

BEFORE THE OHIO POWER SITING BOARD

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| In the Matter of the Application of |) | |
| Hardin Wind LLC for a Sixth |) | Case No. 18-1473-EL-BGA |
| Amendment to its Certificate |) | |
| Issued in Case No. 13-1177-EL-BGN |) | |

MOTION FOR WAIVER

Through this motion, Hardin Wind LLC (“Hardin Wind”) seeks a waiver from Rule 4906-3-11(B)(2)(a)(iii) of the Ohio Administrative Code (“OAC”) requiring Hardin Wind to serve a copy of the application upon “[a]ny property owner(s) along the new route.” As set forth in the accompanying Memorandum in Support, Hardin Wind submits that good cause exists for granting this waiver. Similar motions were granted in Case No. 16-725-EL-BGA (Entry dated April 25, 2016), Case No. 16-1717-EL-BGA (Entry dated September 9, 2016), Case No. 17-759-EL-BGA (Entry dated April 10, 2017), and Case No. 17-2180-EL-BGA (Entry dated February 13, 2018).

WHEREFORE, Hardin Wind respectfully requests that the Board grant this waiver request.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

Hardin Wind seeks a waiver from OAC Rule 4906-3-11(B)(2)(a)(iii) which requires an Hardin Wind to send a letter describing the application to landowners “along the new route.” Hardin Wind seeks this waiver because it is only proposing the addition of two separate Nordex/Acciona turbine models (AW125 (3.15 MW) and AW132 (3.465 MW)). Both the AW125 and AW132 turbines are very similar to the already approved Gamesa G132 and G114 turbines. Both turbines can be operated at lower sound power levels than the turbine used for project operational sound modeling approved in Case No. 17-2180-EL-BGA, and to ensure compliance with the Certificate’s operational noise condition. The turbines have the same, or smaller, dimensions than the approved Gamesa G132 and thus can also be operated to meet the Certificate’s shadow flicker limitation of no more than 30 hours of shadow flicker per year.

While the Facility is a wind farm and does not have a “new route” per se, Rule 4906-3-11(B)(2)(a)(iii) would require Hardin Wind to serve the application on each and every landowner in and adjacent to the Facility project area, which traverses six townships in two Ohio counties. Given the minor nature of the requested change, Hardin Wind’s commitment in the application to continue to meet the operational noise and shadow flicker conditions in the Certificate and the time and expense of a mass mailing, Hardin Wind seeks a waiver from the rule requirement and proposes publishing a newspaper notice of the minor design upgrade instead. As more fully explained below, good cause exists to grant this waiver.

II. REQUESTED WAIVER

Hardin Wind is proposing in its application to allow for the use of two new Nordex/Acciona turbine models (AW125 (3.15 MW) and AW132 (3.465 MW). These turbines represent and include advances in technology and will be below the maximum height of the tallest turbine currently approved. With respect to operational sound power output levels, both turbine models have slightly higher sound power output than the loudest turbine upon which the operational sound modeling for the project was based. However, Hardin Wind has provided documentation from Nordex/Acciona as part of the application stating that both turbine models can be operated at sound power output levels equal to or less than 105.8 dBA, which was the maximum sound power output level used for project operational sound modeling. In addition, Hardin Wind will continue to meet the Certificate's condition regarding operational noise for the project.

With respect to shadow flicker, the AW132 has the same dimensions as the approved Gamesa G132 turbine. In addition Hardin Wind will also continue to adhere to the Certificate's shadow-flicker limitation of 30 hours per year for non-participating receptors.

Importantly, no other aspects of the approved project will be modified through approval of the application. All approved turbine sites remain unchanged as well as the location of the project's collector substation, access roads and collection lines. The only change is the addition of the Nordex/Acciona AW 125 and AW132 model turbines.

Although the requested changes are minor, OAC Rule 4906-3-11(B)(2)(a)(iii) requires Hardin Wind to serve a copy of the application upon "[a]ny property owner(s) along the new route." In this proceeding, such service is unnecessary. The Facility spans four townships in Hardin County and two townships in Logan County, and therefore would require a mass mailing

to many landowners. This type of mailing is unnecessary in this proceeding considering that the turbines will still be required to satisfy the conditions in the Certificate regarding operational noise and shadow flicker, thus presenting little if any change in impact to non-participating landowners.

As an alternative to the mass mailing, Hardin Wind will instead publish newspaper notice of the application describing the nature of the requested change. A newspaper notification ensures that landowners will have appropriate notice of the application, and is a fair alternative to the burdensome mass mailing that would otherwise be required. Moreover, Hardin Wind will serve all other parties required by the rule, including county and township officials as well as parties that intervened in the original proceeding and any subsequent amendment proceedings. Good cause exists to grant this motion given the nature of the application and the notice via Applicant's proposed newspaper notification.

Similar motions for waiver were granted by Administrative Law Judge Entry of April 25, 2016 in OPSB Case No. 16-725-EL-BGA; Administrative Law Judge Entry of September 9, 2016 in Case No. 16-1717-EL-BGA; Administrative Law Judge Entry of April 10, 2017 in Case No. 17-759-EL-BGA, and Administrative Law Judge Entry of February 13, 2018 in Case No. 17-2180-EL-BGA.

III. CONCLUSION

As good cause exists, Hardin Wind respectfully requests that the Board grant a waiver from OAC Rule 4906-3-11(B)(2)(a)(iii).

Respectfully submitted,

/s/ Michael J. Settineri

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Summary: Motion for Waiver electronically filed by Mr. MacDonald W Taylor on behalf of
Hardin Wind LLC