered electric generation facilities.

R.C. 4906.06(E) provides that an application for an amendment of a certificate shall be in such form and contain such information as the Board prescribes. R.C. 4906.07 requires that, when considering an application for amendment of a certificate, the Board shall hold a hearing "\*\*\*\*if the proposed change in the facility would result in any material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of such facility\*\*\*."

Under R.C. 4906.06(E), an applicant is required to provide notice of its application as required by R.C. 4906.06(B) and (C). These sections require an applicant

to file proof of service of the application to all public officials in the area where the facility is located and, within 15 days after the date of the filing of the application, give public notice of the application by publishing a summary of the application in newspapers of general circulation in the area.

### III. Summary of the Evidence

#### A. Summary of Hardin's Initial Application

In the initial application, filed on September 11 and 12, 2014, as revised on December 12, 2014, Hardin identifies certain revisions to the approved project design. Hardin proposes to shift the locations of turbines 25, 54, 62, 129, and 198 (collectively referred to hereafter as the five relocated turbines), as well as six segments of the underground collection line system and six locations of new underground collection lines. According to Hardin, all relocated and new collection lines are on leased lands and all disturbances associated with the collection lines will be temporary in nature. According to Hardin, these changes allow greater flexibility in the construction of the facility. Hardin also proposes to relocate five access roads and add two new access roads, and relocate one of the four permitted met towers onto a different participating parcel approximately 1.4 miles to the northeast. Hardin notes that these changes were made to accommodate requests by landowners. Hardin also proposes to relocate the project collector substation onto a new parcel approximately two miles to the northeast and adjacent to the approved transmission line for the project. Hardin notes that this shift places the collector substation closer to the interconnect substation, which results in a reduction of 2.2 miles in overhead 345 kilovolt transmission line and provides the facility with more flexibility when final determinations on turbine models and locations are made. Hardin further proposes to add two new turbine models, the Suzlon S111 and the GE 103, as turbine models suitable for the project. According to Hardin, these new turbine models have become available since the application in the *Hardin I Case* was filed, and have shorter rotor diameters and are less in total height than the maximum rotor diameter and maximum total height of the currently certificated turbines. (Hardin Ex. 2 at 3-4, 6; Hardin Ex. 3.)

#### B. Summary of the Staff Report

Staff reviewed the pending application and filed a Staff Report on September 4, 2015. The Staff Report reviews Hardin's proposed modifications to the certificates issued in the *Hardin I Case*. Staff finds that the addition of two new turbine models would not affect the location of any facilities and would not result in a material increase in environmental impact. With respect to proposed modifications to the location of the five relocated turbines, collection lines, met tower, access roads, and collector substation, Staff finds that the changes to these facilities would pose no material increase in environmental impact. However, Staff finds that the relocation of the five

relocated turbines, one met tower, six access roads, six collection lines, the collector substation, two new access roads, and new collection lines constitute substantial changes in the location in these portions of the certified facilities. Staff recommends that the Board approve the application, provided the certificate continues to include the 28 conditions specified in the *Hardin I Case*, with the Suzlon S111 and the General Electric 103 turbines to be added as acceptable turbine types and with the new and relocated meteorological tower, collector substations, access roads, and collection lines. Staff also recommends the Board approve the five relocated turbines, subject to Hardin's compliance with the applicable statutory setback requirement. (Staff Report at 2-4.)

