

BEFORE THE OHIO POWER SITING BOARD

In the Matter of the Application of)	
Black Fork Wind Energy, LLC for an)	Case No. 18-1346-EL-BGA
Amendment to its Certificate)	
Issued in Case No. 10-2865-EL-BGN)	

MOTION FOR WAIVER

Through this motion, Black Fork Wind Energy, LLC (“Black Fork Wind Energy” or “the Applicant”) seeks a waiver from Ohio Adm.Code 4906-3-11(B)(2)(a)(iii) requiring Applicant 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, Black Fork Wind Energy submits that good cause exists for granting this waiver. A similar motion was granted on April 25, 2016 in Case No. 16-725-EL-BGA, on September 9, 2016 in Case No. 16-1717-EL-BGA, and on December 7, 2017 in Case No. 17-1148-EL-BGA.

WHEREFORE, Black Fork Wind Energy respectfully requests that the Board grant this waiver request.

Respectfully submitted,

/s/ Michael J. Settineri

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

Through this motion, Black Fork Wind Energy seeks a waiver from OAC Rule 4906-3-11(B)(2)(a)(iii) which requires an applicant for an amendment to a certificate of environmental compatibility and public need to send a letter describing the amendment application to landowners “along the new route.” The Ohio Power Siting Board (the “Board”) has previously approved a variety of turbine models for the Black Fork Wind Energy Project (the “Facility”). The Applicant is now requesting to add the Siemens G132 (3.55 MW) turbine model to the list of acceptable turbines. Notably, the only substantive difference between the Siemens G132 and previous approved turbines is rotor diameter. The overall height of the turbine will remain the same. In addition, Applicant will continue to comply with all certificate conditions regarding operational noise and shadow flicker.

While the Facility is a wind farm and does not have a “new route” per se, Ohio Adm.Code 4906-3-11(B)(2)(a)(iii) would require the Applicant to serve the application on each and every landowner in and adjacent to the Facility project area, which traverses multiple townships in two Ohio counties. Given the nature of the requested change and the time and expense of a mass mailing, Black Fork Wind Energy seeks a waiver from the rule requirement and proposes publishing a newspaper notice instead. As more fully explained below, good cause exists to grant this waiver.

II. REQUESTED WAIVER

Black Fork Wind Energy’s application in this proceeding seeks to add the Siemens G132 (3.55 MW) turbine model to the list of acceptable turbines. With the addition of the Siemens G132, Applicant will continue to comply with certificate conditions regarding operational noise

and shadow flicker. Utilizing the higher capacity Siemens G132 enhances the overall project, and will result in the use of fewer turbine locations compared to previously approved lower capacity turbine models.

OAC Rule 4906-3-11(B)(2)(a)(iii) requires the Applicant to serve a copy of the amendment application upon “[a]ny property owner(s) along the new route.” In this proceeding, such service is unnecessary and would be unduly burdensome. As an alternative to the mass mailing, Black Fork Wind Energy will instead publish newspaper notice of the application describing the nature of the requested change and request for extension. 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, the Applicant will serve all other parties required by the rule, including county and township officials as well as parties that intervened in both the original proceeding (Case No. 10-2865-EL-BGN) or the previous amendment proceedings (Case No. 14-1591-EL-BGA and Case No. 17-1148-EL-BGA). Good cause exists to grant this motion given the nature of the amendment and the notice via Applicant’s proposed newspaper notification.

A similar motion for waiver was granted by the Administrative Law Judge on April 25, 2016 in OPSB Case No. 16-725-EL-BGA, on September 9, 2016 in OPSB Case No. 16-1717-EL-BGA, and on December 7, 2017 in Case No. 17-1148-EL-BGA.

III. CONCLUSION

As good cause exists, Black Fork Wind Energy 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 Motion for Waiver electronically filed by Mr. Michael J. Settineri on behalf of Black Fork Wind Energy LLC