

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
HARDIN WIND ENERGY LLC FOR A FIFTH
MODIFICATION TO ITS CERTIFICATE
ISSUED IN CASE NO. 09-479-EL-BGN.

CASE NO. 18-677-EL-BGA

ORDER ON CERTIFICATE

Entered in the Journal on June 21, 2018

I. SUMMARY

{¶ 1} The Ohio Power Siting Board approves the application of Hardin Wind Energy LLC to increase the capacity of its GE 2.5-116 turbine model and to add the GE 2.5-127 turbine model to the list of models that may be used for this project.

II. DISCUSSION

A. *Procedural History*

{¶ 2} 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.

{¶ 3} 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. The Board promulgated rules as set forth in Ohio Adm.Code Chapter 4906 prescribing regulations regarding applications for wind-powered electric generation facilities.

{¶ 4} Hardin Wind Energy LLC (Hardin Wind or Applicant) is 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.

{¶ 5} On March 22, 2010, the Board granted the application filed by Hardin Wind for a certificate to construct, operate, and maintain a wind-powered electric generation

facility in Hardin County, Ohio. *In re Hardin Wind Energy*, Case No. 09-479-EL-BGN (*Hardin Wind Certification Case*), Opinion, Order, and Certificate (Mar. 22, 2010). The Board granted Hardin Wind's application pursuant to a stipulation filed by the Applicant, the Ohio Farm Bureau Federation (OFBF), the staff of the Ohio Environmental Protection Agency, and Staff, subject to 60 conditions set forth in the stipulation. Hardin Wind was approved to construct a wind-powered electric generation facility with up to 200 wind turbines, with a combined generation capacity of up to 300 megawatts (MW). The project area is located entirely within Hardin County, Ohio.

{¶ 6} On June 13, 2011, and as amended on June 15, 2011, and supplemented on July 8, 2011, Hardin Wind filed its first application to revise its certificate. Among other changes, the Applicant sought to construct the facility in three phases and use taller turbine models. The Board approved the application in *In re Hardin Wind*, Case No. 11-3446-EL-BGA (11-3446), Order on Certificate (Aug. 29, 2011).

{¶ 7} On June 5, 2014, the Applicant filed a second application to modify its certificate. Upon withdrawing the application, the Board dismissed the case. *In re Hardin Wind*, Case No. 14-1030-EL-BGA, Entry (Nov. 12, 2015).

{¶ 8} Hardin Wind filed a third application to modify its certificate on March 24, 2016. The Board approved Hardin Wind's application to use a turbine model with higher hub heights. *In re Hardin Wind*, Case No. 16-469-EL-BGA (16-469), Order on Certificate (Feb. 2, 2017).

{¶ 9} For its fourth modification, filed on December 19, 2016, Hardin Wind sought approval to use a 2.5 MW version of a previously approved GE 2.3-116 wind turbine, with a revised hub height of 90-meters. The Board approved the application in *In re Hardin Wind*, Case No. 16-2404-EL-BGA (16-2404), Order on Certificate (Mar. 2, 2017).

{¶ 10} Thereafter, on April 25, 2018, Hardin Wind filed an application in the above-captioned case proposing a capacity increase to the GE 2.5-116 turbine model (from 2.5 MW to 2.7 MW) previously approved in 16-2404, as well as the addition of a separate GE 2.5-127 turbine model.

{¶ 11} Contemporaneously, Hardin Wind also filed proof of service of the application, pursuant to Ohio Adm.Code 4906-3-11(B)(2). Thereafter, on May 11, 2018, Hardin Wind filed proofs of publication of the notice of the application that were published in *The Kenton Times* on May 1, 2018, and the *Ada Herald* on May 3, 2018. Staff filed its report of investigation of the pending application on June 6, 2018.

B. Motion for Waiver

{¶ 12} On April 25, 2018, Hardin Wind filed a motion for a waiver from Ohio Adm.Code 4906-3-11(B)(2)(a)(iii), which requires an applicant to serve a copy of the application upon any property owners along the new route. In support of its motion, Applicant claims that it has land lease and wind easements with hundreds of landowners spanning six townships in Hardin County and that adherence to the provisions of this rule would unreasonably require mass mailings of the pending application to each landowner. Applicant submits that this type of mass mailing is unnecessary especially when the only modification to the project is the increased capacity of an already approved turbine model and a new turbine model with all other approved requirements remaining unchanged. Hardin Wind also notes that it will fully comply with the statutory notice requirements to serve government officials set forth in R.C. 4906.06(E) and will provide notice of the pending application through publication in a newspaper(s) of general circulation in the project area. No party filed memoranda contra Hardin Wind's motion for waiver.

