

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	:	
Republic Wind, LLC for a Certificate of	:	Case No. 17-2295-EL-BGN
Environmental Compatibility and Public	:	
Need for a Wind-Powered Electric	:	
Generating Facility in Seneca and	:	
Sandusky Counties, Ohio	:	

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**MEMORANDUM CONTRA REPUBLIC WIND, LLC'S  
MOTION FOR PROCEDURAL SCHEDULE**  
SUBMITTED ON BEHALF OF THE STAFF OF  
THE OHIO POWER SITING BOARD

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DATE: January 10, 2019

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**INTRODUCTION**

On February 2, 2018, Republic Wind, LLC (“Applicant” or “Republic”) filed an application for a certificate of environmental compatibility and public need with the Ohio Power Siting Board (“Board”).<sup>1</sup> On May 23, 2018, the Staff of the Board issued a letter informing Republic that its application was in compliance with Chapters 4906-01, et seq., of the Ohio Administrative Code (“Ohio Adm. Code”) and the Board’s Staff, based upon the aforementioned initial filing, had sufficient information to begin its review of the application.<sup>2</sup> However, on August 29, 2018, Republic filed an unopposed Motion to

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<sup>1</sup> Application for a Certificate of Environmental Compatibility and Public Need, (Feb. 2, 2018).

<sup>2</sup> Notice of Compliance Letter, (May 23, 2018).

Suspend the Procedural Schedule and Stay Discovery, which the administrative law judge granted on September 4, 2018.<sup>3</sup>

On December 26, 2018, Republic filed its Amended Application and a Motion for the establishment of a procedural schedule.<sup>4</sup> In this Motion, the Applicant requested that a hearing in this case be scheduled within ninety days from December 26, 2018. Staff now timely files its Memorandum Contra Republic's Motion to set a hearing within ninety days of the Amended Application's filing and asks the Board, pursuant to Ohio Adm. Code 4906-3-06 to deny the Applicant's Motion to hold a hearing by March 26, 2019.

## **ARGUMENT**

The Ohio Administrative Code provides rules that guide the amendment process. As stated by the Applicant in its Motion, rule 4906-3-11(A) provides that the Applicant must submit any application for amendment to a pending accepted, complete application in accordance Ohio Adm. Code 4906-3-06. Provision (A) of 4906-3-06 allows for the Board, within sixty days of filing, to accept the application as complete or reject the application, setting forth specific grounds for the rejection. Though Republic's original application was deemed complete on May 23, 2018, the amendment is subject to the same completeness standard; therefore, Staff has sixty days from the amendment filing.

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<sup>3</sup> Entry, (Sept. 4, 2018).

<sup>4</sup> Motion for Procedural Schedule and Application, (Dec. 26, 2018).

The modifications that the Applicant proposes include changing the proposed turbine models to be used. The proposed turbine models are a different height than the originally proposed turbines.<sup>5</sup> In addition, the amended application modifies the project's wind turbine array.<sup>6</sup> Though the footprint of the new project area is mostly inside the original project area, all proposed turbines are in new locations. The amount of access roads, the number of meteorological towers, and the amount of collector lines changed with the amendment.<sup>7</sup> These modifications will require additional investigation and analysis that cannot be accomplished in ninety days.

Additionally, Ohio Adm. Code 4906-3-01(B) allows the Board to waive any requirement contained in Chapter 4906-3. The Board may decide that the Applicant's requested timeline is unreasonable and waive the 90 day hearing provided in Ohio Adm. Code 4906-3-11(4)(b); thereby allowing Staff an adequate time to perform its investigation of the amended request.

Furthermore, the applicant provides no rationale as to why it would like to rush through the amendment process. The Applicant itself put its own case on hold for four months; that should not create an unfair urgency for Staff to complete its investigation.

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<sup>5</sup> Amended Application Redline-Redacted at page 8, (Dec. 26, 2018).

<sup>6</sup> Correspondence at 1, (Dec. 26, 2018).

<sup>7</sup> *Id.*

## CONCLUSION

The Staff respectfully requests that the Board deny Republic's Motion for the establishment of a Procedural Schedule. Pursuant to the Ohio Adm. Code 4906-3-06(A), and 4906-3-11(A), Staff has sixty days to determine the completeness of Applicant's amended application. Alternatively, if the Board does not view the amended filing as starting the 60-day clock provided in Ohio Adm. Code 4903-03(A), the Board should waive 90 day hearing provided in Ohio Adm. Code 4906-3-11(4)(b) and afford the Staff an appropriate time to perform its investigation of the amended request. After the amended application has been deemed to be complete, the administrative law judge shall fix the dates for the hearings.

Respectfully submitted,

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Ohio Attorney General

**William L. Wright**  
Section Chief

*/s/Jodi J. Bair*

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## PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Memorandum Contra Republic Wind, LLC's Motion For Procedural Schedule** submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served via electronic mail upon the following Parties of Record, this 10<sup>th</sup> day of January, 2019.

*/s/Jodi J. Bair*

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Summary: Memorandum Contra Republic Wind, LLC's Motion for Procedural Schedule  
electronically filed by Ms. Tonnetta Scott on behalf of PUC