

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of)	
Paulding Wind Farm and Paulding Wind)	
Farm III, LLC for Amendments to Their)	Case No. 15-2030-EL-BGA
Certificates to Install and Operate a)	Case No. 15-2031-EL-BGA
Wind-Powered Electric Generation)	
Facilities in Paulding County, Ohio.)	

ENTRY

The administrative law judge finds:

- (1) On August 23, 2010, in *In re Paulding Wind Farm LLC*, Case No. 09-980-EL-BGN (09-980), the Board issued an Opinion, Order, and Certificate granting the application of Paulding Wind Farm LLC for a certificate to construct *Timber Road I*, a wind-powered electric generating facility in Paulding County, Ohio, consisting of up to 35 turbine sites with a combined generation capacity of 48.6 megawatts (MW).
- (2) On November 18, 2010, in *In re Paulding Wind Farm II LLC*, Case No. 10-369-EL-BGN (10-369), the Board issued an Opinion, Order, and Certificate granting the application of Paulding Wind Farm II LLC for a certificate to construct *Timber Road II*, a wind-powered electric generating facility in Paulding County, Ohio, consisting of up to 98 turbine sites with a combined generation capacity of 150.4 MW.
- (3) On February 28, 2011, in *In re Paulding Wind Farm II LLC*, Case No. 10-3128-EL-BGA (10-3128), the Board issued an Order on Certificate Amendment permitting Paulding Wind Farm II LLC to amend the certificate granted in 10-369. Changes included an increase the hub height of the approved Vestas V100 1.8 MW turbine model from 262.5 feet to 311.7 feet, the addition of a new permanent meteorological tower, and the removal of three of the previously approved meteorological tower locations.
- (4) On February 28, 2011, in 10-369, the Board authorized the bifurcation of the project approved in 10-369 into two phases. As a result of this bifurcation, Phase I of the project continues to be known as *Timber Road II*. It consists of 55 operational

turbines and began commercial operation in July 2011. Phase II of the project approved in 10-369 is now known as the *Timber Road III*. It consists of 37 unconstructed turbine locations and has been assigned to Paulding Wind Farm III LLC.

- (5) On December 9, 2015, in *In re Paulding Wind Farm III LLC*, Case No. 15-2030-EL-BGA (15-2030), Paulding Wind Farm III LLC filed an application to amend the certificate, first issued in 10-369 and later amended in 10-3128, which authorizes *Timber Road III*.
- (6) On December 9, 2015, in Case No. 15-2031-EL-BGA (15-2031), Paulding Wind Farm LLC and Paulding Wind Farm III LLC (Applicants) filed a joint application to amend the certificate, issued in 09-980, which authorizes *Timber Road I*. The project areas involved in 15-2030 and 15-2031 partially overlap and are both located entirely in Paulding County, Ohio. On February 17, 2016, the Applicants supplemented their filings in both 15-2030 and 15-2031 to modify the layout of several collection lines and access roads.
- (7) R.C. 4906.07(B) provides that the Board shall hold a hearing on an application for an amendment of a certificate, if the proposed change would result in a material increase in any environmental impact of the facility, or a substantial change in the location of all or a portion of the facility. Ohio Adm.Code 4906-5-10(B)(1)(a) provides that the administrative law judge (ALJ) shall schedule a hearing in an amendment case, if the proposed change would result in any significant adverse environmental impact of the certified facility or a substantial change in the location of all or a portion of such certified facility.
- (8) Staff filed a combined investigative report (Staff Report) for both 15-2030 and 15-2031 on March 23, 2016. In its report, Staff states it has reviewed the applications and notes that the Applicants have proposed: (a) changes to access roads; (b) changes to collection lines; (c) establishing a new transmission line interconnection point; (d) adding the Gamesa G114 turbine model to the list of approved turbine models for the two projects; (e) the removal of four specific previously approved *Timber Road I* turbine locations and one specific previously approved *Timber Road III* turbine location; (e) notice that four

turbine sites previously approved for both projects will be dropped by one but exclusively retained by the other of the two projects; (f) a proposed relocation of the collector substation serving both projects; and (g) increasing the combined facility output by 0.8 MW. (Staff Report at 3-4.)

Staff finds that the addition of the Gamesa G114 turbine model would not impact the location of any facilities and would not result in a material increase in environmental impact. Additionally, Staff determines that neither the increase in nameplate capacity nor the point interconnection result in a substantial change in the location of all or a portion of the certified facilities and would not result in a material increase in environmental impact. With respect to the proposed modifications to the access roads, collection lines, and the relocation of the collection substation, Staff also finds that the changes to these facilities would pose no material increase in environmental impact. However, Staff finds that the proposed relocation and addition of the access roads, collection lines, and the relocation of the collection substation constitutes substantial changes in the locations in these portions of the certified facilities. Staff recommends that the Board approve the applications as proposed, provided that the certificates include the conditions specified in the opinions, orders, and certificates issued in 09-980, 10-369, and 10-3128, including the Applicants' compliance with the applicable statutory setback requirements. (Staff Report at 10-11.)