{¶ 13} The Board determines that Applicant's motion for waiver of Ohio Adm.Code 4906-3-11(B)(2)(a)(iii) should be granted.

C. *Motions to Intervene*

{¶ 14} On May 9, 2018, Mid-Ohio Energy Cooperative, Inc. (Mid-Ohio) moved to intervene in this proceeding. Mid-Ohio asserts that it has a real and substantial interest in this matter. Mid-Ohio identifies itself as a member-owned distribution electric utility serving over 8,900 meters in portions of ten Ohio counties, including Hardin County. Mid-Ohio relies on a combination of licensed and unlicensed radio systems to transmit communications between its central control room in Kenton, Ohio and points along the distribution system. Mid-Ohio does not object to Hardin Wind's application but is, however, concerned that the project will include turbines that interfere with microwave signals transmitted by Mid-Ohio. In particular, Mid-Ohio believes that Hardin Wind's proposed GE 2.5-127 turbines, with larger rotor diameters, will interfere with Mid-Ohio's 11 Ghz microwave radio systems and its 900 MHz omnidirectional non-licensed sites used to control down line distribution equipment. Mid-Ohio argues that it meets the intervention criteria in Ohio Adm.Code 4906-2-12.

{¶ 15} On May 11, 2018, Hardin Wind supplemented its application responding to the concerns expressed in Mid-Ohio's motion to intervene. Specifically, the Applicant stated that it will comply with all previously adopted certificate conditions including conducting a study of the potential impacts of the project on the 2.5 GHz point to multi-point system of W.A.T.C.H. TV Company and Mid-Ohio's 900 MHz omnidirectional system and provide results of that study to these entities for review at least 30 days prior to construction. Upon review of Hardin Wind's supplemental filing, Mid-Ohio stated in a filing docketed on May 14, 2018, that although it wished to remain as an intervenor, it did not oppose Hardin Wind's application.

{¶ 16} Neither Hardin Wind nor any interested person filed a memorandum contra Mid-Ohio's motion to intervene. In accordance with Ohio Adm.Code 4906-2-12, the Board finds the motion to intervene filed by Mid-Ohio is reasonable and should be granted.

{¶ 17} On May 22, 2018, the Ohio Farm Bureau Federation (OFBF) moved to intervene pursuant to Ohio Adm.Code 4906-2-12. The OFBF describes itself as a non-profit organization that represents agricultural interests at the state and local levels with member families in every county. OFBF asserts that there are hundreds of member families in Hardin County. OFBF members are involved in farming and agribusiness activities, from small business enterprises to larger scale industries and manufacturing. All members are residential energy consumers. OFBF members have an interest in effective wind energy development, enhancing their income, ensuring that construction activities on their property adhere to soil and water conservation measures, and maintain air quality. Rural area residents want assurances regarding setbacks, noise standards, shadow flicker, and other factors related to effective turbine placement. OFBF also seeks to enhance local commerce and economic development.

{¶ 18} OFBF states that its intervention will contribute to a just and expeditious resolution of the issues without undue delay or unjust prejudice to any party. OFBF states that it has worked for several decades with utilities, energy providers, the Commission, government agencies, and citizens groups concerning technology and energy costs. OFBF is familiar with the rules and regulations of the Board. By virtue of the unique and diverse interests of its constituents and the experience that it can offer, OFBF believes that it has shown good cause to intervene in this proceeding.

{¶ 19} The Board finds that OFBF's motion to intervene meets the requirements for intervention set forth in R.C. 4906.08 and Ohio Adm.Code 4906-2-12. Hardin Wind did not oppose OFBF's motion to intervene. Accordingly, OFBF shall be granted intervention for good cause shown.

D. Summary of Application

{¶ 20} Hardin Wind explains in its application that since the approval of the GE 2.5-116 turbine model in 16-2404, GE has introduced new wind turbine models, the GE 2.7-116 and the GE 2.5-127. These models are more efficient and cost effective than the

turbine models previously proposed and approved. To take advantage of the improvements, the Applicant requests that it be allowed to include the new GE 2.7-116 and GE 2.5-127 models to the list of turbines authorized for the project. In addition, the Applicant requests approval to include a maximum 89-meter hub height for the GE 2.5-127 turbine. The Applicant affirms that it will not exceed the limit of 200 turbines or 300 MW permitted by the certificate. In all other respects the project will remain the same.

