

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
ICEBREAKER WINDPOWER, INC. FOR A
CERTIFICATE TO CONSTRUCT A WIND-
POWERED ELECTRIC GENERATION
FACILITY IN CUYAHOGA COUNTY, OHIO.

CASE NO. 16-1871-EL-BGN

ENTRY

Entered in the Journal on August 15, 2017

{¶ 1} Icebreaker Windpower, Inc. (Icebreaker or Applicant)¹ is a person as defined in R.C. 4906.01.

{¶ 2} R.C. 4906.04 provides that no person shall construct a major utility facility in the state without obtaining a certificate for the facility from the Ohio Power Siting Board (Board).

{¶ 3} On September 13, 2016, Applicant filed a pre-application notice with the Board regarding its intent to construct the electric generation facility being proposed in this case. On February 1, 2017, as supplemented on March 13, 2017, Applicant filed an application for a certificate to construct its proposed project, which it has described as a 6-turbine demonstration wind-powered electric generation facility located 8-10 miles off the shore of Cleveland, in Cuyahoga County, Ohio. The wind turbines are expected to have a nameplate capacity of 3.45 megawatts (MW) each, with a total capacity of 20.7 MW.

{¶ 4} Pursuant to Ohio Adm.Code 4906-3-06, within 60 days after receipt of an application for a major utility facility, the Chairman of the Board shall notify an applicant of the acceptance or rejection of the application as complete. By letter (“compliance letter”) filed on April 3, 2017, the Chairman of the Board notified Applicant that additional information was needed in order for the application to be considered in compliance with

¹ In the pre-application letter and in other submissions filed in this case, Applicant formally identifies itself as “Fred. Olsen Renewables USA LLC/Icebreaker Windpower, Inc. (Lake Erie Energy Development Corporation – Project Icebreaker).” In other submissions, Applicant has identified itself simply as “Icebreaker Windpower, Inc.

Ohio Adm.Code Chapters 4906-01, et. seq. Thereafter, by filings made on July 20, 2017 and July 24, 2017, Applicant filed a second supplement to its application, along with a response to the Chairman's April 3, 2017 letter. By letter filed on July 31, 2017, the Board notified Icebreaker that its application was, by then, sufficiently complete to permit Staff to commence its review and investigation of the application. The July 31, 2017 letter directed Icebreaker, pursuant to Ohio Adm.Code 4906-3-07, to serve appropriate government officials and public agencies with copies of the complete, certified application and to file proof of service with the Board. Further, the letter directed Icebreaker, pursuant to R.C. 4906.06(F) and Ohio Adm.Code 4906-3-12, to submit the requisite application fee.

{¶ 5} On August 1, 2017, Icebreaker filed its certificate of service of its accepted and complete application, in accordance with the requirements of Ohio Adm.Code 4906-3-07. Icebreaker also submitted the application fee to the Board, pursuant to Ohio Adm.Code 4906-3-12. The effective date of the filing of the application shall be August 14, 2017.

{¶ 6} R.C. 4906.07(A) provides that, upon receipt of an application complying with R.C. 4906.06, the Board must promptly fix a date for a public hearing not less than 60 nor more than 90 days after such receipt, and shall conclude the proceeding as expeditiously as practicable.

{¶ 7} Accordingly, the local public hearing in this case will be held on November 8, 2017, at 6:00 p.m., at Cleveland City Council Chambers, Cleveland City Hall, 601 Lakeside Ave, 2nd Floor, Cleveland, Ohio 44114. The adjudicatory hearing will commence on November 17, 2017, at 10:00 a.m., 11th floor, Hearing Room 11-C, at the offices of the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793.

{¶ 8} Additionally, the Administrative Law Judge (ALJ) finds that petitions to intervene in this proceeding will be accepted by the Board up to 30 days following publication of the notice required by Ohio Adm.Code 4906-3-09.

{¶ 9} Icebreaker should issue public notices of the application and hearings in accordance with Ohio Adm.Code 4906-3-09. As part of the information to be included in the notices, as required by Ohio Adm.Code 4906-3-09, Icebreaker shall include a statement that the public hearing in this case shall consist of two parts:

- (a) A local public hearing, pursuant to R.C. 4906.08(C), where the Board shall accept written or oral testimony from any person, commencing at 6:00 p.m., on November 8, 2017, at 6:00 p.m., at the Cleveland City Council Chambers, Cleveland City Hall, 2nd Floor, 601 Lakeside Ave, Cleveland, Ohio 44114.
- (b) An adjudicatory hearing to commence on November 17, 2017, at 10:00 a.m., 11th floor, Hearing Room 11-C, at the offices of the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793.

{¶ 10} Further, regarding the initial public notice required under Ohio Adm.Code 4906-3-09, Icebreaker shall include the following statement as a part of the public notice:

Petitions to intervene in the adjudicatory hearing will be accepted by the Board up to 30 days following publication of the notice required by Ohio Adm.Code 4906-3-09, or by October 16, 2017, whichever is later. However, the Board strongly encourages interested persons who wish to intervene in the adjudicatory hearing to file their petitions as soon as possible. Petitions should be addressed to Docketing Division, the Ohio Power Siting Board, 180 East Broad Street, Columbus, Ohio 43215-3793 and cite the above-listed case number.

{¶ 11} Ohio Adm.Code 4906-2-09 provides that the ALJ shall regulate the course of the hearing including requiring that expert or factual testimony to be offered in Board proceedings be reduced to writing and filed with the Board, according to a schedule established by the ALJ. Accordingly, the ALJ finds that the following procedural schedule and process should be implemented:

- (a) Pursuant to Ohio Adm.Code 4906-3-06, Staff shall file its report of investigation (Staff Report) on or before October 23, 2017.
- (b) On or before October 30, 2017, each party shall file a list of issue(s) citing specific concerns about which they may be interested in pursuing cross-examination of witnesses at the evidentiary hearing.
- (c) All expert and factual testimony to be offered by Icebreaker shall be filed by November 9, 2017.
- (d) All expert and factual testimony to be offered by intervenors and Staff shall be filed by November 14, 2017.
- (e) The parties are strongly encouraged to arrange for electronic service of testimony and other pleadings among themselves. If electronic service is agreed to, the parties are also directed to provide an electronic copy to the ALJ assigned to this case.

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That hearings in this matter be scheduled at the times and places designated in paragraph 7. It is, further,

{¶ 14} ORDERED, That the application and hearings be noticed by Icebreaker in accordance with paragraphs 9 and 10. It is, further,

{¶ 15} ORDERED, That Staff file its Staff Report pursuant to paragraph 11. It is, further,

{¶ 16} ORDERED, That the parties file their issue lists and testimony in accordance with paragraph 11. It is, further,

{¶ 17} ORDERED, That a copy of this Entry be served upon all parties and 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). 16-1871-EL-BGN

Summary: Administrative Law Judge Entry that sets the procedural schedule in this case.
Entry

electronically filed by Debra Hight on behalf of Daniel E. Fullin, Administrative Law Judge.