- (9) As stated previously, R.C. 4906.07(B) sets forth two separate and distinct reasons that would require the Board to hold a hearing on an amendment application; the first being that the proposed amendment would result in a material increase in any environmental impact of the facility. The administrative law judge (ALJ) finds that none of the proposed changes in the amendment applications would result in a material increase in any environmental impact of the facilities. Therefore, R.C. 4906.07(B) does not require a hearing with regard to environmental impact of the facilities, as amended.

The second reason necessitating a hearing is if there is a substantial change in the location of all or a portion of the facility. The ALJ finds that the following four proposed changes in the amendment application do not result in a

substantial change in the location of all or a portion of the facilities: (a) adding the Gamesa G114 turbine model to the list of approved turbine models for the two projects; (b) eliminating four specific previously approved *Timber Road I* turbine locations and one specific previously approved *Timber Road III* turbine location; (c) notice that four turbine sites previously approved for both projects will be dropped by one but exclusively retained by the other of the two projects; and (d) increasing the combined facility output by 0.8 MW. Therefore, R.C. 4906.07(B) does not require a hearing with regard to these four changes.

However, the ALJ finds that the following four proposed changes in the amendment application require a hearing under R.C. 4906.07(B), because they entail a substantial change in the location of all or a portion of the facilities: (a) the proposed modification of access roads; (b) the proposed modification of collection lines; (c) the proposed relocation of the collector substation, and (d) establishing the proposed new transmission line interconnection point. Accordingly, a hearing should be held solely to consider the portion of the amendment application related to these four changes under the provision in R.C. 4906.07(B), which requires a hearing if there is a substantial change in the location of all or a portion of the certified facility.

- (10) In order to facilitate the Board's timely consideration of the applications, parties should adhere to the following procedural schedule:
 - (a) April 22, 2016 - Deadline for the filing of all direct testimony.
 - (b) The hearing shall commence on April 28, 2016, at 11:00 a.m., at the offices of the Public Utilities Commission of Ohio, Hearing Room 11-D, 180 E. Broad Street, Columbus, Ohio.
- (11) On December 21, 2015, the Ohio Farm Bureau Federation (OFBF) filed a motion to intervene in this case. OFBF states that it maintains a non-profit organization representing agricultural interests with over 190,000 member families statewide, including over 490 families in the Paulding County

Farm Bureau. OFBF members are involved in farm and agribusiness activities and have a keen interest in effective wind energy development. OFBF claims that it has extensive experience gathering input, addressing the needs of and representing the local interests of farm, small business, and rural residents concerning energy development and, as such, brings a perspective that cannot be provided by another existing party. This perspective includes pursuing adherence to procedures ensuring soil and water conservation and air quality, environmental considerations such as setbacks, noise standards, and shadow flicker, and enhancements to local commerce and economic development. On a state level, OFBF was involved with the Ohio Department of Development – Ohio Wind Working Group representing farm, small business, and residential energy consumers. OFBF explains that it was involved in several wind farm certification cases, including as a party of record in *09-980*, *10-369*, and *10-3128*. As such, OFBF fully understands and appreciates the rules governing the Board evaluation process. It also claims that its participation will not cause undue delay or unjustly prejudice any existing party and will contribute to the just and quick resolution of issues and concerns raised.

- (12) Upon review, the ALJ finds that the motion to intervene filed by the OFBF meets the requirements for intervention set forth in R.C. 4906.08 and Ohio Adm.Code 4906-2-12, and its motion to intervene is unopposed. Accordingly, the ALJ finds that the OFBF should be granted intervention in this case.
- (13) On January 28, 2016, the Campaign for American Affordable and Reliable Energy, LLC (CAARE) filed a petition for leave to intervene in both *15-2030* and *15-2031*, together, certificate amendment applications involving what CAARE calls “the Amended Timber Road Projects.” CAARE describes itself as a non-profit Ohio corporation, headquartered in Cleveland, whose purposes, among other things, include: (a) to meet the need for consistent advocacy for affordable and reliable American energy; (b) to preserve and protect the coal industry in its support of coal production, transportation and supply and labor; (c) to challenge renewable portfolio standards and financial and tax incentives for alternative energy sources on both a state and federal level; and (d) to participate in state and federal siting certification proceedings to ensure compliance

with all applicable standards and regulations. CAARE membership includes a number of operating coal production, transportation and logistics, and manufacturing companies located in Ohio, West Virginia, and the region. To the extent located in Ohio, these companies are property owners of facilities in Ohio, Ohio taxpayers, and Ohio electric ratepayers served by electric distribution companies in Ohio.