E. Summary of Staff Report

{¶ 21} Staff reviewed the pending application and filed a Staff Report on June 6, 2018. Specifically, Staff notes that the Applicant has committed to adhere to Condition 34 of the *Hardin Wind Certification Case*, which limits the annual impact of shadow flicker at a non-participating residence to 30 hours per year. Therefore, in relation to shadow flicker, Staff determined that the proposed turbine model would not pose any material increase in environmental impact as compared to the previously certificated project and that conditions 34 and 35 of the *Hardin Wind Certification Case* adequately address the potential shadow flicker impact of the proposed GE 2.7-116 and GE 2.5-127 turbine models. Staff also finds that the conditions of the original certificate issued in the *Hardin Wind Certification Case*, as supplemented by 11-3446, 16-469, and 16-2404, adequately address high winds, safety, blade shear, ice throw, and noise impacts of the proposed GE 2.7-116 and GE 2.5-127 turbine models. Staff also explains that there is no proposal to revise any turbine locations in the pending application. Staff concludes that, considering the proposed changes, the original conditions for the certificate in the *Hardin Wind Certification Case* as supplemented by 11-3446, 16-469, and 16-2404 are adequate. (Staff Report at 3-5.)

{¶ 22} In conclusion, Staff recommends that the Board approve the increase in capacity for the previously certificated GE 2.5-116 turbine model and addition of a new GE 2.5-127 turbine model, provided the Board conditions approval on Hardin Wind

adhering to all conditions set forth in the *Hardin Wind Certification Case* Order, as supplemented by 11-3446, 16-469, and 16-2404 (Staff Report at 5).

F. Board's Conclusion

{¶ 23} In the *Hardin Wind Certification Case*, the Board determined that the stipulation entered into by the parties satisfied the criteria set forth in R.C. Chapter 4906, promoted the public interest and necessity, and did not violate any important regulatory principle or practices. The Board, therefore, approved the stipulation and authorized Hardin Wind to construct the project in Hardin County.

{¶ 24} Further, the Board notes that, in 11-3446, the Board approved Hardin Wind's application to construct the facility in three phases and use taller turbine models. In 16-469, the Board authorized the use of a turbine model with higher hub heights. Thereafter, in 16-2404, the Board approved a capacity increase of a previously approved turbine model with a lower hub height.

{¶ 25} The application in the above-captioned proceeding would permit a capacity increase from a GE 2.5-116 (2.5MW) to a GE 2.7-116 (2.7MW) turbine model, as well as the addition of the GE 2.5-127 (2.5 MW) model. Hardin Wind properly filed this case for our review and consideration, thereby providing for the necessary notice and due process afforded to applications regarding certificates issued by the Board.

{¶ 26} The Board finds that, as set forth in the application before us, and verified in the Staff Report, there is no material increase in any environmental impact of the facility and no change in any portion of the facility's location, including the location of the individual turbines, from what was originally certificated in the *Hardin Wind Certification Case* (Application at 2-10; Staff Report at 3-5). Therefore, a hearing was not necessary to consider those factors. Moreover, the increase in capacity of the GE 2.7-116 turbine model and addition of the GE 2.5-127 turbine model does not affect our conclusion from the *Hardin Wind Certification 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.

{¶ 27} As set forth in the application and verified in the Staff Report, the application seeks to permit an increase in capacity to the GE 2.5-116 turbine model previously approved in 16-2404, as well as the addition of a separate GE 2.5-127 turbine model in order to take advantage of technological improvements. Additionally, according to the Staff Report, both models include the same safety features to address potential blade shear, ice throw, noise, and high wind speeds. Further, the Staff Report finds that Hardin Wind's adherence to the conditions set forth in the *Hardin Wind Certification Case*, as supplemented by 11-3446, 16-469, and 16-2404, will continue to adequately address the potential shadow flicker impacts. Finally, no other aspects of the approved project are sought to be modified by the application. (Staff Report at 3-5.)

