

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
REPUBLIC WIND, LLC FOR A CERTIFICATE
OF ENVIRONMENTAL COMPATIBILITY AND
PUBLIC NEED FOR A WIND-POWERED
ELECTRIC GENERATING FACILITY IN
SENECA AND SANDUSKY COUNTIES, OHIO.

CASE NO. 17-2295-EL-BGN

ENTRY

Entered in the Journal on March 13, 2019

{¶ 1} Pursuant to the Administrative Law Judge (ALJ) Entry of February 15, 2019, the following amended procedural schedule was established:

- (a) A local public hearing in this matter is scheduled to be held on Tuesday, May 14, 2019, commencing at 5:00 p.m. and continuing until 9:30 p.m., at Bellevue High School, 200 Oakland Avenue, Bellevue, Ohio 44811. The purpose of the local public hearing is to allow interested persons in the local community affected by the project, who are not parties to the case, to provide written or oral testimony regarding the project.
- (b) Pursuant to Ohio Adm.Code 4906-3-11(A)(5), Staff is to file its report of investigation on or before Monday, April 29, 2019.
- (c) On or before Monday, May 6, 2019, each party is to file a list of issue(s) citing specific concerns about which they may be interested in pursuing cross-examination of witnesses.
- (d) All expert and factual testimony to be offered by Republic is to be filed by Monday, May 20, 2019.
- (e) All expert and factual testimony to be offered by intervenors and Staff is to be filed by Tuesday, May 28, 2019.

- (f) Any stipulation entered into by the parties is to be filed by Tuesday, May 28, 2019.
- (g) A telephonic prehearing conference is to be scheduled for Monday, June 3, 2019.
- (h) The adjudicatory hearing is to commence beginning on Monday, June 10, 2019, at 10:00 a.m., at the offices of the Public Utilities Commission of Ohio, 180 East Broad Street, 11th Floor, Hearing Room 11-A, Columbus, Ohio 43215-3793. The purpose of the adjudicatory hearing is for Republic, Staff, and intervenors to provide evidence regarding the project.

{¶ 2} The following local residents have been previously granted intervention in this proceeding: Duane and Deb Hay, Gary and Dawn Hoepf, Greg and Laura Jess, Mike and Tiffany Kessler, Kevin and Jennifer Oney, Tom and Lori Scheele, David Hoover, Jeffrey A. Hoover, Doug and Jennifer Meyers, Chris and Daniele Zeman, Joseph and Diane Anderson, Denise Bell, Aaron and Carrie Boes, Richard and Linda Bollenbacher, Rob and Mary Chappell, Thomas and Kathleen Fries, Leslie and Denise Hackenburg, Jeffrey and DeeAnne Hamilton, Allen and Mary Hassellbach, Ethan and Crystal Hoepf, Jason and Michelle Hoepf, Taylor Hoepf, Kenneth and Debra Hossler, Leonard and Beverly Kubitz, Gary and Michelle Miller, Steven and Kelley Miller, Kim Mitchell, Charles and Linda Morsher, Patricia Motry, Steven and Linda Mulligan, Linda Niederkohr, Nicholas and Michelle Reiter, Elaine Schultz, James and Victoria Seliga, Eugene and JoAnn Smith, James and Elaine Steinmetz, Herman and Patricia Studer, Christine Vogt, Mark Weber and Cindy Riley, Charles and Rhonda Weyer, and Amy Wright (collectively, "Local Residents").

{¶ 3} On March 4, 2018, Local Residents filed a motion for the continuance of the scheduled adjudicatory hearing date. Specifically, the Local Residents request that the adjudicatory hearing commence on June 25, 2019, or a later date as deemed appropriate by the Board or the ALJ. In support of their request, Local Residents state that their counsel has previously scheduled and unmovable travel plans for the week of June 10, 2019, that

will prevent him from attending the hearing as currently scheduled. Additionally, Local Residents are not in favor of rescheduling the evidentiary hearing to an earlier date due to the fact that their counsel is also participating in Case No. 18-488-EL-BGN, *In re the Application of Seneca Wind, LLC for a Certificate to Site Wind-Powered Electric Generation Facilities in Seneca County, Ohio* (Seneca Wind). Local Residents submit that, inasmuch as the adjudicatory hearing in Seneca Wind is scheduled for Thursday, May 16, 2019, “[i]t would be wholly inequitable to both the Local Residents in this case and the local residents in Seneca Wind to require their counsel to prepare for and litigate both actions at the same time.”