C. Summary of the Evidence Presented at the Evidentiary Hearing

The evidentiary hearing was held on September 29, 2015. The following parties made appearances at the hearing: Hardin, Staff, OFBF, Anthony Elsasser, James Rudolph, Joseph Grant, and LHNU. No public witnesses appeared at the hearing. At the hearing, Hardin indicates that it had agreed in principal with the intervenors regarding modifications to the application and, therefore, as discussed below, the intervenors have agreed to withdraw their objections in this case (Tr. at 7-9). Counsel for James Rudolph, Joseph Grant, and LHNU confirms that third-party agreements had been reached with Hardin, such that their concerns and objections to the application have been resolved (Tr. at 7-9). As explained by Hardin witness Speerschneider, Hardin made the decision to drop the five relocated turbines that had initially been proposed to be shifted, as well as the access roads associated with each of those turbines, in part to alleviate the concerns of the intervenors. He also notes that all collection line relocations and new collection line segments remain as proposed in the application, with the exception of the short stretches of collection lines to turbines 54, 62, 129, and 198 that are no longer needed. (Hardin Ex. 6 at 4; Tr. at 15-18.)

Hardin witness Speerschneider further states that, with the deletion of turbine 129 and the associated access road, the Elsasser's concerns related to chemical spraying, drainage, and damage to new drainage tile, have been eliminated (Hardin Ex. 6 at 7-8). Intervenor witness Elsasser, who had filed testimony expressing concerns about chemical spraying, drainage, and damage to drainage tiles, indicates that he agreed to withdraw his testimony and not oppose the application. Mr. Elsasser notes that his brother Devin, who had also been granted intervention, had advised him that, based on the modifications to the application, his concerns were alleviated. Therefore, Mr. Elsasser withdrew his testimony. (Tr. at 8.) In addition, Hardin witness Speerschneider offers that the noise modeling performed and the conclusions in the testimony of Hardin witness Kaliski remain valid, noting that less turbines means less operational noise impacts and less shadow flicker (Tr. at 16).

Hardin witness Speerschneider notes that none of the collection lines are changing as a result of the dropping the five turbines, with the exception of the short segments of collection line connecting to turbines 54, 62, 129, and 198. He also explains that, although the Staff Report indicates seven new collection line segments are being added, Hardin confirmed with Staff that the difference in count is a result of Staff counting one section of collection line as two segments. Mr. Speerschneider states that the change in the location of the collector substation was made to accommodate the concerns of a local property owner and was noticed in Hardin's December 12, 2014 filing regarding a minor shift in the collector substation. (Hardin Ex. 6 at 8-9.) None of the parties conducted any cross-examination of Hardin witness Speerschneider or Staff witness Whitis.

#### IV. Conclusion

Initially, the Board notes that, in our Order in the *Hardin I Case*, after thoroughly considering all of the evidence of record, we determined that the stipulation entered into between the stipulating parties satisfies the criteria set forth in R.C. Chapter 4906, promotes the public interest and necessity, and does not violate any important regulatory principle or practice. Therefore, the Board approved the stipulation in the *Hardin I Case*, thus, authorizing Hardin to construct the Scioto Ridge Wind Farm in Hardin and Logan counties, Ohio.

Upon review of the instant application, the Board finds that, pursuant to R.C. 4906.07, the proposed application does not result in any material increase in any environmental impact of the facility; therefore, a hearing was not necessary to consider those factors. However, in accordance with R.C. 4906.07, a hearing was held to consider the relocation of facilities and new facilities proposed by Hardin, because such changes would result in a substantial change in the location of all or a portion of such facility. After consideration of the record in this proceeding, including Hardin's decision to drop the five relocated turbines that had initially been proposed to be shifted, as well as the access roads associated with each of those turbines, the Board finds that the addition of two new turbine models, the change in the location of the met tower, five access roads, six collection lines, and the collector substation, and the addition of two new access roads and six new collection lines does not affect our conclusion from the *Hardin I Case* that the project satisfies the criteria set forth in R.C. Chapter 4906, promotes the public interest, and does not violate any important regulatory principle or practice. In addition, the Board finds that, prior to construction of each turbine, Hardin should submit to Staff verification that it has complied with the statutory setback requirements and Hardin should maintain any required waivers, which should include the appropriate signatures and property depiction, for Staff's review. Accordingly, pursuant to R.C. Chapter 4906, the Board concludes that the application filed by Hardin on September 11 and 12, 2014, as revised on December 12, 2014, and further revised at the evidentiary hearing on September 29, 2015, should be approved subject to the

