

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of Hardin)
Wind LLC for a Third Amendment to its) Case No. 16-1717-EL-BGA
Certificate Issued in Case No. 13-1177-EL-)
BGN.)

ENTRY

The administrative law judge finds:

- (1) On June 28, 2013, as supplemented on July 1, 2013, Hardin Wind LLC (Hardin Wind) filed an application in Case No. 13-1177-EL-BGN (*Hardin I Case*) to construct a wind-powered electric generating facility in Hardin and Logan counties.
- (2) On March 17, 2014, the Board issued its Opinion, Order, and Certificate in the *Hardin I Case* that approved a stipulation entered into between Hardin Wind, Staff, and the Ohio Farm Bureau Federation, and granted the application, subject to 28 conditions.
- (3) On September 11 and 12, 2014, as revised on December 12, 2014, Hardin Wind filed an application in Case No. 14-1557-EL-BGA (*Amendment Case I*) proposing certain changes to the certificate approved in the *Hardin I Case*. On November 12, 2015, the Board issued an Order on Certificate in the *Amendment Case I* approving the application, subject to the conditions set forth in the *Hardin I Case* and additional conditions set forth in the Order on Certificate.
- (4) On April 8, 2016, Hardin Wind filed an application in Case No. 16-725-EL-BGA (*Amendment Case II*) proposing certain changes to the certificate in the *Hardin I Case*. As in the *Amendment Case I*, on May 19, 2016, the Board issued an Order on Certificate approving the application, subject to the conditions set forth in the *Hardin I Case*, the *Amendment Case I*, and additional conditions set forth in the Order on Certificate.
- (5) Thereafter, on August 16, 2016, Hardin Wind filed an application in the above-captioned case proposing an additional change to the certificate approved in the *Hardin I Case* and modified in *Amendment Cases I and II*. In its

application, the sole modification Hardin Wind seeks is to use the 2.2 MW version of the Vestas V110 wind turbine previously approved in the *Hardin I Case*.

- (6) Contemporaneously, in the above-captioned case, Hardin Wind filed a motion for a waiver from Ohio Adm.Code 4906-3-11(B)(2)(a)(iii), which requires an applicant for an amendment to a certificate to serve a copy of the amendment application upon “[a]ny property owner(s) along the new route.” In its memorandum in support, Hardin Wind asserts that the sole purpose of its application is to seek to utilize the 2.2 MW version of the previously approved Vestas V110 turbine model. Hardin Wind further asserts that the only substantive differences between the 2.0 MW and 2.2 MW V110 versions is the increase in capacity, and that all other significant features remain the same, including rotor diameter, hub height, and maximum operations sound power output. Additionally, Hardin Wind contends that Ohio Adm.Code 4906-3-11(B)(2)(a)(iii) would require it to serve the application on each and every landowner in and adjacent to the project area, which traverses six townships and two counties. Hardin Wind argues that, given the minor nature of the requested change and expense of a mass mailing, good cause exists for waiver. Further, Hardin Wind states that, as an alternative to the mass mailing, if granted the waiver, it will publish newspaper notice of the application describing the nature of the requested change. Hardin Wind asserts that newspaper notification ensures that landowners will have appropriate notice. Finally, Hardin Wind notes that it will serve all other parties required to be served by Ohio Adm.Code 4906-3-11(B)(2)(a), including county and township officials and parties that intervened in the *Hardin I Case* and *Amendment Case I*.
- (7) No party filed a memorandum contra Hardin Wind’s motion for a waiver.
- (8) Ohio Adm.Code 4906-3-01 provides that, where good cause exists, the administrative law judge (ALJ) may permit departure from Ohio Adm.Code Chapter 4906-3 upon motion filed by a party, other than a requirement mandated by statute. Upon review, the ALJ concludes that Hardin Wind’s motion for a waiver of Ohio Adm.Code 4906-3-11(B)(2)(a)(iii) is reasonable and should be granted. The ALJ directs Hardin Wind, as

discussed in its motion for a waiver, to publish newspaper notice of the application describing the nature of the requested change and to serve the required county and township officials and parties that intervened in the *Hardin I Case* and *Amendment Case I*.

It is, therefore,

ORDERED, That Hardin Wind's motion for a waiver of Ohio Adm.Code 4906-3-11(B)(2)(a)(iii) is granted. It is, further,

ORDERED, That Hardin Wind publish newspaper notice and serve required officials and parties as set forth in Finding (8). It is, further,

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

THE OHIO POWER SITING BOARD

/s/ Nicholas Walstra

By: Nicholas Walstra
Administrative Law Judge

jrj/vrm

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in

Case No(s). 16-1717-EL-BGA

Summary: Administrative Law Judge Entry granting Hardin Wind's motion for a waiver; electronically filed by Vesta R Miller on behalf of Nicholas Walstra, Administrative Law Judge, Ohio Power Siting Board