{¶ 4} Additionally, Local Residents highlight the fact that the project schedule proposed by Republic anticipates that the certificate could be issued in the third quarter of 2019 and construction could commence in the second quarter of 2020. Therefore, they do not believe that the requested two-week extension of the adjudicatory hearing is problematic. Local Residents also point out that the Applicant itself had put its case on hold for four months.

{¶ 5} Republic objects to the requested continuance based on its contention that a delay in the adjudicatory hearing could negatively impact Republic’s project schedule, which may have an adverse impact on the viability of the project. In support of its position, Republic contends that it is already operating under an aggressive construction timeline and that the granting of the requested continuance will push its schedule even further off track. In order to address the scheduling conflicts of Local Residents’ counsel, Republic proposes that a new hearing date be scheduled prior to June 10, 2019.

{¶ 6} In support of its position, Republic contends that if Local Residents had raised the scheduling conflict issue immediately after the issuance of the February 15, 2019 scheduling Entry, the parties could have held discussions to determine a conducive schedule. Instead, Republic asserts that Local Residents did not contact Republic regarding the scheduling conflict until almost two weeks after the issuance of the February 15, 2019

Entry. Republic questions why the requested extension is necessary simply because one of the attorneys for Local Residents is unavailable. Republic points out that the law firm representing Local Residents has other attorneys who can participate in the adjudicatory hearing.

{¶ 7} Upon consideration of Local Residents' motion for a continuance, the ALJ finds that the motion should be granted in part and denied in part. While recognizing the scheduling conflict presented by Local Residents, the requested continuance until June 25, 2019, or later, will only further delay the conclusion of this matter and possibly jeopardize the viability of the proposed project. Additionally, the ALJ notes that co-counsel is identified for both the Local Residents in this case as well as the local residents in Seneca Wind and, therefore, can assist with any conflicts presented relative to the timing of the two cases. Therefore, the procedural schedule shall be amended as follows:

- (a) Pursuant to Ohio Adm.Code 4906-3-11(A)(5), Staff shall file its report of investigation on or before Monday, April 29, 2019.
- (b) On or before Monday, May 6, 2019, each party shall file a list of issue(s) citing specific concerns about which they may be interested in pursuing cross-examination of witnesses.
- (c) The local public hearing will take place on Tuesday, May 14, 2019, commencing at 5:00 p.m. and continuing until 9:30 p.m., at Bellevue High School, 200 Oakland Avenue, Bellevue, Ohio 44811.
- (d) All expert and factual testimony to be offered by Republic shall be filed by Friday, May 17, 2019.
- (e) All expert and factual testimony to be offered by intervenors and Staff shall be filed by Friday, May 24, 2019.

- (f) Any stipulation entered into by the parties shall be filed by Friday, May 24, 2019.
- (g) A telephonic prehearing conference shall be scheduled for Tuesday, May 23, 2019. Counsel for the parties will be provided with the conference information at a later date.
- (h) The adjudicatory hearing will commence on Monday, June 3, 2019, at 10:00 a.m., at the offices of the Public Utilities Commission of Ohio, 180 East Broad Street, 11th Floor, Hearing Room 11-A, Columbus, Ohio 43215-3793. The purpose of the adjudicatory hearing is for Republic, Staff, and intervenors to provide evidence regarding the project. Direct testimony shall occur from Monday, June 3, 2019, through Friday, June 7, 2019. To the extent necessary, additional hearing dates will be subsequently scheduled.

{¶ 8} Republic should reissue public notices of the hearings in accordance with Ohio Adm.Code 4906-3-09.

{¶ 9} It is, therefore,

{¶ 10} ORDERED, That Republic's motion for a procedural schedule be granted in part and denied in part in accordance with paragraph 7. It is, further,

{¶ 11} ORDERED, That the revised procedural schedule set forth in paragraph 7 be adopted. It is, further,

{¶ 12} ORDERED, That Republic comply with the directive set forth in paragraph 8. It is, further,

{¶ 13} ORDERED, That a copy of the Entry be served upon all parties and interested persons of record.

THE OHIO POWER SITING BOARD

/s/ Jay S. Agranoff

By: Jay S. Agranoff
Administrative Law Judge

JRJ/mef

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Case No(s). 17-2295-EL-BGN

Summary: Administrative Law Judge Entry revising the procedural schedule electronically filed by Ms. Mary E Fischer on behalf of Jay S. Agranoff, Administrative Law Judge, Ohio Power Siting Board