- (14) Describing what it states to be its real and substantial interest in these two cases, CAARE submits the construction of the Amended Timber Road Projects and integration of those projects into the PJM interconnection grid, present substantial problems for the preservation of affordable, reliable, safe, and secure supplies of electricity for all consumers in Ohio. Additionally, CAARE seeks to intervene to address environmental factors such as wildlife and community impacts associated with wind turbines.
- (15) On April 11, 2013, the Applicants filed a Memorandum Contra in response to CAARE's petition to intervene. The Applicants assert that intervention should be denied because CAARE has stated no plausible interest in these proceedings which would warrant intervention. The Applicants aver that CAARE has not shown that any of its members own or operate a facility in the project areas in Paulding County that will be impacted by the amendments proposed in 15-2030 and 15-2031. Moreover, say the Applicants, CAARE raises no issues regarding the specific, limited scope of the amendments proposed in those two cases, but instead, allege interests in the Timber Road Wind Farm projects as a whole and wind farms generally. The Applicants submit that these issues were thoroughly evaluated and addressed in the Board's issuance of the certificates for the Timber Road I Wind Farm and the Timber Road II Wind Farm. Finally, to the extent that CAARE claims any local interest in the proposed limited amendments, those interests will be adequately represented by the OFBF given its involvement in the community with farmers, small businesses, and residents, including over 490 member families of the Paulding County Farm Bureau.
- (16) CAARE filed a response to the Applicants' memorandum contra on February 16, 2016. CAARE suggests that its interests are similar to the OFBF which has been granted intervention in

numerous cases before the Board. CAARE also seeks to intervene to address the revised interconnection points, access roads, and collection line system designs as these proposed amendments will have a direct and substantial impact on the roads and other infrastructure, as well as wildlife, in the areas surrounding the projects.

- (17) Upon review, the ALJ finds that CAARE's petition to intervene in 15-2030 and 15-2031 should be denied because CAARE has failed to show that it, or any of its members, have an interest that relates or will be impacted by the specific issues at stake in these two certificate amendment applications in Benton and Harrison Townships, Paulding County, Ohio. The Board has already addressed many of CAARE's stated interests in the original certification dockets involving *Timber Road I*, *Timber Road II*, and *Timber Road III*, and no showing has been made by CAARE, here, that any of its other stated interests, not previously addressed, belong within the scope of the two certificate amendment cases now before the Board, namely, 15-2030 and 15-2031. CAARE's position is distinguishable from the OFBF as the OFBF stated that it has over 490 families in the Paulding County Farm Bureau and on a local level OFBF field staff and volunteer leaders with the Paulding County Farm Bureau continue to work with wind farm developers, government leaders, and interested community stakeholders to explore how wind energy development should be addressed at the local level. As to the impact of the proposed amendments on the roads, infrastructure, and wildlife, the ALJ notes that the proposed modifications to the access roads, collection lines, and collector substation are occurring on land that is part of the wind farm footprint that was already addressed in the original certification dockets involving *Timber Road I*, *Timber Road II*, and *Timber Road III*. Additionally, issues concerning roads, infrastructure, and wildlife are already adequately addressed by the OFBF, an entity with local interests through its member families in Paulding County. Therefore good cause has not been shown for granting intervention, and accordingly, it is denied, in both 15-2030 and 15-2031.

It is, therefore,

ORDERED, That a hearing be held and the procedural schedule for this proceeding be adopted as set forth in findings (9) and (10). It is, further,

ORDERED, That OFBF's motion to intervene be granted in accordance with finding (12). It is, further,

ORDERED, That CAARE's motion to intervene is denied in accordance with finding (17). It is, further,

ORDERED, That a copy of this Entry be served upon all interested persons of record.

THE OHIO POWER SITING BOARD

/s/ Daniel E. Fullin

By: Daniel E. Fullin
Administrative Law Judge

JRJ/dah

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in

Case No(s). 15-2030-EL-BGA, 15-2031-EL-BGA

Summary: Administrative Law Judge Entry ordering a hearing be held and the procedural schedule for this proceeding be adopted as set forth in findings (9) and (10); that OFBF's motion to intervene be granted in accordance with finding (12); and that CAARE's motion to intervene is denied in accordance with finding (17) - electronically filed by Debra Hight on behalf of Daniel E. Fullin, Administrative Law Judge.