{¶ 28} Upon our deliberation of the specific request proposed by Hardin Wind in this application, as well as the recommendations set forth in the Staff Report, the Board finds that, based on the facts of this case, the application should be approved, subject to the conditions set forth in the *Hardin Wind Certification Case*, as supplemented by 11-3446, 16-469, and 16-2404, and that these conditions will adequately address the increase in capacity for the GE 2.7-116 turbine model, as well as the addition of a separate GE 2.5-127 turbine model. In making the determination in this matter, the Board notes that the current application merely seeks a capacity increase for the previously approved GE 2.5-116 turbine model and addition of the GE 2.5-127 turbine model with no changes to the turbine locations. Accordingly, based upon the circumstances presented by this case, the Board approves the application of Hardin Wind seeking approval of the increase in capacity to utilize the GE 2.7-116 turbine model and the addition of the GE 2.5-127 turbine model for this wind farm project.

G. *Findings of Fact and Conclusions of Law*

{¶ 29} Hardin Wind is a person under R.C. 4906.01(A).

{¶ 30} Hardin Wind's electric generation facility is a major utility facility under R.C. 4906.01(B)(1).

{¶ 31} On April 25, 2018, Hardin Wind filed an application in this proceeding regarding the certificate issued in the *Hardin Wind Certification Case*, as supplemented by 11-3446, 14-469, and 16-2404.

{¶ 32} As supplemented, the proposed application would authorize a capacity increase from the GE 2.5-116 turbine model previously approved in 16-2404 to the GE 2.7-116, as well as the addition of a separate GE 2.5-127 turbine model. Contemporaneously, the Applicant filed for a waiver of Ohio Adm.Code 4906-3-11(B)(2)(a)(iii) which requires an applicant to serve a copy of an application modifying a certificate upon any property owner(s) along the new route.

{¶ 33} On April 25, 2018, Hardin Wind filed proof of service of the application in this case. Public notice of the proposed application was published in newspapers of general circulation in Hardin County, Ohio, and proof of publication was filed with the Board on May 11, 2018.

{¶ 34} On May 9, 2018 and May 14, 2018, Mid-Ohio and OFBF, respectively, filed motions to intervene in this proceeding.

{¶ 35} On June 6, 2018, Staff filed its report of investigation of the application.

{¶ 36} The proposed changes to the certificated facility do not result in a substantial change in the location of the facility or any material increase in environmental impact. Therefore, an evidentiary hearing is not necessary.

{¶ 37} Based on the record, and in accordance with R.C. Chapter 4906, the April 25, 2018 application regarding the certificate of environmental compatibility and public need for Hardin Wind's electric generation facility should be approved, subject to the

conditions set forth in the Order in the *Hardin Wind Certification Case*, as supplemented by 11-3446, 16-469, and 16-2404.

III. ORDER

{¶ 38} It is, therefore,

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

{¶ 40} ORDERED, That the motions to intervene filed by Mid-Ohio and OFBF be granted. It is, further,


{¶ 41} ORDERED, That Hardin Wind's application filed on April 25, 2018, be approved subject to the conditions set forth in the Order in the *Hardin Wind Certification Case*, as supplemented by 11-3446, 16-469, and 16-2404. It is, further,

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


THE OHIO POWER SITING BOARD



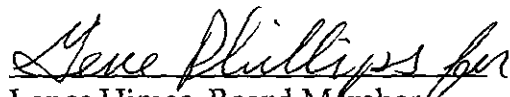
Asim Z. Haque, Chairman
Public Utilities Commission of Ohio



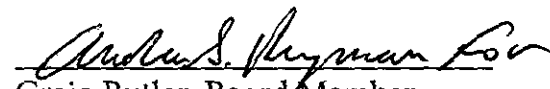
David Goodman, Board Member
and Director of the Ohio
Development Services Agency



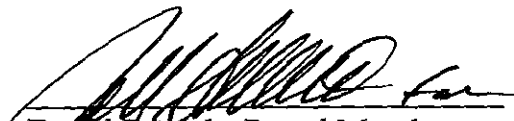
James Zehringer, Board Member
and Director of the Ohio
Department of Natural Resources




Lance Himes, Board Member
and Director of the Ohio
Department of Health



Craig Butler, Board Member
and Director of the Ohio
Environmental Protection Agency



David Daniels, Board Member
and Director of the Ohio
Department of Agriculture

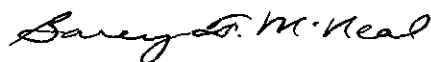


Gregory Murphy, Board Member
and Public Member

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Barcy F. McNeal
Secretary