

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE OHIO POWER
SITING BOARD'S REVIEW OF RULE
4906-4-08 OF THE OHIO ADMINISTRATIVE
CODE.

CASE NO. 16-1109-GE-BRO

ENTRY ON REHEARING

Entered in the Journal on June 19, 2017

{¶ 1} The Ohio Power Siting Board (Board) initiated the above-captioned rulemaking docket to formally consider Staff's proposed revisions to Ohio Adm.Code 4906-4-08 resulting from an informal stakeholder workshop held for a previous rulemaking proceeding. *In re the Board's Review of Ohio Adm.Code Chapters 4906-1, 4906-5, 4906-7, 4906-9, 4906-11, 4906-13, 4906-15, and 4906-17, Case No. 12-1981-GE-BRO, Second Finding and Order (Nov. 12, 2015) at 5-12.*

{¶ 2} By Entry issued May 18, 2016, the administrative law judge (ALJ) scheduled a formal workshop for June 9, 2016, in the above-captioned case, for Staff to receive feedback from interested stakeholders. The formal workshop was held as scheduled on June 9, 2016. At the workshop, eight stakeholders offered comments.

{¶ 3} Staff evaluated Ohio Adm.Code 4906-4-08, as well as the comments received at the June 9, 2016 workshop, and recommended certain amendments to Ohio Adm.Code 4906-4-08, as well as a newly proposed rule, Ohio Adm.Code 4906-4-09.

{¶ 4} On September 22, 2016, the Board issued Staff's recommendations for amending Ohio Adm.Code 4906-4-08 and the proposed new rule under Ohio Adm.Code 4906-4-09, and requested comments to assist in the review. Comments were filed by Mid-Atlantic Renewable Coalition (MAREC), Icebreaker Windpower, Inc. (Icebreaker), Greenwich Windpark, LLC (Greenwich), Union Neighbors United, Julia F. Johnson, and Robert and Diane McConnell (collectively, UNU), the Ohio Environmental Council (OEC), the Black Swamp Bird Observatory and the American Bird Conservancy

(collectively, BSBO/ABC), Greenwich Neighbors United (GNU), Senator Michael J. Skindell, the Ohio Farm Bureau Federation (Farm Bureau), Ms. Alicia Rodrian, and Ms. Katie M. Elsasser on October 24, 2016. The Ohio State Historic Preservation Office and Ohio History Connection (collectively, SHPO) filed its initial comments on October 28, 2016. Reply comments were filed by Icebreaker, MAREC, Farm Bureau, UNU, OEC, Greenwich, GNU, Mr. Gary J. Biglin, and Ms. Elsasser on November 8, 2016. Senator William J. Seitz filed two letters in response to initial comments submitted in this proceeding, the first letter being filed on November 1, 2016, and a second letter being filed on November 4, 2016.

{¶ 5} In considering the comments and reply comments filed in response to the September 22, 2016 Entry, the Board issued its Finding and Order on May 4, 2017 (Order), finding that Ohio Adm.Code 4906-4-08 should be amended and the newly proposed Ohio Adm.Code 4906-4-09 should be adopted, as set forth in the Finding and Order.

{¶ 6} R.C. 4906.12 provides, in pertinent part, that R.C. 4903.10 shall apply to any proceeding or order of the Board in the same manner as if the Board were the Public Utilities Commission of Ohio (Commission).

{¶ 7} R.C. 4903.10 permits any party who has entered an appearance in a Commission proceeding to apply for rehearing with respect to any matters determined by the Commission within 30 days after the entry of the order upon the journal of the Commission. Further, Ohio Adm.Code 4906-2-32 states that any party or any affected person, firm, or corporation may file an application for rehearing, within 30 days after the issuance of a Board order, in the manner and form and circumstances set forth in R.C. 4903.10.

{¶ 8} On June 5, 2017, MAREC and GNU filed applications for rehearing of the Board's Order.

{¶ 9} On June 15, 2017, MAREC filed a memorandum contra GNU's application for rehearing.

{¶ 10} Ohio Adm.Code 4906-2-32(E) provides that an ALJ may issue an order granting rehearing for the purpose of affording the Board more time to consider the issues raised in an application for rehearing.

{¶ 11} Upon review of the submitted applications for rehearing and memoranda contra, the ALJ finds that the applications for rehearing filed by MAREC and GNU should be granted as sufficient reasons have been set forth by the parties to warrant further consideration of the matters specified in the applications for rehearing.

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That the applications for rehearing filed by MAREC and GNU be granted for further consideration of the matters specified in the applications for rehearing. It is, further,

{¶ 14} ORDERED, That a copy of this Entry on Rehearing be served upon all commenters and all interested persons of record in this matter.

THE OHIO POWER SITING BOARD

s/Megan Addison

By: Megan J. Addison
Administrative Law Judge

JRJ/sc

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in

Case No(s). 16-1109-GE-BRO

Summary: Administrative Law Judge Entry granting the applications for rehearing for further consideration of the matters specified in the applications for rehearing. - electronically filed by Sandra Coffey on behalf of Megan Addison, Attorney Examiner, Public Utilities Commission of Ohio