conditions set forth in the Order in the *Hardin I Case*, and the revisions agreed to by Hardin at the hearing.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) Hardin is a corporation and a person under R.C. 4906.01(A).
- (2) Hardin's electric generation facility is a major utility facility under R.C. 4906.01(B)(1).
- (3) On September 11 and 12, 2014, as revised on December 12, 2014, Hardin filed an application in this proceeding regarding the certificate issued in the *Hardin I Case*.
- (4) As revised, the proposed application would: change the location of one met tower, five access roads, six collection lines, and the collector substation; and add two new access roads and six new collection lines. In addition, Hardin proposes to add two new turbine models to the list of possible models to be used including the Suzlon S111 and the GE 103 turbines.
- (5) On September 11, 2014, Hardin filed proof of service of the application in this case. Public notice of the proposed application was published in newspapers of general circulation in Logan and Hardin counties, Ohio and proof of the publication was filed with the Board on October 9, 2104.
- (6) On September 4, 2015, Staff filed its report of investigation of the application.
- (7) By Entry issued September 9, 2015, the ALJ granted the motions to intervene filed by James Rudolph, Joseph Grant, Anthony and Devin Elsasser, James Klink, William Campbell, LHNU, and the OFBF.
- (8) The proposed changes to the certificated facility do not result in any material increase in any social or environmental impact; however, the change in location of certain facilities and the addition of new facilities do result in a substantial change in the location of the facility. Therefore, pursuant to R.C. 4906.07, an evidentiary hearing is necessary only to the extent there is a substantial change in the location of all or a portion of the certified facility.

- (9) An evidentiary hearing was held on September 29, 2015, as which time Hardin further revised the application by dropping the five relocated turbines that had initially been proposed to be shifted, as well as the access roads associated with each of those turbines.
- (10) Based on the record, and in accordance with R.C. Chapter 4906, the application regarding the certificate of environmental compatibility and public need for Hardin's electric generation facility issued in the *Hardin I Case*, filed by Hardin on September 11 and 12, 2014, as revised on December 12, 2014, and further revised at the evidentiary hearing on September 29, 2015, should be approved, subject to the conditions set forth in the Order in the *Hardin I Case* and this Order.

ORDER:

It is, therefore,

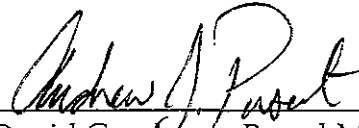
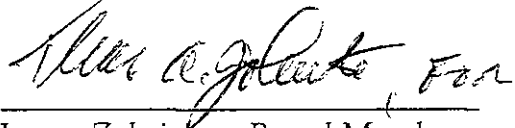

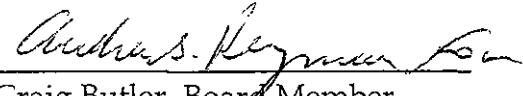
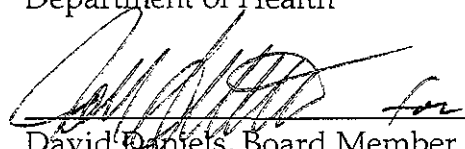

ORDERED, That Hardin's application filed on September 11 and 12, 2014, as revised on December 12, 2014, and further revised at the evidentiary hearing on September 29, 2015, be approved subject to the conditions set forth in the Order in the *Hardin I Case*, and the revisions agreed to by Hardin at the hearing. It is, further,

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

## THE OHIO POWER SITING BOARD

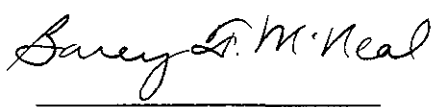
  
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Public Utilities Commission of Ohio

  
David Goodman, Board Member  
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Development Services Agency  
James Zehringer, Board Member  
and Director of the Ohio  
Department of Natural Resources  
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Secretary